STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1265

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Energy Carolinas, LLC for Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider Pursuant to N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69	))))	ORDER APPROVING DSM/EE RIDER AND REQUIRING FILING OF PROPOSED CUSTOMER NOTICE

HEARD: On Tuesday, June 7, 2022, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner ToNola D. Brown-Bland, Presiding; Chair Charlotte A. Mitchell; and Commissioners Daniel G. Clodfelter, Kimberly W. Duffley, Jeffrey A. Hughes, Floyd B. McKissick, Jr. and Karen M. Kemerait

APPEARANCES:

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BY THE COMMISSION: N.C. Gen. Stat. § 62-133.9(d) authorizes the North Carolina Utilities Commission (Commission) to approve an annual rider to the rates of electric public utilities, outside of a general rate case, for recovery of all reasonable and prudent costs incurred for adoption and implementation of new demand-side management (DSM) and energy efficiency (EE) measures. The Commission is also authorized to award incentives to electric companies for adopting and implementing new DSM/EE measures, including, but not limited to, appropriate rewards based on (1) the sharing of savings achieved by the DSM and EE measures and/or (2) the capitalization of a percentage of avoided costs achieved by the measures. Commission Rule R8-69(b) provides that every year the Commission will conduct a proceeding for each electric public utility to establish an annual DSM/EE rider to recover the reasonable and prudent costs incurred by the electric utility in adopting and implementing new DSM/EE measures previously approved by the Commission pursuant to Commission Rule R8-68. Further, Commission Rule R8-69(b) provides for the establishment of a DSM/EE experience modification factor (EMF) rider to allow the electric public utility to collect the difference between the reasonable and prudently incurred costs and the revenues that were realized during the test period under the DSM/EE rider then in effect. Commission Rule R8-69(c) permits the utility to request the inclusion of utility incentives (the rewards authorized by the statute), including net lost revenues (NLR), in the DSM/EE rider and the DSM/EE EMF rider.

Docket Proceedings

In the present proceeding, Docket No. E-7, Sub 1265, on December 17, 2021, the Commission issued an Order Requiring Filing of Additional Testimony. The Order directed Duke Energy Carolinas, LLC (DEC or the Company), to include in its forthcoming application for DSM/EE cost recovery and incentives testimony about the interrelationship of DEC's Advance Metering Infrastructure (AMI) meters and Customer Connect billing data system with DEC's DSM/EE, historical data about DEC's EE savings, and other information. In addition, the Order required the Public Staff to address these same points in its testimony, and allowed other parties to respond as well.

On March 1, 2022, DEC filed its application for approval of its DSM/EE rider (Rider EE[1] or Rider 14) for 2023[2] (Application) and the direct testimony and exhibits of Shannon R. Listebarger, Rates Manager for DEC, and Robert P. Evans, Senior Manager – Strategy and Collaboration for the Carolinas in the Company's Market Solutions Regulatory Strategy and Evaluation group.

On March 14, 2022, the Commission issued an order scheduling a hearing for June 7, 2022, establishing discovery guidelines, providing for intervention and testimony by other parties, and requiring public notice. DEC subsequently filed the affidavits of publication for the public notice as required by the Commission's March 14, 2022 Order.

The intervention of the Public Staff – North Carolina Utilities Commission (Public Staff) is recognized pursuant to N.C. Gen. Stat. § 62-15(d) and Commission Rule R1-19(e). In addition, petitions to intervene were filed by and granted for the Carolina Utility Customers Association, Inc. (CUCA), the North Carolina Sustainable Energy Association (NCSEA), the Carolina Industrial Group for Fair Utility Rates III (CIGFUR), and jointly the North Carolina Justice Center, the North Carolina Housing Coalition, and the Southern Alliance for Clean Energy (collectively NC Justice Center, *et al*.).

On May 16, 2022, DEC filed the supplemental testimony and revised exhibits of witness Listebarger. On May 19, 2022, DEC filed a motion to withdraw certain exhibits that had been inadvertently filed with the supplemental testimony. The Commission allowed withdrawal of the exhibits on May 24, 2022.

[1] DEC refers to its DSM/EE Rider as "Rider EE"; however, this rider includes charges intended to recover both DSM and EE revenue requirements.

[2] The Rider EE proposed in this proceeding is the Company's fourteenth Rider EE and includes components that relate to Vintages 2018, 2019, 2020, 2021, 2022 and 2023 of the cost and incentive recovery mechanism(s) approved in Docket No. E-7, Sub 1032, as modified in Docket No. E-7, Sub 1130. For purposes of clarity, the aggregate rider is referred to in this Order as "Rider 14" or the proposed "Rider EE." Rider 14 is proposed to be effective for the rate period January 1, 2023 through December 31, 2023.

On May 17, 2022, the Public Staff filed the testimony and exhibits of Shawn L. Dorgan, Financial Analyst in the Accounting Division, and David M. Williamson, Utilities Engineer in the Energy Division.

On May 17, 2022, the NC Justice Center, *et al.* filed the testimony and exhibits of Forest Bradley-Wright, Energy Efficiency Director for SACE.

On May 26, 2022, DEC filed the rebuttal testimony of witnesses Jean P. Williams and the Rebuttal Testimony of Lynda S. Powers.

On May 31, 2022, the Commission issued an order requiring additional testimony by DEC about the My Home Energy Report (MyHER) Program.

On June 1, 2022, DEC filed a letter requesting that the Commission allow Karen K. Holbrook to adopt the testimony of witness Evans, who has retired, and that witnesses Williams, Powers and Holbrook, the Company's subject matter experts on the questions posed by the Commission, be allowed to testify as a panel at the expert witness hearing on June 7, 2022. On June 3, 2022, the Commission granted the request.

On June 2, 2022, DEC, the Public Staff, and the NC Justice Center, *et al*. filed a joint motion to excuse DEC witness Listebarger, Public Staff witnesses Dorgan and Williamson, and NC Justice Center, *et al*., witness Bradley-Wright from appearing at the expert witness hearing. On June 3, 2022, the Commission issued an order granting the motion in part, excusing witnesses Dorgan and Bradley-Wright.

On June 6, 2022, DEC filed its Panel Cross-Examination Exhibit.

The case came on for hearing as scheduled on June 7, 2022. No public witnesses appeared at the hearing.

On June 30, 2022, DEC filed three late-filed exhibits requested by the Commission during the expert witness hearing.

On June 30, 2022, the Commission issued its Order Increasing Regulatory Fee Effective July 1, 2022, in Docket No. M-100, Sub 142, increasing the regulatory fee for noncompetitive jurisdictional revenues to 0.14%. The resulting increase on proposed rates is reflected in the rates approved in this Order.

On July 27, 2022, DEC and the Public Staff filed a joint proposed order, and CIGFUR and NC Justice Center, *et al*., filed post-hearing briefs.

Past Pertinent Proceedings:

(Docket No. E-7, Subs 831, 938, 979, 1032, 1130, and 1164)

On February 9, 2010, the Commission issued an Order Approving Agreement and Joint Stipulation of Settlement Subject to Certain Commission-Required Modifications and Decisions on Contested Issues in DEC's first DSM/EE rider proceeding, Docket No. E-7, Sub 831 (Sub 831 Order). In the Sub 831 Order, the Commission approved, with certain modifications, the Agreement and Joint Stipulation of Settlement between DEC, the Public Staff, SACE, Environmental Defense Fund (EDF), Natural Resources Defense Council (NRDC), and the Southern Environmental Law Center (SELC) (Sub 831 Settlement), which described the modified Save-A-Watt mechanism (Sub 831 Mechanism), pursuant to which DEC calculated, for the period from June 1, 2009 until December 31, 2013, the revenue requirements underlying its DSM/EE riders based on percentages of avoided costs, plus compensation for NLR resulting from EE programs only. The Sub 831 Mechanism was approved as a pilot project with a term of four years, ending on December 31, 2013.

On February 15, 2010, the Company filed an Application for Waiver of Commission Rule R8-69(a)(4) and R8-69(a)(5) in Docket No. E-7, Sub 938 (Sub 938 Waiver Application), requesting waiver of the definitions of "rate period" and "test period." Under the Sub 831 Mechanism, customer participation in the Company's DSM and EE programs and corresponding responsibility to pay Rider EE are determined on a vintage year basis. A vintage year is generally the 12-month period in which a specific DSM or EE measure is installed for an individual participant or group of participants.[3] The Company applied the vintage year concept on a calendar-year basis to the modified Save-A-Watt portfolio of programs for ease of administration for the Company and customers. Pursuant to the Sub 938 Waiver Application, "test period" is defined as the most recently completed vintage year at the time of the Company's DSM/EE rider application filing date.

On April 6, 2010, the Commission entered an Order Granting Waiver, in Part, and Denying Waiver, in Part. In this Order, the Commission approved the requested waiver of R8-69(d)(3) in part, but denied the Company's requested waiver of the definitions of "rate period" and "test period."

On May 6, 2010, DEC filed a Motion for Clarification or, in the Alternative, for Reconsideration, asking that the Commission reconsider its denial of the waiver of the definitions of "test period" and "rate period," and that the Commission clarify that the EMF may incorporate adjustments for multiple test periods. In response, the Commission issued an Order on Motions for Reconsideration on June 3, 2010 (Sub 938 Second Waiver Order), granting DEC's Motion. The Sub 938 Second Waiver Order established that the rate period for Rider EE would align with the 12-month calendar year vintage concept utilized in the Commission-approved Save-A-Watt approach (in effect, the calendar year following the

[3] Vintage 1 is an exception in terms of length. Vintage 1 is a 19-month period beginning June 1, 2009, and ending December 31, 2010, because of the approval of DSM/EE programs prior to the approval of the cost recovery mechanism.

Commission's order in each annual DSM/EE cost recovery proceeding), and that the test period for Rider EE would be the most recently completed vintage year at the time of the Company's Rider EE cost recovery application filing date.[4]

On February 8, 2011, in Docket No. E-7, Sub 831, the Commission issued its Order Adopting "Decision Tree" to Determine "Found Revenues" and Requiring Reporting in DSM/EE Cost Recovery Filings (Sub 831 Found Revenues Order), which included a "Decision Tree" to identify, categorize, and net possible found revenues against the NLR created by the Company's EE programs. Found revenues may result from activities that directly or indirectly result in an increase in customer demand or energy consumption within the Company's service territory.

On November 8, 2011, in Docket No. E-7, Sub 979, the Commission issued its Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice, in which it approved the Evaluation, Measurement, and Verification (EM&V) agreement (EM&V Agreement) reached by the Company, SACE, and the Public Staff. Pursuant to the EM&V Agreement, for all EE programs, except for the Non-Residential Smart $aver Custom Rebate Program and the Low-Income EE and Weatherization Assistance Program, actual EM&V results are applied to replace all initial impact estimates back to the beginning of the program offering. For the purposes of the vintage true-ups, these initial EM&V results will be considered actual results for a program until the next EM&V results are received. The new EM&V results will then be considered actual results going forward and will be applied prospectively for the purposes of truing up vintages from the first day of the month immediately following the month in which the study participation sample for the EM&V was completed. These EM&V results will then continue to apply and be considered actual results until superseded by new EM&V results, if any. For all new programs and pilots, the Company will follow a consistent methodology, meaning that initial estimates of impacts will be used until DEC has valid EM&V results, which will then be applied back to the beginning of the offering and will be considered actual results until a second EM&V is performed.

On February 6, 2012, in the Sub 831 docket, the Company, SACE, and the Public Staff filed a proposal regarding revisions to the program flexibility requirements (Flexibility Guidelines). The proposal divided potential program changes into three categories based on the magnitude of the change, with the most significant changes requiring regulatory approval by the Commission prior to implementation, less extensive changes requiring advance notice prior to making such program changes, and minor changes being reported on a quarterly basis to the Commission. The Commission approved the joint proposal in its July 16, 2012 Order Adopting Program Flexibility Guidelines.

[4] Further, in the Sub 938 Second Waiver Order issued June 3, 2010, the Commission concluded that DEC should true-up all costs during the Save-A-Watt pilot through the EMF rider provided in Commission Rule R8-69(b)(1). The modified Save-A-Watt approach approved in the Sub 831 Order required a final calculation after the completion of the four-year program, comparing the cumulative revenues collected related to all four vintage years to amounts due the Company, taking into consideration the applicable earnings cap.

On October 29, 2013, the Commission issued its Order Approving DSM/EE Programs and Stipulation of Settlement in Docket No. E-7, Sub 1032 (2013 Sub 1032 Order), which approved a new cost recovery and incentive mechanism for DSM/EE programs (2013 Mechanism) and a portfolio of DSM and EE programs to be effective January 1, 2014, to replace the cost recovery mechanism and portfolio of DSM and EE programs approved in Docket No. E-7, Sub 831. In the 2013 Sub 1032 Order, the Commission approved an Agreement and Stipulation of Settlement, filed on August 19, 2013, and amended on September 23, 2013, by and between DEC, NCSEA, the Environmental Defense Fund, SACE, the South Carolina Coastal Conservation League, the Natural Resources Defense Council, the Sierra Club, and the Public Staff (Stipulating Parties), which incorporates the 2013 Mechanism (2013 Sub 1032 Stipulation).

Under the 2013 Sub 1032 Stipulation, as approved by the Commission, the portfolio of DSM and EE programs filed by the Company was approved with no specific duration (unlike the programs approved in Sub 831, which explicitly expired on December 31, 2013). Additionally, the 2013 Sub 1032 Stipulation also provided that the Company's annual DSM/EE rider would be determined according to the 2013 Sub 1032 Stipulation and the terms and conditions set forth in the 2013 Mechanism, until otherwise ordered by the Commission. Under the 2013 Sub 1032 Stipulation, the 2013 Mechanism was to be reviewed in four years. Pursuant to the 2013 Sub 1032 Stipulation, any proposals for revisions to the 2013 Mechanism were to be filed by parties along with their testimony in the annual DSM/EE rider proceeding.

The overall purpose of the 2013 Mechanism (and the subsequent iterations of the Mechanism discussed later in this Order) is to (1) allow DEC to recover all reasonable and prudent costs incurred for adopting and implementing new DSM and EE measures; (2) establish certain requirements, in addition to those of Commission Rule R8-68, for requests by DEC for approval, monitoring, and management of DSM and EE programs; (3) establish the terms and conditions for the recovery of NLR (net of found revenues) and a Portfolio Performance Incentive (PPI) to reward DEC for adopting and implementing new DSM and EE measures and programs; and (4) provide an additional incentive to further encourage kilowatt-hour (kWh) savings achievements. The 2013 Mechanism also included the following provisions, among several others: (a) it shall continue until terminated pursuant to Commission order; (b) modifications to Commission-approved DSM/EE programs will be made using the Flexibility Guidelines; (c) treatment of opted-out and opted-in customers will continue to be guided by the Commission's Orders in Docket No. E-7, Sub 938, with the addition of another opt-in period during the first week in March of each year; (d) the EM&V Agreement shall continue to govern the application of EM&V results; and (e) the determination of found revenues will be made using the Decision Tree approved in the Sub 831 Found Revenues Order. Like the Sub 831 Mechanism, the 2013 Mechanism also employs a vintage year concept based on the calendar year.[5] Unless specified otherwise

[5] Each vintage under the 2013 Mechanism and subsequent revisions of the Mechanism is referred to by the calendar year of its respective rate period (e.g., Vintage 2021).

therein, the later iterations of the 2013 Mechanism generally continue to reflect these provisions.

On August 23, 2017, in Docket No. E-7, Sub 1130 (Sub 1130), the Commission issued its Order Approving DSM/EE Rider, Revising DSM/EE Mechanism, and Requiring Filing of Proposed Customer Notice (Sub 1130 Order), in which it approved the agreement to revise certain provisions of the 2013 Mechanism reached by the Company and the Public Staff.

Paragraph 69 of the 2013 Mechanism, which describes how avoided costs are determined for purposes of calculating the PPI, was revised such that for Vintage 2019 and beyond, the program-specific avoided capacity benefits and avoided energy benefits will be derived from the underlying resource plan, production cost model, and cost inputs that generated the avoided capacity and avoided energy credits reflected in the most recent Commission-approved Biennial Determination of Avoided Cost Rates as of December 31 of the year immediately preceding the annual DSM/EE rider filing date. For the calculation of the underlying avoided energy credits to be used to derive the program-specific avoided energy benefits, the calculation will be based on the projected EE portfolio hourly shape, rather than the assumed 24x7 100-megawatt (MW) reduction typically used to represent a qualifying facility (QF).

Paragraph 19 of the 2013 Mechanism was revised to specify that the avoided costs used for purposes of program approval filings would also be determined using the method outlined in revised Paragraph 69. The specific Biennial Determination of Avoided Cost Rates used for each program approval filing would be derived from the rates most recently approved by the Commission as of the date of the program approval filing.

Paragraph 23 of the 2013 Mechanism was revised, and Paragraphs 23A-D were added, to specify which avoided costs should be used for determining the continuing cost-effectiveness of programs and actions to be taken based on the results of those tests. Pursuant to Paragraph 23, each year the Company would file an analysis of the current cost-effectiveness of each of its DSM/EE programs as part of the DSM/EE rider filing. New Paragraph 23A required the use of the same method for calculating the avoided costs outlined in the revisions to Paragraph 69 to determine the continued cost-effectiveness for each program. Like revised Paragraph 69, Paragraph 23A specified that the avoided capacity and energy costs used to calculate cost-effectiveness would be derived from the avoided costs underlying the most recent Commission-approved Biennial Determination of Avoided Cost Rates as of December 31 of the year immediately preceding the annual DSM/EE rider filing date. New Paragraphs 23B through 23D address the steps that will be taken if specific DSM/EE programs continue to produce Total Resource Cost (TRC) test results less than 1.00 for an extended period. For any program that initially demonstrates a TRC of less than 1.00, the Company shall include in its annual DSM/EE rider filing a discussion of the actions being taken to maintain or improve cost-effectiveness, or alternatively, its plans to terminate the program. If a program demonstrates a prospective TRC of less than 1.00 in a second DSM/EE rider proceeding, the Company shall include a discussion of what actions it has taken to improve cost-effectiveness. If a program demonstrates a prospective TRC of less than 1.00 in a third DSM/EE rider proceeding, the

Company shall terminate the program effective at the end of the year following the DSM/EE rider order, unless otherwise ordered by the Commission. The Sub 1032 Mechanism, as revised by the Sub 1130 Order, is referred to herein as the "2017 Mechanism."

On October 20, 2020, in Docket Nos. E-2, Sub 931, and E-7, Sub 1032, the Commission issued its Order Approving Revisions to Demand-Side Management and Energy Efficiency Cost Recovery Mechanisms (2020 Sub 1032 Order), in which it approved a revised prospective Mechanism (2020 Mechanism). The 2020 Mechanism includes the following substantive changes to the 2017 Mechanism that are applicable to DEC: (1) addition of a Program Return Incentive (PRI), an incentive to encourage DEC to pursue savings from existing and new low-income DSM/EE programs, and to maintain and increase the cost-effectiveness of these programs; (2) reduction of the PPI to 10.60%; (3) addition of a cap and floor on the PPI with a maximum margin of 19.50% for Vintage Year 2022 and afterward, and a minimum margin over aggregate pre-tax program costs for PPI eligible programs of 10% for Vintage Year 2022, 6% for Vintage Year 2023, and 2.50% for Vintage Year 2024 and afterward; (4) an assessment of whether it is appropriate to use non-energy benefits in the determination of cost-effectiveness under the Total Resource Cost Test (TRC); (5) clarification that bundled measures must be consistent with and related to the measure technologies or delivery channels of a program, unless otherwise ordered by the Commission; (6) use of the Utility Cost Test (UCT) to determine the cost-effectiveness of new and ongoing programs; (7) a review of Avoided Transmission and Distribution (T&D) Costs no later than December 31, 2021; and (8) an additional incentive of $500,000 if the Company achieves annual energy savings of 1.0% of the prior year's system retail electricity sales in any year during 2022 through 2025, and a penalty of a $500,000 reduction in its EE revenue requirement if the Company fails to achieve annual energy savings of 0.5% of retail sales, net of sales associated with customers opting out of the Company's EE programs. The 2020 Mechanism is effective for vintage years beginning with Vintage Year 2022; thus, the 2017 Mechanism applies to costs recovered through the EMF in this proceeding, while the 2020 Mechanism applies prospectively to costs projected and eventually trued-up for Vintage Year 2022. Therefore, this cost recovery proceeding falls under the Commission's Sub 1032 Orders approving both the 2017 Mechanism and the 2020 Mechanism. (Sub 1032 Orders.)

<u>Docket No. E-7, Sub 1265</u>

Based upon consideration of DEC's Application, the pleadings, the testimony, and exhibits received into evidence at the hearing, the parties' briefs, and the record as a whole, the Commission makes the following:

FINDINGS OF FACT

1. DEC is a public utility with a public service obligation to provide electric utility service to customers in its service area in North Carolina and is subject to the jurisdiction of the Commission.

2. The Commission has jurisdiction over this Application pursuant to the Public Utilities Act. The Commission has the authority to consider and approve or modify the specific recovery of costs and incentives the Company is seeking in this docket.

3. For purposes of this proceeding, DEC has requested approval of costs and incentives related to the following DSM/EE programs to be included in Rider 14: Energy Assessment Program; EE Education Program; Energy Efficient Appliances and Devices Program; Residential Smart $aver EE Program; Multifamily EE Program; My Home Energy Report Program; Residential Neighborhood Energy Saver; Power Manager Load Control Service Program; Non-Residential Smart $aver Energy Efficient Food Service Products Program; Non-Residential Smart $aver Energy Efficient HVAC Products Program; Non-Residential Smart $aver Energy Efficiency IT Products Program; Non-Residential Smart $aver Energy Efficient Lighting Products Program; Non-Residential Smart $aver Energy Efficient Process Equipment Products Program; Non-Residential Smart $aver Energy Efficient Pumps and Drives Products Program; Non-Residential Smart $aver Custom Incentive and Energy Assessment Program; PowerShare; Small Business Energy Saver Program; EnergyWise for Business; and Non-Residential Smart $aver Performance Incentive Program.

4. Pursuant to Paragraph 19 of the 2017 Mechanism and Paragraph 20 of the 2020 Mechanism, the Income-Qualified EE and Weatherization Program is not required to pass the TRC or UCT tests to be eligible for inclusion in the Company's portfolio.

5. The Information Technology measure of the Non-Residential Smart $aver Program is not currently cost-effective under the UCT; however, because it is only one measure of the larger Non-Residential Smart $aver program, which is cost-effective, the Commission will not require that the measure be terminated at this time.

6. The Company's accounting of revenues and costs related to the Find it Duke referral channel of the Residential Smart $aver EE program is reasonable and appropriate for purposes of this proceeding.

7. EM&V should be utilized to the extent feasible to assess the impact of interval energy usage information gleaned from AMI and energy tips have on customers versus information provided through the education and engagement around EE provided through the My Home Energy Report (MyHER).

8. For purposes of inclusion in Rider 14, the Company's portfolio of DSM and EE programs is cost-effective; however, the Company should continue to leverage its existing programs and explore developing additional programs that cost-effectively target the largest residential end uses of electricity, such as space heating, cooling, and water heating.

9. The EM&V reports filed as Holbrook Exhibits A, B, C, D and F are acceptable for purposes of this proceeding and should be considered complete for purposes of calculating program impacts.

10. In DEC's application for approval of the MyHER program in Docket No. E-7, Sub 1015 (Sub 1015), DEC stated that the program would have a one-year measure life and that the EM&V for MyHER would determine the magnitude and certainty of savings achieved, as well as the persistence of the energy savings over time.

11. The Commission approved DEC's MyHER program application in Sub 1015 by Order issued on September 11, 2012.

12. DEC has not conducted an analysis of the persistence of energy savings over time resulting from MyHER.

13. DEC is requesting to recover during the 2023 rate year net lost revenues (NLR) of $17,467,498, a Portfolio Performance Incentive (PPI) of $1,400,889, and program costs of $5,534,384 attributed to MyHER.

14. Pursuant to the Commission's Sub 938 Second Waiver Order and the Sub 1032 Orders, the rate period for purposes of this proceeding is January 1, 2023 through December 31, 2023.

15. Rider 14 includes EMF components for Vintage 2021 DSM and EE programs. Consistent with the Sub 938 Second Waiver Order and the Sub 1032 Orders, the test period for these EMF components is the period from January 1, 2021 through December 31, 2021 (Vintage 2021).

16. DEC's proposed rates for Rider 14 comprise both prospective and EMF components. The prospective components include factors designed to collect estimated program costs, PPI, and PRI for the Company's Vintage 2023 DSM and EE programs, as well as estimated NLR for the Company's Vintage 2020-2023 EE programs. The EMF components include the whole or partial true-up of Vintage 2021 program costs, NLR, and PPI, as well as whole or partial true-ups of NLR and PPI for Vintage Years 2018, 2019, and 2020.

17. DEC has appropriately calculated the components of Rider 14 to reflect the Commission's findings and conclusions in this Order, as well as the Commission's findings and conclusions as set forth in the 2013 Sub 1032 Order, as revised by the Sub 1130 Order, and the 2020 Sub 1032 Order.

18. The proposed Reserve Margin Adjustment Factor (RMAF) modifications to subsection 20 of the Mechanism, explaining the methodology for calculating and applying the RMAF to the avoided capacity costs of all EE programs, are reasonable and appropriate.

19. The reasonable and prudent Rider 14 billing factor for residential customers is 0.3389 cents per kWh[6], subject to the change required with respect to Net Lost Revenues for MyHER, All the billing factors stated in these findings of fact include the regulatory fee.

20. The reasonable and prudent Rider 14 Vintage 2023 EE prospective billing factor for nonresidential customers not opting out of Vintage 2023 of the Company's EE programs is 0.4323 cents per kWh.

21. The reasonable and prudent Rider 14 Vintage 2023 DSM prospective billing factor for nonresidential customers not opting out of Vintage 2023 of the Company's DSM programs is 0.0970 cents per kWh.

22. The reasonable and prudent Rider 14 Vintage 2022 prospective EE billing factor for nonresidential customers participating in Vintage 2022 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2022 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is 0.0995 cents per kWh.

23. The reasonable and prudent Rider 14 Vintage 2021 prospective EE billing factor for nonresidential customers participating in Vintage 2021 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2021 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is 0.0671 cents per kWh.

24. The reasonable and prudent Rider 14 Vintage 2020 prospective EE billing factor for nonresidential customers participating in Vintage 2020 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2020 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is 0.0259 cents per kWh.

25. The reasonable and prudent Rider 14 Vintage 2021 EE EMF billing factor for nonresidential customers participating in Vintage 2021 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2021 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is (0.0833) cents per kWh.

26. The reasonable and prudent Rider 14 Vintage 2021 DSM EMF billing factor for nonresidential customers participating in Vintage 2021 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2021 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is (0.0173) cents per kWh.

[6] The residential billing factor applicable to all residential customers is the sum of the residential prospective and residential true-up factors for the applicable vintage years.

27. The reasonable and prudent Rider 14 Vintage 2020 EE EMF billing factor for nonresidential customers participating in Vintage 2020 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2020 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is (0.0012) cents per kWh.

28. The reasonable and prudent Rider 14 Vintage 2020 DSM EMF billing factor for nonresidential customers participating in Vintage 2020 of the Company's DSM programs (or those not participating but neither (a) explicitly opting out of Vintage 2020 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is (0.0002) cents per kWh.

29. The reasonable and prudent Rider 14 Vintage 2019 EE EMF billing factor for nonresidential customers participating in Vintage 2019 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2019 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is 0.0064 cents per kWh.

30. The reasonable and prudent Rider 14 Vintage 2019 DSM EMF billing factor for nonresidential customers participating in Vintage 2019 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2019 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is 0.0003 cents per kWh.

31. The reasonable and prudent Rider 14 Vintage 2018 EE EMF billing factor for nonresidential customers participating in Vintage 2018 of the Company's EE programs (or those not participating, but neither (a) explicitly opting out of Vintage 2018 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is (0.0021) cents per kWh.

32. The reasonable and prudent Rider 14 Vintage 2018 DSM EMF billing factor for nonresidential customers participating in Vintage 2018 of the Company's DSM programs (or those not participating, but neither (a) explicitly opting out of Vintage 2018 during the annual enrollment period for that vintage, nor (b) opting out of Vintage 2023) is (0.0002) cents per kWh.

33. DEC should continue to leverage its collaborative stakeholder meetings (Collaborative) to work with stakeholders to garner meaningful input regarding potential portfolio enhancement and program design, as well as to address forecasted declines in savings.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-2

The evidence and legal bases in support of these findings and conclusions can be found in the Application, the pleadings, the testimony, and the exhibits in this docket, as well as in the statutes, case law, and rules governing the authority and jurisdiction of this Commission. These findings are informational, procedural, and jurisdictional in nature.

N.C. Gen. Stat. § 62-133.9 authorizes the Commission to approve an annual rider, outside of a general rate case, for recovery of reasonable and prudent costs incurred in the adoption and implementation of new DSM and EE measures, as well as appropriate rewards for adopting and implementing those measures. Similarly, Commission Rule R8-68 provides, among other things, that reasonable and prudent costs of new DSM or EE programs approved by the Commission shall be recovered through the annual rider described in N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69. The Commission may also consider in the annual rider proceeding whether to approve any utility incentive (reward) pursuant to N.C. Gen. Stat. § 62-133.9(d)(2) a. through c.

Commission Rule R8-69 outlines the procedure whereby a utility applies for, and the Commission establishes, an annual DSM/EE rider. Commission Rule R8-69(a)(2) defines DSM/EE rider as "a charge or rate established by the Commission annually pursuant to N.C. Gen. Stat. § 62-133.9(d) to allow the electric public utility to recover all reasonable and prudent costs incurred in adopting and implementing new demand-side management and energy efficiency measures after August 20, 2007, as well as, if appropriate, utility incentives, including net lost revenues." Commission Rule R8-69(c) allows a utility to apply for recovery of incentives for which the Commission will determine the appropriate ratemaking treatment.

N.C. Gen. Stat. § 62-133.9, along with Commission Rules R8-68 and R8-69, establish a procedure whereby an electric public utility files an application in a unique docket for the Commission's approval of an annual rider for recovery of reasonable and prudent costs of approved DSM and EE programs. The procedure outlined in N.C. Gen. Stat. § 62-133.9 and Commission Rules R8-68 and R8-69 also allow an electric public utility to recover appropriate utility incentives, potentially including "[a]appropriate rewards based on capitalization of a percentage of avoided costs achieved by demand-side management and energy efficiency measures." Consistent with this provision, as well as Commission-approved Mechanisms, the Company filed an application for approval of such annual rider, designated by DEC as Rider 14. The cost recovery and utility incentives the Company seeks through Rider 14 are based on the Company recovering DSM/EE program costs, NLR, a PPI incentive related to the DSM and EE programs, as approved in the 2013 Sub 1032 Order, and a PRI incentive as approved in the 2020 Sub 1032 Order, for those programs approved following the 2013 Sub 1032 Order. Recovery of these costs and utility incentives is also consistent with N.C. Gen. Stat. § 62-133.9, Rule R8-68, and Rule R8-69. Therefore, the Commission concludes that it has the authority to consider and approve the cost recovery and incentives the Company is seeking in this docket.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 3

The evidence for this finding and conclusion can be found in DEC's Application, the testimony and exhibits of Company witnesses Holbrook, Williams, Powers, and Listebarger, the testimony of Public Staff witness Williamson, and various Commission orders.

DEC witnesses Listebarger's and Holbrook's testimony and exhibits show that the Company's request for approval of Rider 14 is associated with the Sub 1032 portfolio of programs, as well as the programs approved by the Commission after the 2013 Sub 1032 Order. The direct testimony and exhibits of DEC witness Holbrook listed the applicable DSM/EE programs as follows: Energy Assessment Program; EE Education Program; Energy Efficient Appliances and Devices Program; Residential Smart $aver EE Program; Multifamily EE Program; My Home Energy Report Program; Income-Qualified EE and Weatherization Program for Individuals; Neighborhood Energy Saver Program; Power Manager Load Control Service Program; Non-Residential Smart $aver Energy Efficient Food Service Products Program; Non-Residential Smart $aver Energy Efficient HVAC Products Program; Non-Residential Smart $aver Energy Efficient IT Products Program; Non-Residential Smart $aver Energy Efficient Lighting Products Program; Non-Residential Smart $aver Energy Efficient Process Equipment Products Program; Non-Residential Smart $aver Energy Efficient Pumps and Drives Products Program; Non-Residential Smart $aver Custom Incentive Program; Non-Residential Smart $aver Custom Energy Assessments Program; PowerShare Non-Residential and Load Curtailment Program; Small Business Energy Saver; EnergyWise for Business Program; and Non-Residential Smart $aver Performance Incentive Program. Tr., pp. 89-90.

In his testimony, Public Staff witness Williamson listed the same DSM/EE programs as those for which the Company seeks cost recovery. Tr., pp. 238-39.

Thus, the Commission finds and concludes that each of the programs listed by witnesses Holbrook and Williamson has received Commission approval as a new DSM or EE program and is, therefore, eligible for cost recovery in this proceeding under N.C. Gen. Stat. § 62-133.9.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 4-8

The evidence for these findings and conclusions can be found in the testimony and exhibits of Company witnesses Holbrook, Powers, and Williams, the testimony and exhibits of Public Staff witnesses Williamson and Dorgan, the testimony of NC Justice Center, *et al.*, witness Bradley-Wright, the 2017 Mechanism and the 2020 Mechanism.

DEC witness Holbrook testified that the Company performed prospective analyses of each of the programs in its DSM/EE portfolio and the aggregate portfolio for the Vintage 2023 period. She explained that effective 2022, the UCT had replaced the TRC for use in screening DSM/EE programs. DEC's calculations indicate that, except for the Income-Qualified EE and Weatherization Program (which was not cost-effective at the time of Commission approval) and the Information Technology element of the Non-Residential Smart $aver Program, the aggregate portfolio continues to project cost-effectiveness. Eliminating the Information Technology element of the Non-Residential Smart $aver at this time would not be appropriate, witness Holbrook stated, because the element is integral to ensuring that a robust portfolio of prescriptive offerings is available for non-residential customers, and it is only one measure category within a larger, cost-effective program. Tr. pp. 90-92.

With respect to the MyHER program, witness Holbrook's Exhibit 6 described the approved program as a periodic usage report that compares a customer's energy use to similar residences in the same geographical area based upon the age, size, and heating source of the home. The report includes recommendations to encourage behaviors to make the customer more energy efficient, and it delivers energy savings by encouraging customers to take actions that will reduce their energy use. The report engages the customer by comparing their usage to that of average and efficient homes in the nearby area. It also suggests energy efficiency improvements, given the usage profile for that home, and recommends measure-specific offers, rebates, or audit follow-ups from the Company's other programs, based on the customer's energy profile. The MyHER interactive online portal allows customers to learn more about their energy use and about opportunities to reduce their usage. Customers can set goals, track their progress, and receive more targeted tips. As customers receive subsequent reports and learn more about their specific energy use and how they compare to their peer group, their engagement increases. The report then provides tools in the form of targeted energy efficiency tips with actionable ideas to become more efficient. Holbrook Exhibit 6, at 4.

Based on witness Holbrook's review of the cost-effectiveness tests, the Company did not find it reasonable to discontinue any of the programs or measures at this time. Witness Holbrook indicated that the Company would continue, however, to examine its programs for potential modifications to increase their effectiveness, regardless of the current cost-effectiveness results. Tr., pp. 12-13.

NC Justice Center, *et al.*, witness Bradley-Wright testified that DEC's DSM/EE portfolio is cost-effective and is delivering significant financial value to customers, even during the pandemic. He noted that in 2021, the Company's DSM/EE portfolio scored a 2.68 UCT score and 2.46 TRC test score. He acknowledged that the net present value of avoided costs had decreased in 2020; nevertheless, it still amounted to approximately $292 million of financial benefit for customers. Tr., p. 183. Witness Bradley-Wright further testified that DEC's energy savings had declined in 2021. He noted that in 2021, DEC delivered 600 GWh of efficiency savings at the meter, equal to 0.79% of the previous year's retail sales. Prior to the pandemic, however, DEC reported savings at near or above 1% for three consecutive years. Witness Bradley-Wright also expressed concern that the savings from MyHER were 51% of reported system energy reductions. He urged the Company to continue to focus on capturing additional measures that are capable of achieving deep and longer-lived savings to maintain a more balanced and robust program portfolio going forward. He recommended adding or modifying programs that target the largest residential end uses of electricity, such as space heating, cooling, and water heating. He noted that the HVAC efficiency program had seen steady growth in recent years. *Id*. at 183-85.

Public Staff witness Williamson stated in his testimony that the Public Staff had reviewed DEC's calculations of cost-effectiveness under each of the four standard cost-effectiveness tests: UCT, TRC, Participant, and RIM tests. Tr., p. 240. The Public Staff also compared the cost-effectiveness test results in previous DSM/EE proceedings to the current filing and developed a trend of cost-effectiveness that serves as the basis for its recommendation of whether a program should be terminated. *Id.* Witness Williamson testified that while many programs continue to be cost-effective, the TRC and UCT test scores as filed by the Company for all programs have a natural ebb and flow, mainly due to the changes in avoided cost rate determinations. He stated that the decreasing cost-effectiveness is also partially attributable to anticipated unit savings being lower than expected as determined through EM&V of the programs. Also, as programs mature, baseline standards increase, or avoided cost rates decrease, it becomes more difficult for a program to produce cost-effective savings. *Id*. at 241-44. In contrast, some programs have experienced greater than expected participation, which typically results in greater savings per unit cost and increases cost-effectiveness. *Id*. Based on this review, Public Staff witness Williamson testified that the Public Staff believes that the historical performance of the Company's programs is reasonable. *Id*. at 246. Public Staff witness Dorgan indicated he would review advertising costs associated with the Company's DSM/EE portfolio in the future, but he did not recommend any disallowance and did not disagree with the conclusions and recommendations of witness Williamson. Tr., p. 226.

Find it Duke

Consistent with the Commission's previous directives, witness Holbrook updated the Commission on the Company's efforts to identify and recruit historically disadvantaged businesses for participation in the Find it Duke (FID) referral channel. In 2021, Duke Energy developed a plan to recruit historically disadvantaged businesses (Disadvantaged Businesses) for participation in FID during 2022. As part of that plan, Duke Energy engaged with a number of organizations, such as the National Minority Supplier Development Council, the Women's Business Enterprise National Council, the African American Chamber of Commerce, the National Veteran Business Development Council, and the National LGBT Chamber of Commerce. Witness Holbrook reported that out of the twenty-two Trade Allies classified as Disadvantaged Businesses, four were enrolled in FID. Two of the four are female-owned, and two are minority-owned. According to witness Holbrook, the Disadvantaged Businesses support insulation services, which are lower in cost than, for example, HVAC installation. Trade Allies participating in FID that are not historically Disadvantaged Businesses typically perform HVAC installation services, which carry a higher cost for equipment. The average dollar value for work performed by Disadvantaged Businesses was approximately $2,500, which is lower than the $5,600 average dollar value for work done by contractors that were not Disadvantaged Businesses. In late 2021, however, the fourth historically disadvantaged business enrolled in FID as a solar installer, and that solar installer had only sold one job by the end of 2021. Tr., pp. 104-06.

Witness Holbrook also described how the Company excluded non-DSM/EE costs and revenue from FID for purposes of this proceeding. Based on FID activity during 2021, 15.2 percent was non-DSM/EE. Using this allocation, the Company removed the corresponding amount of expenses and revenue from the DSM/EE revenue requirement. A change in the PPI totaling $1,737 was accounted for. As a result of these adjustments, the DSM/EE revenue requirement increased by $13,368. *Id*. at 106-07.

Additional Testimony in Response to Commission Orders

Witness Holbrook also testified in response to the Commission's December 17, 2021 Order Requiring Filing of Additional Testimony (Additional Testimony Order). She testified that AMI and Customer Connect had not had any direct impact on the implementation of EE and DSM programs and rider calculations. She committed to DEC continuing to review whether the deployment of AMI and Customer Connect can benefit customers through the implementation of EE and DSM programs and rider calculations.

Witness Holbrook stated that AMI had indirectly impacted the EM&V of the EE and DSM programs that is used in the rider calculations because it resulted in EM&V-verified impacts being derived from analytical approaches that were better able to tease out energy and demand savings. She acknowledged that DEC was always interested in exploring ways to increase the effectiveness or reduce the cost of its EE and DSM programs, but it had not yet identified a way to leverage AMI and Customer Connect to do so. Tr., pp. 108-09.

Witness Holbrook also testified in response to Public Staff witness Williamson's testimony in Docket No. E-7, Sub 1249, related to the overlap of AMI informed services and specialized tips supported by the MyHER EE program. Witness Holbrook testified that most of the Company's residential customers may obtain data about their energy usage from two sources: AMI informed services and the MyHER program. All Company customers, at their option, may go online to see their hourly usage AMI data, regardless of whether they participate in MyHER. Only MyHER participants (who are not part of the control group) may access the MyHER reports that not only engage and educate customers around their energy usage, but also empower them to become more efficient through the provision of actionable energy efficiency tips. According to witness Holbrook, any changes in consumption can, therefore, be directly attributed to the MyHER program. Tr., p. 112.

Witness Holbrook also testified as to the percentage of MyHER customers that have visited the AMI usage web site. According to witness Holbrook, between April and December 2021, the percentage of MyHER customers monthly accessing their My Account AMI Charts ranged from 0.42% (October and November 2021) to 0.68% (July 2021), never exceeding 1.00%. Additionally, the percentage accessing their My Account AMI Charts fluctuated, but overall, it decreased from 0.65% in April 2021 to 0.49% in December 2021. *Id.* at 113.

With respect to how DEC will integrate its new dynamic pricing rates into EE and DSM programs, witness Holbrook testified that as with other DEC rate schedules, customers using the new, dynamic pricing rates will be eligible to participate in EE and DSM programs through the availability section of the relevant tariff. The Company has not yet identified how its new dynamic pricing tariffs may impact existing EE and DSM program marketing, implementation, cost-effectiveness, and evaluations. *Id.* at 113-14.

Finally, witness Holbrook testified that the Company continued to evaluate how the carbon reduction associated with EE program kWh savings will be reported as part of future annual DSM/EE Rider filings after the Carbon Plan is approved. *Id.* at 115.

Public Staff witness Williamson responded to witness Holbrook's responses to the Commission's questions on MyHER. He indicated that the Company is now able to obtain a more refined look at how its system operates and how customers are using energy at the point of delivery. AMI and Customer Connect can allow customers to make more informed decisions on their energy consumption, and this allows DEC to exercise DSM resources more strategically. Witness Williamson further testified that AMI and Customer Connect advance customers' understanding of various rate designs and encourage customers to take advantage of time-of-use rates. Witness Williamson also agreed that the Company has used AMI to validate the responsiveness of customers during peak time events and conduct more accurate EM&V of load reduction occurrences. He noted that using AMI and a customer portal will inform customers about their energy consumption and the price of energy at a particular moment, and he concluded that simple programs, priced appropriately, combined with engaging customer participation will bring out system efficiencies. *Id.* at 252-53.

With respect to whether AMI and Customer Connect had produced any savings, witness Williamson testified that determining the amount, if any, that was saved was difficult. Moreover, he asserted that, in the Public Staff's opinion, there had not been sufficient time to properly assess the transformational aspects of AMI and Customer Connect. Witness Williamson agreed that the utilities may use sub-hourly data to provide more personalized DSM/EE opportunities, and that customers that review their usage data may participate in additional DSM/EE programs. He concluded, however, that this will take time to gain traction. *Id*. at 254-55.

Witness Williamson also responded to witness Holbrook's testimony on MyHER. First, he noted that customers only became able to use their My Account AMI charts as of April 2021. Witness Williamson expected that, as more customers become familiar with this tool, they will use the interval AMI data tool to maximize their energy savings. Next, he testified that the current MyHER EM&V does not account for customers who utilize the customer web portal where they can view their AMI data and, as a result, change their usage pattern going forward. In witness Williamson's opinion, as the EM&V sampling accounts for the new AMI tools available to customers, it should increase its rigor by including an analysis, survey, and other relevant studies that show how having AMI usage data available to customers influences their behaviors toward DSM and EE. Witness Williamson acknowledged that he had not determined the means for DEC to do so, however. *Id.* at 259-63.

Witness Williamson also recommended that future evaluations of the MyHER program distinguish between kWh savings from MyHER and any other savings that may be realized by the customer's access and use of AMI data that occurs separately from the MyHER program. Witness Williamson testified that "as data analysis tools become more readily available to customers, the distinction between savings attributable to MyHER and those attributable to other factors becomes more impactful to system planning and cost recovery." *Id.* at 261-62.

Witness Williamson also addressed witness Holbrook's testimony on DEC's new dynamic pricing rates. To his knowledge, the Commission has not considered dynamic rate tariffs such as the Company's Time of Use rates and real-time pricing schedules to be

DSM or EE. Witness Williamson noted that dynamic pricing tariffs encourage customers to shift energy usage from peak to off-peak periods, like a DSM program. Unlike a DSM program, however, dynamic pricing tariffs solely rely on the customer to act to shift usage, while DSM programs are actively managed by the Company. Witness Williamson concluded that dynamic pricing tariffs should have little to no impact on DSM/EE program marketing, implementation, or cost-effectiveness. *Id.* at 264-66.

With respect to the implications of N.C.G.S. § 62-110.9 on DSM/EE programs, the Public Staff stated that it currently views two potential scenarios where it could influence DSM/EE programs and rider applications. In the first potential scenario, if a cost of carbon were to be introduced and approved in an avoided cost proceeding, then that input would be incorporated in the final avoided cost calculations and rates approved by the Commission, which would then flow into the avoided costs used in the DSM/EE rider. If a cost of carbon were to be introduced and approved in the avoided cost proceeding, then an assessment of potential changes to the Mechanism would need to take place to ensure that savings incentives are handled appropriately. The second potential scenario involved accounting for carbon reductions similarly to how energy efficiency credits are counted for compliance with the Renewable Energy and Energy Efficiency Portfolio Standard.

In her rebuttal testimony, DEC witness Williams, manager of the EM&V group in the Company's Grid Strategy and Enablement Group, responded to Public Staff witness Williamson's testimony on the Company's AMI data, customers' use of that data, and its potential impact on the MyHER EM&V process. She gave further details on how the EM&V process determines energy savings attributable to the MyHER program. A third-party evaluator employs a randomized control trial (RCT) to establish an unbiased estimate of the savings. The evaluator randomly assigns eligible customers to either a treatment group, which regularly receives MyHER reports, or a control group, which consists of non-participating customers. The evaluator verifies that the treatment and control group are statistically equivalent in their respective energy consumption to ensure that the RCT will provide meaningful results. Both customer groups have access to their AMI data, but only the treatment group has access to the MyHER report, and the evaluator clearly delineates the estimated savings attributable to MyHER. *Id.* at 59-60. Witness Powers also testified that an RCT as described negates this issue of free ridership with MyHER and provides inherent net savings estimates. *Id.* at 168.

Company witness Williams disagreed with Public Staff witness Williamson's recommendation that as AMI gains traction, the EM&V process specifically identify savings arising out of the availability of AMI data. Witness Williams agreed that additional research may be done to determine satisfaction, usage, and engagement with AMI usage data in both the treatment and control groups, but witness Williams cautioned that such additional research should be done outside of the MyHER EM&V process because the RCT already controls for AMI usage. The Company is committed to exploring how independent research may be conducted. *Id.* at 59-61. For purposes of this proceeding, however, DEC witness Williams testified that the EM&V for MyHER was based on a 2019 review. DEC is currently finalizing a newly-verified MyHER report for use in the Company's next annual DSM/EE Rider proceeding. Witness Williams explained that these EM&V results would reflect eight months of customers having access to both AMI and MyHER. *Id.* at 170-71.

Witness Williams agreed with the Public Staff's statement that dynamic pricing tariffs should not be considered a DSM/EE program at this time. She did not rule out, however, that EM&V may indicate that such pricing tariffs do impact customers' energy consumption or demand profiles such that it would make DSM/EE recovery appropriate in the future. *Id.* at 61.

In response to the Commission's May 31, 2022 Order Requiring Additional Testimony, the Company presented witnesses Holbrook, Listebarger, Williams, and Powers as a panel for testimony. Witness Williams testified that DEC has investigated expanding MyHER through the use of Customer Connect and AMI data to communicate with customers. She listed four additional opportunities to empower and educate customers to reduce energy usage: (i) providing alerts to MyHER participants that AMI data has detected unexpected energy spikes in their appliances; (ii) improving modeling to provide more accurate tips tailored to the specific heating type in participants' homes; (iii) identifying through AMI data if participants had pools, spas, hot tubs, and tailoring tips on how to use electricity with these different items; and (iv) exploring providing tips for MyHER customers enrolled in time-of-use rates.

Witness Holbrook also explained how the anticipated savings from MyHER were incorporated in future load projections, including load projections in the Carbon Plan. She stated that for the Integrated Resource Plans (IRPs), the Company gives a five-year projection for energy efficiency impacts. The Company then uses the Market Potential Study that extrapolates the savings out a number of years. For the proposed Carbon Plan, MyHER savings were included in the generic one percent of eligible load goal. Witness Holbrook described the MyHER program as being very popular, with only 17 new customers opting out in the past year. The Company also filed Late-Filed Exhibit No. 3, showing that estimated North Carolina customers participating in the MyHER program for the first time ranged from 43,608 North Carolina customers (2019) to 206,274 North Carolina customers (2022). *Id.* at 121-22.

DEC witness Williams followed up witness Holbrook's testimony by explaining that a participant in MyHER may receive a paper or an electronic MyHER report, but customers that have opted out of MyHER or are part of the control group receive nothing related to MyHER and do not have access to the MyHER portal. Witness Holbrook elaborated that a customer reviewing AMI data will see how that customer's data changes over time. No information, however, about whether usage is average or above average or how to make the customer more efficient is available to a customer viewing AMI data. In contrast, MyHER educates customers by providing them with information on what is using power within their home, engages customers by comparing their usage to other customers to motivate them, and empowers customers by providing tips to reduce energy and demand within their home. *Id.* at 141-43.

The Company witnesses also responded to questions from the Commission regarding how MyHER produces savings that benefit all customers, instead of only MyHER participants. Witness Williams stressed that there was a very low level of customers opting out of MyHER and that the participants in the control group were minimized, but necessary to validate the savings. Witness Holbrook further explained that MyHER was very cost-effective, which means that even non-participants of MyHER reaped the benefit of utility costs avoided due to the program, as compared to the cost of the program. She added that non-participants are not overpaying for MyHER because of the avoided cost benefit versus program costs. *Id.* at 154.

Witness Powers also responded to concerns that a large percentage of savings resulted from the MyHER program. She explained that the volume of savings resulted from a very large number of customers participating in MyHER. She further contrasted the ease for these customers in participating in MyHER with participating in the Home Energy House Call program, which requires a scheduled appointment with a customer, and other DSM/EE programs with long measure lives that require upfront capital, like replacing an air conditioner. She noted that air conditioning replacement is an effective EE measure, but it is also expensive. Thus, a program like MyHER produces more energy savings for customers. Nevertheless, witness Powers committed that the Company would work on getting longer-lived measures to customers to help them save money. *Id.* at 134-35.

Discussion and Conclusions

Based upon the foregoing, the Commission concludes that for purposes of inclusion in Rider 14, the Company's aggregate DSM/EE portfolio projects are cost-effective. No party recommended terminating, modifying, or excluding these programs or measures or any programs or measures from Rider 14, and the Commission will not order the Company to modify or terminate any of its DSM/EE programs in this proceeding. With respect to the Information Technology element of the Non-Residential Smart $aver program, it is only a single measure within a larger, cost-effective program; therefore, the Commission will not order any modifications to that measure.

The Commission further finds that the Company's removal of non-DSM/EE costs and revenues from the FID channel is consistent with the Commission's previous orders and is appropriate.

Based on the foregoing, the Commission agrees with the Public Staff that EM&V should be utilized to the extent feasible to assess the impact interval energy usage information gleaned from AMI and energy tips have on customers versus the engagement education and empowerment around EE provided through the MyHER program, which continues to be refined and enhanced by insights from interval usage data. The Commission further agrees with Public Staff witness Williamson that at this time, AMI and Customer Connect use have not yet gained sufficient "traction," with customers having participated for only approximately eight months of time where they could go online and see their energy consumption data through AMI. For purposes of this proceeding, however, the Commission finds that directing the Company to alter its EM&V processes for MyHER with respect to AMI, in advance of greater customer experience or "traction" with AMI data, would be premature at this time.

The Commission also recognizes that, like the Company's DSM/EE portfolio as a whole, MyHER is cost-effective. No party disputed its cost-effectiveness. Specifically, MyHER is cost-effective under the UCT. As defined in Paragraph 16 of the Mechanism, the UCT is a cost-effectiveness test that measures the net costs of a DSM or EE Program or portfolio as a resource option based on the incremental costs incurred by the utility (including incentive costs paid by the utility to or on behalf of participants) and excluding any net costs incurred by the participants. The benefits for the UCT are the avoided supply costs (i.e., the reduction in generation capacity costs, transmission and distribution capacity costs, and energy costs caused by a load reduction), valued at marginal cost for the periods when there is a load reduction. This reduction in avoided supply costs benefits all customers, even if they are one of the relatively few customers that do not participate in, or have opted out of, MyHER. Additionally, as detailed by witness Holbrook, the MyHER Program also provides an effective channel to cross-promote other EE programs to customers that deliver energy savings and system benefits for all customers not reflected in the MyHER system benefits.

Based on the foregoing, DEC's DSM/EE portfolio is approved without modification for inclusion in Rider 14. The Commission directs the Company, however, to continue to leverage its existing programs and to explore developing additional programs that cost effectively target the largest residential end uses of electricity, such as space heating, cooling, and water heating. The Commission further believes that the Company should continue to explore ways that AMI data utilized by MyHER can enhance energy savings to customers.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence in support of this finding and conclusions can be found in the testimony and exhibits of DEC witness Holbrook and the testimony and exhibits of Public Staff witness Williamson.

DEC witness Holbrook testified regarding the EM&V process, activities, and results presented in this proceeding. She explained that the EMF component of Rider 14 incorporates actual customer participation and evaluated load impacts determined through EM&V and applied pursuant to the EM&V Agreement. In addition, actual participation and evaluated load impacts are used prospectively to update estimated NLR. Tr., pp. 195-96. In this proceeding, the Company submitted as exhibits to witness Holbrook's testimony detailed, completed EM&V reports or updates for the following programs: Low Income Weatherization Program 2016-2018 (Holbrook Exhibit A); Power Manager: 2019-2020 (Holbrook Exhibit B); Online Savings Store Program 2021 Evaluation (Holbrook Exhibit C); K12 Education Program 2019-2020 Evaluation (Holbrook Exhibit D); Small Business Energy Saver Program 2019-2020 (Holbrook Exhibit E); and Interim Report for the EnergyWise Business Program 2020 (Holbrook Exhibit F).

In his testimony, Public Staff witness Williamson testified that, based on his review of the EM&V reports filed in this proceeding and his discussions with the Company, it was determined that Small Business Energy Saver Program 2019-2020 Report, Holbrook Exhibit E, contained an error. The Company and the Public Staff agreed that the Company could update the report and incorporate the financial impacts associated with the update in the next rider proceeding and that the Commission hold this report open until the next rider proceeding. Witness Williamson recommended that the remaining EM&V reports be considered complete. Witness Williamson also verified that the change to program impacts and participation were appropriately incorporated into the rider calculations for each DSM/EE program and the actual participation and impacts calculated with the EM&V data consistent with Commission orders and the Mechanism. Tr., pp. 270-71.

Conclusions

No party contested the EM&V information submitted by the Company, and the Company has agreed to the recommendations of Public Staff witness Williamson with respect to future EM&V reports. The Commission therefore finds that the EM&V reports filed as Evans Exhibits A, B, C, D, and F are acceptable for purposes of this proceeding and should be considered complete for purposes of calculating program impacts. The Commission further directs the Company to update the Small Business Energy Saver Program Report and incorporate the financial impacts associated with the update in the next DEC DSM/EE rider proceeding. The Commission will hold the Small Business Energy Saver Program 2019-2020 Report open until the next rider proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 10-13

The evidence in support of these findings and conclusions can be found in the MyHER Application (hereinafter defined), the MyHER Order (hereinafter defined), the 2017 Mechanism (hereinafter defined), the MyHER EM&V Report (hereinafter defined), the Company's Application, the direct and supplemental testimony and exhibits of the Company's panel of witnesses, and the testimony and exhibits of Public Staff witnesses Dorgan and Williamson.

Evidence Supporting Findings of Fact Nos. 10-13

DEC's MyHER program was approved by the Commission as a new EE program in Docket No. E-7, Sub 1015 on September 11, 2012. *Application by Duke Energy Carolinas, LLC for Approval of Proposed My Home Energy Report Program* (MyHER Application); Order Approving Program (MyHER Order). In summary, DEC described the MyHER program as an EE measure to assist residential customers in becoming more energy efficient. DEC stated that the program would provide each participant with a monthly report that included energy usage information about a peer group of homes similar in size, age, type of heating fuel, and geography to that of the participant's home. Further, the monthly MyHER reports would include targeted EE tips. The MyHER Application further stated that the program would have a one-year measure life. Attachment A, line 1. Finally, Section (c)(3)(i)(k), under the heading "Description of How the Measure's Impacts Will be Evaluated, Measured and Verified" stated:

> The impact evaluation will determine the magnitude and certainty of savings achieved, as well as the persistence of the energy savings over time.

In the MyHER Order the Commission reviewed DEC's description of the program and the parties' comments. With regard to the EM&V for MyHER, in its discussion and conclusions the Commission stated:

> Further, based upon the comments and reply comments, the Commission finds and concludes that DEC, in its future EM&V reports for the MyHER Program, should:
>
> . . .
>
> (3) in addition to the analysis of persistence of energy savings resulting from the Program, include an analysis of the rate of degradation of savings observed during the Program[.]

Id. at 6-7.

In addition, the MyHER Order included the following Ordering Paragraph No. 5:

> That in its future EM&V reports for the MyHER Program, DEC shall include the required analyses, savings identification, and evaluations as described in the Commission's conclusions, as stated above.

Id. at 7.

The applicable DEC DSM/EE Cost Recovery Mechanism (2017 Mechanism), approved by the Commission in its Order Approving DSM/EE Programs and Stipulation of Settlement, *Application of Duke Energy Carolinas, LLC for Approval of New Cost Recovery Mechanism and Portfolio of Demand-Side Management and Energy Efficiency Programs*, Docket No. E-7, Sub 1032 (October 29, 2013) states:

> 58. Recoverable Net Lost Revenues shall ultimately be based on kWh sales reductions and kW savings verified by the EM&V process and approved by the Commission.[7]

The Commission takes notice of the direct testimony of Chris Neme, filed on behalf of SACE, et al. in the 2018 DSM/EE rider proceeding, which raised the issue of the persistence of savings in the context of the MyHER program. Direct Testimony of Chris Neme on behalf of the North Carolina Justice Center, Natural Resources Defense Council, and Southern Alliance for Clean Energy, pgs. 15-18, Docket No. E-7, Sub 1164 (May 22, 2018). In response to witness Neme's testimony, the Commission, in its final order in the docket, sent the issue of the amount and persistence of the savings from the MyHER program to the Collaborative. Order Approving DSM/EE Rider and Requiring Filing of

[7] Stipulation and Agreement, Stipulation Exhibit 1, at 20-21, Docket No. E-7, Sub 1032 (August 19, 2013). These paragraphs were renumbered as Paragraph Nos. 60 and 63 in the 2020 Mechanism, but their substance was unchanged.

Customer Notice, Docket No. E-7, Sub 1164 (September 11, 2018) (2018 DSM/EE Order). The Commission takes notice of the testimony provided by DEC in the DSM/EE rider proceeding the following year:

> The My Home Energy Report Program ("MyHER") and its EM&V are designed to account for the fact that the program features an opt-out design in that customers remain in the program until they opt out. Issues of persistence are consequently not currently part of EM&V testing. Additional concerns about whether savings from MyHER are being attributed to the years in which the EE treatment occurred are not immediately relevant given the absence of regulatory requirements to achieve savings targets in specific years. Rather, the focus of EM&V has been on accurately capturing savings within the continuous treatment model. The Company acknowledges that alternative program designs may shed light on potential cost savings or energy saving projections in future filings and agrees to investigate the feasibility and cost benefit analysis of incorporating persistence testing in upcoming EM&V studies. Since any testing will require several years to complete, the Collaborative decided that this issue did not warrant further discussion until more information is available. However, the role of this and other programs with short-lived measures will be part of the larger discussion of threats and opportunities at the portfolio level.

Direct Testimony of Robert P. Evans for Duke Energy Carolinas, LLC, pages 13-14, Docket E-7, Sub 1192, (February 26, 2019). The Commission's final order in the 2019 DSM/EE rider proceeding notes Evans' testimony on the issues discussed in the Collaborative, including the MyHER persistence issue. Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice, page 30, Docket E-7, Sub 1192, (October 18, 2019).

Further, the Commission's Order notes that "[t]he Commission reviewed the issues raised by SACE witness Neme in Sub 1164 and believes that the Collaborative has made progress in addressing those issues, as directed by the Commission in DEC's previous DSM/EE proceeding." Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice, p. 34, Docket E-7, Sub 1192 (October 18, 2019) (2019 DSM/EE Order).

The My Home Energy Report Program Evaluation authored by Nexant and dated July 10, 2019 (MyHER EM&V Report), appears in the record as Exhibit 16 to the direct testimony of Robert P. Evans, Senior Manager – Strategy and Collaboration for the Carolinas in the Company's Market Solutions Regulatory Strategy and Evaluation Group, prefiled in this docket on March 1, 2022. The MyHER EM&V Report was initially filed by DEC on February 25, 2020, in Docket No. E-7, Sub 1230, DEC's 2020 DSM/EE rider proceeding, as Exhibit B to witness Evans' direct testimony in that docket. It was reviewed and found complete by the Public Staff.

In the 2020 DSM/EE rider proceeding, the Public Staff accepted the EM&V reports, which included the MyHER EM&V Report. Testimony of David M. Williamson Public

Staff – North Carolina Utilities Commission, p. 38, Docket No. E-7, Sub 1230 (May 22, 2020). In its final order in the 2020 DSM/EE rider proceeding, the Commission noted that no party had contested the EM&V information submitted by DEC, which included the MyHER EM&V Report and found that the EM&V reports filed as Evans Exhibits A, B, C, D, and E in that proceeding, which included the MyHER EM&V Report, to be acceptable for purposes of the proceeding and considered complete for purposes of calculating program impacts. Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice, Finding of Fact 10 on page 23, Docket No. E-7, Sub 1230 (December 11, 2020).

The MyHER EM&V Report is used for purposes of calculating program impact in this proceeding. Tr., pp. 168-69.

On June 6, 2022, in response to questions submitted by the Commission in an order issued on May 31, 2022, DEC filed its Panel Cross-Examination Exhibit 1, which included the following information about systemwide participants in the MyHER program.

MyHER Customer Account Participation - Total and New Participants

Year (Rider Rate Year)	Total Participants (actual or provisional)	Estimated Participants participating in program for first time
2017	1,394,693	251,083
2018	1,432,263	141,113
2019	1,339,152	59,330
2020	1,358,892	149,652
2021	1,376,708	176,010
2022	1,377,387	281,713
2023	1,368,084	201,794
2024	1,371,065	202,234

Panel Cross-Examination Exhibit 1, Commission Question 5 (Participants Table).

On June 30, 2022, in response to questions by the Commission during the hearing, DEC filed its Late-Filed Exhibit 3, which included the following information specific to North Carolina participants in the MyHER program.

MyHER NC Customer Account Participation - Total and New Participants

Year (Rider Rate Year)	Total NC Participants (actual or provisional)	Estimated NC Participants participating in program for first time
2017	1,015,459	182,810
2018	1,041,442	102,608
2019	978,791	43,365
2020	994,998	109,577
2021	1,012,202	129,408
2022	1,008,540	206,274
2023	1,005,861	148,366
2024	1,008,053	148,689

DEC Late-Filed Exhibit 3 (NC Participants Table).

During the hearing, in response to questions by the Commission, the DEC panel of witnesses testified that the total number of annual MyHER participants shown in the Participants Table was derived by including all of the previous year's participants (existing participants), except the relatively few participants that opt out,[8] plus new DEC customers who received the MyHER report for the first time during the year (new participants). Specifically, in response to questions from the Commission, the DEC panel testified as follows

> Q. Okay. So just given that number of years, given the three-year restriction in paragraph 57 of the mechanism, what is the basis for including 2017 MyHER participants in the 2021 calculation of total participants?
>
> A. So I don't know if it says it in paragraph 57, but the restrictions on lost revenue are three years or until the rate case becomes effective or the measure life. Whatever is the lowest. And the MyHER Program has a one-year measure life. So if we were to stop MyHER, essentially, the tips and the engagement goes away and we would expect that the usage would revert back to pre MyHER, before we ever got a report. And so because we have to engage them and incur the cost to engage them, every year it's a one-year measure life. And so, because of that, while it's included in the rate case, as a baseline, in order to keep that going, we have to continue to engage those customers. And so we continue that participation and that lost revenue because of the one-year measure life that it has.
>
> Q. Okay. So from a legacy standpoint, do I understand that every year, all the participants, whether they've been participating for one, two, three, four,

[8] Only 17 new customers opted out of MyHER last year. Tr., pp. 121-22.

five years, are considered to be in that legacy year? So 2021, it's a new program for all the participants?

A. That's correct, yes.

Q. Okay. Tr., pp. 158-59.

In addition, the DEC witnesses testified, in response to Commission questions, as follows

Q. . . . So in other words, the way the cost-recovering mechanism operates, as I understand it, is there's a bill savings and there's also the recovery of a significant part of that bill savings in the Rider. So when you're saying, do this, you're going to save this much on your bill, is it netted out or is it –

A. (Ms. Powers) Yeah. So we don't say that. We don't say, do this and you'll save this much on your bill. For some of the measures, like a heating and air conditioning, we might say you could save up to this amount, but we don't make guarantees as to what customers would save. There's too many variations in usage and weather and occupants in the home, and so we don't make those kinds of guarantees.

Q. But because those numbers do get people's attention. So when you just calculate those numbers, do you take into consideration just the straight bill savings that a customer will have or do you actually net out that they're going to have to pay -- in the MyHER Program, in particular, they're going to save something? But then the way the mechanism works, they're going to have to pay back a significant part of that savings?

A. (Ms. Powers) Well, the part of the savings that they're paying back through the Rider is distributed and spread among all the residential ratepayers, so -- so it still translates to bill savings for the participants. But, again, we wouldn't make those kinds of guarantees to customers, and we would discourage even presenting numbers like that to customers for just -- for not just that reason, but also because customers' behavior changes when they make these energy efficiency upgrades, and there's really no way of knowing how that will -- they'll respond. That's why we do the billing analysis after the fact, and we determine what the savings are after, through the billing analysis, but not preemptively.

. . . .

Q. Okay. Well, since there is such a high penetration level with this program, the net lost revenues that each customers' putting back would be lower than their private savings, but I think it's still pretty significant because you have such a high level of participation.

A. Yes. That's true.

Q. So given that, is there a situation where the folks that are being excluded from this program for EM&V purposes are paying for a significant -- they're paying for lost revenue for the beneficiaries that are participating in the program?

A. That's true.

Q. Is that a fairness issue or an equity issue that we should be concerned about? Again, just because the numbers are so high. Does that make sense?

A. (Ms. Williams) Could you repeat the question, please?

Q. Sure. I think -- and don't quote me on these numbers, but roughly it's 1.3, 1.4 are participating in the program. They are generating a lot of savings and they are causing a lot of lost revenue to go back on customers' bills. So they are picking up a percentage of that lost revenue, which was my previous question, but also the customers that haven't benefited from participating in the program that haven't, in theory, led to that savings. They are, from what I understand, paying the same amount of lost revenues as the customers that are participating in it. And so is that an issue of fairness that we should be concerned about?

A. You are correct. And Karen, I'm not -- I'm not -- I'm not the expert with this, but yes, the MyHER control group would be paying into that. In terms of fairness, it is a very high percentage of DEC customers who are participating in the MyHER Program. So in terms of a question of fairness, there is a low level of opt-out. We do try to minimize as much as possible the number of control groups, the number of participants in the control group. So in terms of fairness, it is something that I cannot answer.

A. (Ms. Holbrook) And I would add to that a couple of things. I think having that control group is just necessary for the program to work for us to even be able to validate the savings. And the other part of it is it's a very cost-effective program. And so you may not be getting the bill credit, but those customers are enjoying the avoided cost benefit as compared to the cost of the program, so they are reaping the benefit of the avoided costs. And so they may not get as much benefit, but they're not overly paying for it because they've got that avoided cost benefit versus program costs.

Tr., pp. 149-54.

Further, in response to questions from counsel for SACE, et al., the DEC panel testified as follows:

Q. I have a question about MyHER, now shifting gears. Commissioner Hughes was asking about the number of participants and the control group. Has Duke or has its EM&V contractor considered, kind of, a third category of customers who've been on the MyHER Program for maybe a year or two, and then have them roll off and, sort of, to test out this hypothesis? Would there be a persistence of savings, even without that treatment, even without getting the reports? Has that been part of the EM&V from MyHER?

A. (Ms. Williams) We have not had a formal persistence study, but that is something that we can certainly look into with the evaluator.

Q. And are you familiar that in other parts of the country with these kinds of behavioral programs, that they have found some persistence of savings after customers have rolled off of participation?

A. I am aware that there is some persistence of savings. Some slight degradations, but overall, persistence of savings, yes.

Q. So it sounds like Duke then would be willing to investigate that further as another way of maybe trimming costs and while not dramatically reducing savings from MyHER going forward?

A. That is something that we can certainly explore. *Id*. at 166.

For the 2023 rate year, the total energy savings attributed to each MyHER participant is 244.95 kWh. Panel Cross-Examination Exhibit 1, Commission Question 2 (Savings Table). On a North Carolina basis, the NLR attributed to MyHER for the 2023 rate year is $17,467,498, the PPI is $1,400,889, and the program cost is $5,534,384. DEC Late-Filed Exhibit 3.

Discussion and Conclusions

DEC presented substantial evidence that the costs, PPI and NLR it seeks to recover for the MyHER program in the 2023 rate year are justified, and no party challenged that evidence. The Commission concludes that DEC should recover its full MyHER costs, PPI and NLR, as requested by the Company. Moreover, the Commission is persuaded that MyHER continues to be a successful EE program that serves the public interest.

MyHER was approved by the Commission as a program with a one-year measure life on the basis that residential customers would benefit from the monthly reminders about energy saving behaviors, and also would benefit from new energy saving tips from DEC. Given that MyHER was approved as a one-year measure, it is appropriate, at this time, for DEC to include as participants in MyHER those customers who have received the report in the previous year as well as any new customers receiving the report during the test year, as shown in DEC's NC Participants Table and confirmed by DEC's witnesses.

However, the Commission is concerned about the total cost of the program to DEC's customers. The Commission understands that the monthly participation counts shown in Tables 3-1 and 3-2 of the MyHER EM&V Report were used by Nexant to estimate the aggregate energy saving impacts of the MyHER program. The MyHER EM&V Report explains that "the [p]er-home kWh savings estimates for each bill month are multiplied by the number of participating homes to arrive at the aggregate MWh impact achieved by the program." MyHER EM&V Report at 20. In turn, the kWh savings are used to calculate PPI and NLR, which are costs passed on to customers. As a result, it is important to know whether kWh savings by a MyHER participant continue to be attributable to monthly receipt of the MyHER report or would continue (and at what level) even if that customer no longer received the MyHER report.

The Commission notes that since the issuance of the 2012 MyHER Order, the Company has addressed the issue of persistence of savings, though it has not performed and included a "formal study" in its MyHER EM&V Reports. While the 2012 Order requires the Company to analyze, in its MyHER EM&V Reports, both the persistence of energy savings and the rate of degradation of savings, with respect to the performance and implementation of the MyHER program, the Commission in its 2018 DSM/EE Order further directed the Company to use or leverage the Collaborative to discuss EM&V issues, including persistence, that were specifically raised by SACE in Docket No. E-7, Sub 1164 (Sub 1164). The following year, in its 2019 DSM/EE Order, the Commission agreed with the Company that the Collaborative had made progress in addressing the issues raised by SACE in Sub 1164. Thus, although DEC has not provided the persistence savings analysis intended in the 2012 Order, it has generally been working on the issue through the Collaborative since 2018. In the interim through the date of issuance of this Order, the Commission has neither commented on the status of the persistence savings analysis that was directed in the 2012 Order, nor amended the 2012 Order to relieve the Company from including persistence and degradation of savings analyses in its MyHER EM&V Reports. In 2020, the Commission found the information in DEC's initial MyHER EM&V Report acceptable for the purposes of calculating the program's impact without any reference to the persistence analysis directive in the 2012 Order. DEC offered testimony at the expert witness hearing *sub judice* indicating that while it has not done a "formal persistence study" on the program, it is willing to investigate the persistence and degradation of savings associated with the program.

The Commission wants to fully and better understand the benefits of the MyHER program. Therefore, the Commission directs DEC to evaluate the persistence of savings after a customer ceases to participate after having participated in the program for multiple years. This additional persistence investigation and evaluation study should be initiated prior to the next DSM/EE proceeding and, to the extent the study effort spans more than one year, the Company is directed to provide updates to the Commission in its annual DSM/EE filings until the study is complete. Once the study is complete, analysis of the persistence of savings and degradation of savings should be included in all future MyHER EM&V Reports, in accordance with the 2012 Order.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-32

The evidence in support of these findings and conclusions can be found in the Sub 831 Order, the Sub 831 Found Revenues Order, the Sub 938 Waiver Order, the Sub 938 Second Waiver Order, the Sub 979 Order, the Sub 1032 Orders, and the Sub 1130 Order, as well as in the Company's Application, the direct and supplemental testimony and exhibits of Company witness Listebarger, the direct and rebuttal testimony and exhibits of Company witness Holbrook, and the testimony and exhibits of Public Staff witnesses Dorgan and Williamson.

On March 1, 2022, DEC filed its application seeking approval of Rider 14, which includes the formula for calculation of Rider EE, as well as the proposed billing factors to be effective for the 2023 rate period. Company witness Listebarger testified that the methods by which DEC has calculated its proposed Rider EE are consistent with the 2013 Sub 1032 Stipulation and the Mechanism, as approved in the 2013 Sub 1032 Order, and the 2020 Sub 1032 Order. She clarified that the 2013 Sub 1032 Stipulation remains in effect; however, the 2020 Mechanism applies prospectively to costs projected in 2022. Tr., pp. 36-37.

Witnesses Listebarger and Holbrook each provided an overview of the Mechanism, which is designed to allow the Company to collect revenue equal to its incurred program costs[9] for a rate period, plus a PPI based on shared savings achieved by the Company's DSM and EE programs, and to recover NLR for EE programs only. *Id*. Witness Listebarger explained that the PPI is calculated by multiplying the net dollar savings achieved by the system portfolio of DSM and EE programs by a factor of 11.5%. Under the 2020 Mechanism, however, this percentage is lowered to 10.6%, starting in 2022. *Id*. at 42-43. In addition, Company witness Holbrook explained that the calculation of the PPI is based on avoided cost savings, net of program costs, achieved through the implementation of the Company's DSM and EE programs. *Id.* at 101-02. She further explained that consistent with the Sub 1032 Orders, DEC has excluded the impacts from the Income-Qualified EE and Weatherization Program for Individuals from its calculation of the PPI. The system amount of PPI is then allocated to North Carolina retail customer classes to derive customer rates. *Id.* at 40-41. Under the 2020 Mechanism beginning in 2022, the Income-Qualified EE and Weatherization programs are eligible to receive a PPI. *Id.* at 102.

Witness Listebarger explained that in each of its annual rider application filings, DEC performs a true-up process for the prior calendar year vintages. The true-up reflects actual participation and verified EM&V results for the most recently completed vintage, applied in accordance with the EM&V Agreement. In accord with the 2020 Sub 1032 Order, DEC continues to apply EM&V in accordance with the EM&V Agreement. The Company expects that most EM&V will be available in the timeframe needed to true-up each vintage in the following calendar year. If any EM&V results for a vintage are not available in time for

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[9] Rule R8-68(b)(1) defines "program costs" as all reasonable and prudent expenses expected to be incurred by the electric public utility, during a rate period, for adopting and implementing new DSM and EE measures previously approved pursuant to Rule R8-68.

inclusion in DEC's annual rider filing, however, the Company will make an adjustment in the next annual filing. *Id.* at 38.

Witness Listebarger testified that deferral accounting may be used for over and under recoveries of costs eligible for recovery through the annual DSM/EE rider. Tr., pp. 37-38. The balance in the deferral accounts, net of deferred income taxes, may accrue a return at the net-of-tax rate of return approved in the Company's then most recent general rate case. She testified that the methodology used for the calculation of interest shall be the same as that typically utilized for the Company's Existing DSM Program Rider proceedings. Pursuant to Commission Rule R8-69(c)(3), the Company will not accrue a return on NLR or the PPI. *Id*.

Witness Listebarger testified that under the 2013 Sub 1032 Stipulation and the Sub 938 First Waiver Order, qualifying non-residential customers may opt out of the DSM and/or EE portion of Rider EE during annual election periods. She stated that Rider EE will be charged to all customers who have not elected to opt out during an enrollment period and who participate in any vintage year of programs, and these customers will be subject to all true-up provisions of the approved Rider EE for any vintage in which the customers participate. Witness Listebarger explained that the Mechanism affords an additional opportunity for participation whereby qualifying customers may opt into the Company's EE and/or DSM programs during the first five business days of March. *Id.* at 43-44. Customers who elect to begin participating in the Company's DSM and/or EE programs during the special "opt-in period" during March of each year will be retroactively billed the applicable Rider EE amounts back to January 1 of the vintage year, such that they will pay the appropriate Rider EE amounts for the full rate period. *Id*.

Witness Listebarger further testified that the Company may recover NLR associated with a particular vintage for a maximum of 36 months or the life of the measure, or until the implementation of new rates in a general rate case to the extent that the new rates are set to recover NLR. She explained that for the prospective components of Rider EE, NLR are estimated by multiplying the portion of the Company's tariff rates that represents the recovery of fixed costs by the estimated North Carolina retail kW and kWh reductions applicable to EE programs by rate schedule and reducing this amount by estimated found revenues. She further testified that the fixed cost portion of the tariff rates is calculated by deducting the recovery of fuel and variable operation and maintenance costs from the tariff rates, and that the NLR totals for residential and non-residential customers are then reduced by North Carolina retail found revenues computed using the weighted average lost revenue rates for each customer class. For the EMF components of Rider EE, NLR are calculated by multiplying the fixed cost portion of the tariff rates by the actual and verified North Carolina retail kW and kWh reductions applicable to EE programs by rate schedule and reducing this amount by actual found revenues. *Id.* at 42-43.

Witness Holbrook described how, in accordance with the Sub 831 Settlement, the Commission's Sub 831 Found Revenues Order, and the 2013 Sub 1032 Stipulation, DEC reduces NLR by net found revenues. *Id.* at 97-99. Additionally, she stated that the Company has continued the practice the Commission approved in its Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice issued on August 21, 2015 in Docket No.

E-7, Sub 1073, of reducing net found revenues by the monetary impact (negative found revenues) caused by reductions in consumption resulting from the Company's current initiative to replace Mercury Vapor lights with light-emitting diode (LED) fixtures. *Id*.

Witness Listebarger testified that program costs and incentives for EE programs targeted at retail residential customers across North Carolina and South Carolina are allocated to the North Carolina retail jurisdiction based on the ratio of North Carolina retail kWh sales (grossed up for line losses) to total retail kWh sales (grossed up for line losses), and then recovered only from North Carolina retail residential customers. *Id.* at 8. Revenue requirements related to EE programs targeted at retail non-residential customers across North Carolina and South Carolina are allocated to the North Carolina retail jurisdiction based on the ratio of North Carolina retail kWh sales (grossed up for line losses) to total retail kWh sales (grossed up for line losses), and then recovered from only North Carolina retail non-residential customers. The portion of revenue requirements related to NLR is computed based on the kW and kWh savings of North Carolina retail customers. *Id.* at 40-41.

For DSM programs, the aggregated revenue requirement for all retail DSM programs targeted at both residential and non-residential customers across North Carolina and South Carolina is allocated to the North Carolina retail jurisdiction based on the North Carolina retail contribution to total retail peak demand, according to witness Listebarger. Both residential and non-residential customer classes are allocated a share of total system DSM revenue requirements based on each group's contribution to total retail peak demand. *Id*.

Witness Listebarger further testified that the allocation factors used in DSM/EE EMF true-up calculations for each vintage are based on the Company's most recently filed Cost of Service studies at the time that the Rider EE filing incorporating the true-up is made. If there are subsequent true-ups for a vintage, the allocation factors used will be the same as those used in the original DSM/EE EMF true-up calculations. *Id.*

Witness Listebarger also described how DEC calculates one integrated (prospective) DSM/EE rider and one integrated DSM/EE EMF rider for the residential class, to be effective each rate period. *Id.* at 38. The integrated residential DSM/EE EMF rider includes all true-ups for each applicable vintage year. Given that qualifying non-residential customers can opt out of DSM and/or EE programs, DEC calculates separate DSM and EE billing factors for the non-residential class. The non-residential DSM and EE EMF billing factors are determined separately for each applicable vintage year, so that the factors can be appropriately charged to non-residential customers based on their opt-in/out status and participation for each vintage year. *Id*.

Prospective Components of Rider 14

Witness Listebarger testified that Rider 14 consists of five prospective components: (1) a prospective Vintage 2023 component designed to collect program costs and the PPI for DEC's 2023 vintage of DSM programs; (2) a prospective Vintage 2023 component to collect program costs, the PPI, PRI and the first year of NLR for DEC's 2023 vintage of EE programs; (3) a prospective Vintage 2022 component designed to collect the second year of estimated NLR for DEC's 2022 vintage of EE programs; (4) a prospective Vintage 2021 component designed to collect the third year of estimated NLR for DEC's 2021 vintage of EE programs; and (5) a prospective Vintage 2020 component designed to collect the fourth year of estimated lost revenues for DEC's 2020 vintage of EE programs. Tr., p. 39.

Pursuant to the Sub 938 Second Waiver Order and the 2020 Sub 1032 Order, the rate period for the prospective components of Rider 14 is January 1, 2023, through December 31, 2023. *Id.* at 45.

The prospective revenue requirements for Vintage 2020 are determined separately for residential and non-residential customer classes and are based on the fourth year of estimated NLR for the Company's Vintage 2020 EE programs. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its most recent general rate case, which became effective June 1, 2021, adjusted to only recover the fixed cost component. *Id.*

For Vintage 2021, the Company determined the estimated prospective revenue requirements separately for residential and non-residential customer classes and based them on the third year of NLR for its Vintage 2020 EE programs. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its most recent general rate case, which became effective June 1, 2021, adjusted as described above to recover only the fixed cost component. *Id.* at 45-46.

Witness Listebarger also explained that the Company determined the estimated prospective revenue requirements for Vintage 2022 separately for residential and non-residential customer classes and based them on the second year of NLR for its Vintage 2022 EE programs. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its most recent general rate case, which became effective June 1, 2021, adjusted to recover only the fixed cost component. *Id.*

With respect to Vintage 2023, witness Listebarger described the basis for the rate period prospective revenue requirements. She testified that the estimated prospective revenue requirements for Vintage 2023 EE programs include program costs, PPI, PRI, and the first year of NLR determined separately for residential and non-residential customer classes. The estimated prospective revenue requirements for Vintage 2023 DSM programs include program costs and PPI. The program costs and shared savings incentive are computed at the system level and allocated to North Carolina based on the allocation methodologies described in witness Listebarger's direct testimony. The amounts are based on estimated North Carolina retail kW and kWh reductions and DEC's rates approved in its last general rate case, which became effective June 1, 2021. *Id.*

The Company's proposed initial billing factor for the Rider 14 prospective components is 0.4292 cents per kWh for DEC's retail residential customers. For non-residential customers, the amounts differ depending on the customer elections of participation. Witness Listebarger provided the following chart to list the options and rider amounts.

Non-residential Billing Factors for Rider 14 Prospective Components	Cents/kWh
Vintage 2020 EE participant	0.0259
Vintage 2021 EE participant	0.0671
Vintage 2022 EE participant	0.0995
Vintage 2023 EE participant	0.4323
Vintage 2023 DSM participant	0.0970

EMF Components of Rider 14

Rider 14 includes the following EMF components: (1) a true-up of Vintage 2018 lost revenues, PPI and participation for DSM/EE programs based on additional EM&V results received; (2) a true-up of Vintage 2019 lost revenues, PPI and participation for DSM/EE programs based on additional EM&V results received; (3) a true-up of Vintage 2020 lost revenues, PPI, and participation based on additional EM&V results received; and (4) a true-up of Vintage 2021 lost revenues, PPI and program costs, PPI for DSM/EE programs. Tr., p. 38.

Witness Listebarger testified that pursuant to the Sub 938 Second Waiver Order and the 2013 Sub 1032 Stipulation, the “test period” for the Vintage 2021 EMF component is January 1, 2021 through December 31, 2021. As the Sub 938 Second Waiver Order allows the EMF to cover multiple test periods, the test periods for Vintage 2018 is January 1, 2018 through December 31, 2018, for Vintage 2019, the test period is January 1, 2019 through December 31, 2019, and Vintage 2020 is January 1, 2020 through December 31, 2020. *Id.* At 47.

Witness Listebarger’s Exhibit 2 outlined the updates to the Vintage 2021 estimate filed in 2020 that comprise the Vintage 2021 EMF component of Rider 14. The second year of NLR for Vintage 2021, which are a component of Rider 13 billings during 2022, will be trued up to actual amounts during the next rider filing. Estimated participation for Vintage 2021 was updated for actual participation for the period January 2021 through December 2021. Regarding NLR, estimated participation for the Year 1 Vintage 2021 estimate assumed a January 1, 2021 sign-up date and used a half-year convention, while the NLR Year 1 Vintage 2021 true-up was updated for actual participation for the period January through December 2021 and actual 2021 lost revenue rates. Found revenues for Year 1 of Vintage 2021 were trued up according to Commission-approved guidelines.

With respect to updating load impacts for the Vintage 2021 true-up, witness Listebarger explained that, for DSM programs, the contracted amounts of kW reduction capability from participants are considered to be components of actual participation. As a result, the Vintage 2021 true-up reflects the actual quantity of demand reduction capability for the Vintage 2021 period. The load impacts for EE programs were updated in accordance with the Commission-approved EM&V Agreement. *Id.*

With respect to updating NLR computed for the Vintage 2021 true-up, witness Listebarger testified that NLR for year one (2021) of Vintage 2021 were calculated using actual kW and kWh savings by North Carolina retail participants by customer class based on actual participation and load impacts reflecting EM&V results applied according to the EM&V Agreement. The actual kW and kWh savings were as experienced during the period January 1, 2021 through December 31, 2021, and the rates applied to the kW and kWh savings are the retail rates that were in effect during the same period reduced by fuel and variable operation costs. The lost revenues were then offset by actual found revenues for Year 1 of Vintage 2021. NLR were calculated by rate schedule within the residential and non-residential customer classes. *Id.* at 48-49.

Witness Listebarger also described the basis for the Vintages 2020, 2019, and 2018 EMF components of Rider 14. For Vintage 2020, she explained that avoided costs Vintage 2020 EE programs were trued-up based on updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2020 through December 31, 2020. The rates applied to the kW and kWh savings are the retail rates that were in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. For the Vintage 2019 EMF component of Rider 14, she explained that all years were trued-up for updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2019 through December 31, 2019. The rates applied to the kW and kWh savings were the retail rates in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. With respect to Vintage 2018, witness Listebarger testified that NLR for all years were trued-up on updated EM&V results. Actual kW and kWh savings were as experienced during the period January 1, 2018 through December 31, 2018. The rates applied to kW and kWh savings are the retail rates in effect during each period the lost revenues were earned, reduced by fuel and other variable costs. *Id.* at 48-50.

Witness Listebarger’s direct testimony and exhibits reflected EMF billing factors for Rider 14 of (0.0903) cents per kWh for all North Carolina retail residential customers, (0.0833) cents per kWh for non-residential Vintage 2021 EE participants, (0.0173) cents per kWh for non-residential Vintage 2021 DSM participants, (0.0012) per kWh for non-residential Vintage 2020 EE participants, (0.0002) cents per kWh for non-residential Vintage 2020 DSM participants, 0.0064 cents per kWh for non-residential Vintage 2019 EE participants, 0.0003 cents per kWh for non-residential Vintage 2019 DSM participants, (0.0021) cents per kWh for non-residential Vintage 2018 EE participants and (0.0002) cents per kWh for non-residential Vintage 2018 EE participants. *Id.*

Application of Reserve Margin to Avoided Capacity Costs

Witness Holbrook testified that DEC had worked with the Public Staff to codify the use of a Reserve Margin Adjustment Factor (RMAF) as revised by the 2020 Sub 1032 Order for the Commission's consideration and approval. The redline contained in Holbrook Exhibit 18 illustrates the proposed RMAF-related modifications to subsection 20 of the Mechanism. Tr., p. 107. Holbrook Exhibit 18's proposed RMAF-related modifications are:

> 20B. Moreover, for the Calculation of the underlying avoided capacity benefits, when authorized pursuant to Commission Rule R8-69(c) and unless the Commission determines otherwise in a G.S. 62-133.9 DSM/EE Rider proceeding, the Company shall be permitted to recognize the impact of the Reserve Margin Adjustment Factor used in the determination of the PPI and PRI values for its energy efficiency programs.
>
> The Reserve Margin Adjustment Factor is equivalent to (1 + Reserve Margin) / (Performance Adjustment Factor) and will be applied to the avoided capacity costs of all energy efficiency programs.
>
> The Reserve Margin employed shall be based upon the value reflected in the most recent Commission accepted Integrated Resource Plan proceeding as of December 31 of the year immediately preceding the date of the annual DSM/EE rider filing. The Performance Adjustment Factor employed shall be based upon value reflected in the most recent Commission approved Biennial Avoided Cost proceeding as of December 31 of the year immediately preceding the date of the annual DSM/EE rider filing.

Public Staff witness Williamson confirmed that the Public Staff had reviewed the proposed language and recommended that the Commission approve the language. *Id.* At 250.

Public Staff Review of Company Rider 14 Calculations

Public Staff witness Williamson filed testimony in this proceeding discussing EM&V and cost-effectiveness issues related to future DSM/EE proceedings for the Company and did not recommend any adjustments to the Company's billing factor calculations. Public Staff witness Dorgan testified that his investigation of DEC's filings in this proceeding focused on whether the Company's proposed DSM/EE billing factors were calculated in accordance with the 2013 Sub 1032 Stipulation, the Sub 1130 Order, the Mechanism, and the 2020 Sub 1032 Order, and whether they otherwise adhered to sound ratemaking concepts and principles. Witness Dorgan testified that he believes that the Company has calculated the Rider 14 billing factors consistently with N.C. Gen. Stat. § 62-133.9, Commission Rule R8-69, the 2013 Sub 1032 Stipulation, the Sub 1130 Order, the 2013 Mechanism and the 2020 Mechanism, and other relevant Commission orders. *Id.* at 223-34.

Witness Dorgan testified that as part of the Public Staff's investigation in this proceeding the Public Staff performed a review of the DSM/EE program costs incurred by DEC during the 12-month period ended December 31, 2021. To accomplish this, the Public Staff selected and reviewed a sample of source documentation for test year costs included by the Company for recovery through the DSM/EE riders. Review of this sample is intended to test whether the costs included by the Company in the DSM/EE riders are valid costs of approved DSM and EE programs. Witness Dorgan testified that the Public Staff's compliance review did not discover any findings that necessitated adjustment to costs or incentives claimed for recovery. *Id.* at 221. However, witness Dorgan testified that based on its review of costs incurred over the past few vintage years, the Public Staff believes that it would be beneficial to undertake a review focused on DEC's DSM/EE advertising and promotion (A&P) costs. The Public Staff has notified the Company that it plans to undertake such a review, the purpose of which will be to determine the steps the Company regularly takes to right-size its DSM/EE A&P, and to inquire into the relationship between A&P costs and participant incentives. *Id.*

Witness Dorgan further noted the following with respect to the Public Staff's investigation of the Company's calculations of cumulative deferred income tax for Residential EE Programs for Vintage Year 2018 – as reflected in Listebarger Exhibit 3, Page 1: the Public Staff identified several computations that appear to be the result of Excel formula errors. These errors occurred first in the Company's Rider 12 application, but they were carried forward to Riders 13 and 14. Witness Dorgan reported that the Public Staff had notified the Company of the suspected errors. Correction of these errors resulted in a $248,707.00 increase to the revenue requirement as originally filed. The Company informed the Public Staff that it would file supplemental testimony and exhibits on this issue and that it would request the Commission permission to make all needed corrections as a one-time true-up adjustment to Vintage 2021 billing factors in conjunction with DEC's 2023 DSM/EE rider application. Witness Dorgan testified that the Public Staff had no objection to this arrangement. The Company filed its supplemental testimony and exhibits on May 16, 2022. The Public Staff reviewed the corrected billing factors filed by DEC and believed them to be accurate. *Id.* at 223.

According to witness Dorgan's testimony, the proposed combined DSM/EE prospective and EMF revenue requirement for the Residential customer class is approximately $77.3 million, which is an approximate $31.6 million decrease from the revenue produced by the rates currently in effect. For a typical residential customer using 1,000 kWh of energy, the combined residential billing factor, as proposed, would result in a $1.38 reduction in the customer's monthly bill. For non-residential customers, the proposed overall combined revenue requirement is approximately $96.3 million, an approximate $15.8 million increase over rates currently in effect. The change in the non-residential customer's bill, however, depends on the particular vintage years of the DSM or EE for which the customer has opted into or out of. *Id.* at 219.

Conclusions on Calculations of Rider 14

Based on the foregoing, the Commission finds and concludes that the components of Rider 14 are consistent with the Commission's findings and conclusions herein, as well as the Commission's findings and conclusions as set forth in the 2013 Sub 1032 Stipulation and the Mechanism approved in the 2013 Sub 1032 Order, as revised by the Sub 1130 Order and the 2020 Sub 1032 Order (approving the use of the 2020 Mechanism). The Commission approves the Company's calculation of the DSM/EE rates for Vintage 2023 as reflected in the direct and supplemental testimony and exhibits of DEC witness Listebarger. The Commission further finds and concludes that the proposed RMAF-related modifications to subsection 20 of the Mechanism are reasonable and appropriate and should be approved. Finally, the Commission approves the application of the increased regulatory fee to these rates, which are reflected in Findings of Fact Nos. 10-28.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 33

The evidence in support of this finding and conclusions can be found in the testimony of DEC witnesses Holbrook and Powers, NC Justice Center, *et al.*, witness Bradley-Wright, and Public Staff witness Williamson.

Company witnesses Holbrook and Powers described the Collaborative's activities. Witness Holbrook stated that the Collaborative met for formal meetings in January, March, May, July, September, and November in 2021. Between the meetings, interested stakeholders joined conference calls in February, April, May, August, October, and December to discuss certain agenda items or priorities, such as new program development ideas and pandemic-related issues, which could not be fully explored in formal meetings. Witness Holbrook stated that such meetings and calls would continue similarly through 2022 as well. Tr., p. 102.

Company witness Holbrook also testified that opt-outs by qualifying industrial and commercial customers adversely impacted the Company's overall results from the portfolio of approved DSM/EE programs. *Id.* at 99. For Vintage 2021, 4,461 eligible customer accounts opted out of participating in DEC's non-residential portfolio of EE programs, and 4,777 eligible customer accounts opted out of participating in the Company's non-residential DSM programs. *Id*. During 2021, however, 627 opt-out eligible customers opted into the EE portion of the Rider, and 204 opt-out eligible customers opted into the DSM portion of the Rider. Witness Holbrook explained that the ten percent decrease in the number of opt-outs in 2021, compared to 2020, was based primarily on the ongoing impacts of the COVID pandemic, which caused a decrease in the number of large commercial customers eligible to opt out due to their annual consumption exceeding the 1,000,000 kWh out-out threshold, set forth in Commission Rule R8-68(d). *Id.* at 100.

Witness Holbrook testified that even with the Covid-related reductions in opt outs, the Company continues to try to increase participation of opt-out eligible customers. The Company also continues to evaluate and revise its non-residential portfolio of programs to accommodate new technologies, eliminate product gaps, remove barriers to participation, and make its programs more attractive. It also continues to leverage its Large Account Management Team to make sure customers are informed about product offerings and their ability to opt into the Company's DSM and/or EE offerings during the March opt-in window. *Id.* at 100-01.

In response to Commission questions, DEC witness Powers testified that due to differing energy usage, estimating the cost burden of customers that opt out is difficult. Opt-out customers must self-certify that they are undertaking their own energy efficiency measures. The Company reviews opt outs frequently, but it has not challenged a customer's self-certification. Witness Powers noted that, because energy usage is a potential source of a competitive advantage, these opt-out customers are intrinsically motivated to drive their energy costs as low as possible. She reiterated that the Company's Large Account Managers follow up with such customers frequently to promote the Company's energy efficiency programs. *Id.* at 126-28.

Witness Holbrook also discussed the Collaborative's examination of the reasons for the forecasted decline in savings. She attributed the decline primarily to changing lighting standards and widespread adoption of LEDs. The Company is currently investigating new ideas from the Collaborative members and new ideas resulting from ongoing work of a number of stakeholder groups to determine if they can be developed into cost-effective programs. In fact, the Collaborative has focused specifically on assisting low-income households. Additionally, Collaborative members have participated in other working groups during 2021. Witness Holbrook expected members of the Collaborative to be key contributors to help vulnerable customers with their energy insecurity. *Id.* at 103-04.

Witness Holbrook's Exhibit 15 compared the performance of DEC's DSM/EE portfolio's cost and savings during the 2020 DSM/EE rider test year with the performance in the 2021 DSM/EE rider test year. The tables revealed that in 2020, DEC's DSM/EE programs reduced system energy usage by 653,954,870 kWh, and in 2021, DEC's DSM/EE programs reduced system energy usage by 636,941,127 kWh. Additionally, Exhibit 15 showed that DEC forecast DSM/EE energy savings of 695,373,655 kWh for 2020 and actually achieved energy savings of 653,954,870 kWh. For 2021, DEC forecast 760,217,903 kWh energy savings (which was made prior to the Company understanding potential impacts of COVID on program operations), and actually achieved 636,941,127 kWh in savings.

NC Justice Center, *et al.*, witness Bradley-Wright testified that DEC had reported a decline in energy savings in 2021. He noted that in 2021 DEC delivered 600 gigawatt-hours (GWh) of efficiency savings at the meter, equal to 0.79% of the previous year's retail sales. Prior to the pandemic, DEC had reported savings hovering near or above 1% for three consecutive years. *Id.* at 183.

Witness Bradley-Wright reported that DEC projects that it will achieve approximately 736.8 GWh of energy savings at the meter in 2023. This reflects an increase from DEC's 2020 and 2021 savings performance and is an estimated 0.98% of prior year sales. Witness Bradley-Wright noted that was less than the 1% savings benchmark. Witness Bradley-Wright recounted that the Commission had expressed concern with savings declines in the past. He further testified that since 2019, many Collaborative stakeholders have focused on reaching and exceeding 1% annual savings. To that end, witness Bradley-Wright testified, stakeholders recommended programs to close the gap between DEC's past performance and lower projected savings. He indicated that the Company had not worked with the Collaborative to develop a plan or committed to tracking its DSM/EE savings against the 1% benchmark. *Id.* at 190.

Witness Bradley-Wright also specifically addressed achieving greater efficiency savings for low-income customers. He noted that DEC forecasts its Low-Income Energy Efficiency and Weatherization Assistance program to account for approximately 2% of total residential energy saved in 2022. If achieved, this would be a 7% increase in total energy savings for DEC's low-income programs compared to its pre-pandemic performance. Witness Bradley-Wright was aware that DEC had committed to work with the Collaborative to develop and to seek approval for new Low-Income EE programs. Witness Bradley-Wright also testified that the 2020 Sub 1032 Order included a provision for a study that will seek to estimate the low- and moderate-income customers (LMI) to estimate market penetration of DEC's non-income qualified programs to be used by DEC to recommend program enhancements designed to cost-effectively increase market penetration in the targeted populations and neighborhoods. The study is underway with results expected this fall. Witness Bradley-Wright still recommended that the Company increase its low-income EE program budget and work with the Collaborative on setting a new budget and savings target for income-qualified programs to be filed with the next DSM/EE rider. *Id.* at 197-98.

Witness Bradley-Wright also made the following recommendations to the Commission:

- Direct DEC to quantify and analyze the carbon savings associated with DEC's DSM/EE portfolio to help inform the work of the Collaborative and to enable the Commission and other interested parties to track the impact of DSM/EE resources toward achieving North Carolina's and Duke Energy's respective carbon reduction goals.
- Direct DEC to work in good faith with members of the Collaborative to produce a plan on how best to exceed 1% annual savings in each of the next six years, to be periodically updated and presented to the Commission.
- Increase the scale and reach of the Company's income qualified low-income efficiency programs, with corresponding new plans for investments that will allow for achievement of those savings targets.
- Establish a default process and timeline for the development of Collaborative stakeholder program recommendations.
- Direct DEC to continue providing information related to energy savings and economic impacts of DSM/EE programs that were introduced during and/or are products of the Collaborative.

Tr., pp. 182-83.

At the hearing, DEC witness Powers, the Collaborative's primary point of contact for stakeholders in North and South Carolina, contested witness Bradley-Wright's assertions that the Company is not doing enough to develop new programs through the Collaborative. She highlighted that DEC is the number one utility in the southeast for energy savings. She noted that DEC was allowed to earn on its energy efficiency programs, so it was highly motivated to develop them.

Witness Powers also noted that, although one of the strengths of the Collaborative is the stakeholders representing different individual interests and organizations, the Company must have a "broader vision" and design energy efficiency programs that benefit all its customers. *Id.* at 131-32. She described the difficulties in turning ideas from the Collaborative, even ideas that another utility has implemented, into programs that are responsive to North Carolina-specific conditions, such as avoided costs, the market, and heating and cooling characteristics, and consistent with the Commission's Rules and Mechanism. *Id.* at 74, 129, 131. Nevertheless, witness Powers testified that the Company finds value in the Collaborative's suggestions, because even if the Company cannot start up and develop a program, the engagement of the Collaborative assures the Company that it is aware of potential opportunities. *Id.* at 74-75.

Witness Powers testified that having a schedule for developing energy efficiency programs, as recommended by witness Bradley-Wright, would not be helpful to developing more energy efficiency programs. Instead, such a schedule would slow program development because time and resources would be dedicated to preparing reports, instead of program evaluation. The programs that witness Bradley-Wright had contended benefited from successful collaboration, such as High Energy Use Low-Income Energy Efficiency Pilot and the Tariffed On-Bill program, have been analyzed in meetings for over a year and have not been filed for approval yet. Witness Powers offered that the Company had made a concerted effort since 2021 to better update the Collaborative on the progress of its recommendations. *Id.* at 132-33.

DEC witness Powers also described in detail the actions that DEC had taken on each of seven program ideas that had been stakeholder-initiated program proposals:

- Low-Income Housing Tax Credit (LIHTC) – Members originally brought this idea to the Company in March 2019. After investigation, the Company informed members of the Collaborative that all of the measures that were part of this idea were already offered to customers through the Smart Saver Custom New Construction and Energy Efficiency Design Assistance program (NCEEDA). Although LIHTC was ultimately not appropriate for a stand-alone new program, DEC with several Collaborative members scheduled a joint statewide workshop with developers, architects, and contractors to generate interest. Although the timing between planning and completion is often long, developers are seeing the benefits of pairing rebates with tax credits, and the Company is continuing to pursue these projects. *Id.* at 69-70.

- Energy Star Retail Products Platform (ESRPP) – The Company investigated the ESRPP when the Collaborative submitted it. ESRPP offers incentives directly to retailers of Energy Star appliances, and those retailers, in turn, offer discounts on those appliances to consumers. The Company found that it replicated many of the features of an existing DEC program. Recently, however, the Company revisited the idea and found that the platform could serve as a reference point in the future when the Company searches for new measures. DEC informed the Collaborative of this in July 2021. *Id.* at 70-71.

- Program Savings from Codes and Standards – Members of the Collaborative suggested that the Company could claim savings from advancing building energy codes and appliance standards and suggested a program to capture those savings. As the Company has reported to the Collaborative, North Carolina does not have a statutory or regulatory framework that defines how a utility may claim attributed savings. Thus, there is no avenue by which the Company could implement such a program. *Id.*

- Residential Low-Income Single-Family Heat Pump Water Heater Rental Program – Collaborative members recommended in June 2020 that DEC offer a program where low-income customers could rent a heat pump water heater for their home directly from DEC, adding the payment to their electric bills. Attributes of the program, such as the appropriate placement of the appliance and an on-bill collection mechanism, added unresolved complexities to implementing this program. Although the effort will take time, the Company continues to research and investigate this recommendation. *Id.* at 72-73.

- Non-residential Multifamily Heat Pump Water Heater Rebate – Collaborative members suggested that the Company approach multifamily property owners to offer a rebate for installing heat pump water heaters, which would serve multiple units within a building. The Company has determined that it can include the heat pump water heater rebate in the New Construction Energy Efficiency Design Assistance program, but no developer has expressed an interest in participating. *Id.*

- Manufactured Homes Retrofit Program – Collaborative members suggested a program that retrofits manufactured homes with more efficient heating and air conditioning, replaces or repairs duct work, and insulates and seals the structure. The Company has not developed this into a new program because all the recommended measures are already part of the Residential Smart Saver program and available to manufactured homes. *Id.*

- Manufactured Home New and Replacement Programs – Collaborative members suggested that the Company offer incentives for replacing inefficient manufactured homes with Energy Star manufactured homes. The Company continues to investigate program design research. *Id.*

Witness Powers also testified that witness Bradley-Wright's recommendations that the Company should: (i) quantify and analyze the full lifetime carbon savings associated with DEC's future cost recovery proceedings and (ii) commit to endorse the recommendations of the Low-Income Affordability Collaborative (LIAC) and develop program applications were premature. She stated that the Company agreed it would be appropriate to report carbon reductions associated with DSM/EE programs in future rider proceedings, after the Commission has approved a Carbon Plan and an agreed-upon methodology for determining carbon reduction associated with DSM/EE programs in the evaluation of cost-effectiveness. Witness Powers testified that the Company was committed to the work of LIAC in exploring a full spectrum of opportunities to address affordability for low- and moderate-income customers. However, she noted that the final recommendations have not yet been submitted to or approved by the Commission. *Id.* at 76-77.

Witness Powers also confirmed that the Company was committed to developing strategies with the Collaborative that support achieving the 1% aspirational goal for energy savings. Efforts, which witness Bradley-Wright has been involved in, are currently underway and include widening the scope of the market potential study to capture potential savings opportunities and expanding low-income programs and pilots. *Id.* at 78.

Conclusions

The Commission has fully reviewed the issues raised and recommendations made by NC Justice Center, *et al.*, witness Bradley-Wright. The Commission is concerned about the forecasted decline in DEC's DSM/EE savings in 2023. Therefore, the Commission directs the Collaborative to continue its ongoing work to examine the reasons for the forecasted decline and continue exploring options for preventing or correcting a decline in future DSM/EE savings. The Commission is not persuaded that a reporting schedule is appropriate for the Collaborative's work, however, due to the complexity of developing cost-effective energy efficiency programs that are consistent with North Carolina's regulatory framework.

The Commission also concludes that the Collaborative should continue to place emphasis on developing EE programs to assist low-income customers in saving energy and to lessen their energy burdens. The LIAC Final Report was filed on August 12, 2022, and the Commission received a briefing on the report on October 24, 2022. The Commission is eager to study the final recommendations of the LIAC but is not in position at this time to require the Company to commit to all of the recommendations of the LIAC.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission hereby approves the calculation of Rider EE as filed by DEC in the direct testimony and exhibits of Company witness Listebarger (i.e., absent the effect of application of the RMAF methodology), to go into effect for the rate period January 1, 2023 through December 31, 2023, subject to appropriate true-ups in future cost recovery proceedings consistent with the Sub 1032 Orders, the Sub 1130 Order, and other relevant orders of the Commission;

2. That the Commission hereby approves the codification of the RMAF methodology into the Mechanism, as revised by the 2020 Sub 1032 Order;

3. That DEC and the Collaborative participants shall give particular attention to addressing declining energy savings forecasts and expanding DSM/EE programs to assist DEC's low-income customers;

4. That DEC shall conduct a persistence study of the MyHER energy savings in compliance with the discussion of same in the body of this Order; and

5. That DEC shall work with the Public Staff to prepare a proposed Notice to Customers of the rate changes approved herein. Within ten days from the date of this Order, the Company shall file said notice and the proposed time for service of such notice for Commission approval.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of December, 2022.

NORTH CAROLINA UTILITIES COMMISSION

Erica N. Green, Deputy Clerk

Commissioners Jeffrey A. Hughes and Daniel G. Clodfelter dissent in part.

DOCKET NO. E-7, SUB 1265

Commissioner Jeffrey A. Hughes dissenting in part, joined by Commissioner Daniel G. Clodfelter:

I agree with most of this order and approve the proposed 2023 rider amounts for the EE and DSM programs in DEC's portfolio with one notable exception – the MyHER behavioral program. I feel obligated to partially dissent to this order because I do not have enough evidence to determine if the $24,402,772 DEC proposes collecting from its customers for carrying out the MyHER program in 2023 is fair and appropriate. While I understand that unsubstantiated assumptions have historically been made resulting in the current EE cost recovery mechanism producing very high utility incentive estimates, my review of the evidence put forth in this docket suggests that there are potential problems and contradictions behind certain measure assumptions that were made in calculating the requested amount of utility incentives. My dissent is driven by the requirement that I find that any utility incentives to be collected from customers must be appropriate. N.C. Gen. Stat. § 62-133.9(d)(2). My dissent should not be interpreted as a general concern over how DEC implements its EE and DSM programs. DEC and the many stakeholders it works with on EE matters have demonstrated a commitment to these programs that I am in no way calling into question. More than ever, I believe it is essential to support and expand EE and DSM programs – I just want to make sure that the cost to customers is not higher than what it needs to be to implement sustainable and effective measures that are fair to the utility and to customers.

DEC's application requests $5,534,384 to cover the estimated direct participant costs of implementing the MyHER program in 2023. DEC requests an additional $18,577,930 in utility incentive payments composed of $17,467,498 in net lost revenue (NLR) incentives and $1,090,432 as a shared savings incentive (PPI). I am satisfied with the evidence put forth to justify recovery of the $5,534,384 DEC proposes to spend on the program in 2023 but have concerns about the appropriateness of the amount of requested incentives.

My concern over the amount of incentives to be collected from customers for this program should not be interpreted as a concern or criticism related to the quality and importance of the MyHER program. To the contrary, I find that there is abundant evidence showing that this is a worthwhile and impactful measure, but I do not see clear evidence that such a high incentive amount (over three times the actual program cost) is necessary to encourage DEC to offer this program. A more moderate incentive would still appear to be an effective encouragement and more appropriate given current rate pressures on customers.

The 2019 MyHER EM&V report was included as Evans Exhibit 16. The 2019 EM&V report provides quantifiable evidence that over the years, the MyHER program has been effective at encouraging behavioral change that leads to participants reducing their energy consumption. In fact, it shows that the program has consistently provided a steady, reliable, and significant amount of savings for participants over the years. On the other hand, I also find that the EM&V report and testimony in this docket call into question several assumptions that must be made to support the requested MyHER incentive payment.

First off, the assumption that each MyHER implementation year is a new stand-alone EE program with a one-year measure life is not sufficiently supported by filed testimony.

In this and previous applications DEC maintains that each year of MyHER program expenditures should be considered a new one-year measure for purposes of applying the EE cost recovery mechanism. The initial application for the MyHER program included this one-year measure life assumption and was approved by Commission Order on September 11, 2012, in Docket No. E-7, Sub 1015, with clear instructions for DEC to look at the longevity of savings in its EM&V program and to carry out a persistence study. These types of studies are common methods of evaluating and better understanding behavioral programs. Most importantly, these types of studies provide the evidence needed to accurately attribute savings to expenditures and to establish a realistic measure life. Apparently

DEC did not pursue this study and while the lack of a persistence study became a matter of discussion in several subsequent rider applications with continued promises to "investigate" persistence - it remains uncompleted and the key evidence to support the one-year measure life remains absent from the current application.

During the rider hearing, the DEC panel supported the one-year measure life by testifying that "So, if we were to stop MyHER, essentially, the tips and engagement goes away and we would expect that the usage would revert back to pre MyHER, before we ever got a report." Tr., 158-59.

This view of the MyHER program defies common sense by stating that after years of successful behavioral change messaging, customers are immediately going to stop all their adopted energy savings behaviors. It also contradicts what other utilities have found as DEC witness Williams admits being aware of during her hearing testimony when she states: "I am aware that there is some persistence of savings. Some slight degradations, but overall persistence of savings." I find it troubling that there is evidence that in other areas there are "slight degradations" in savings, yet DEC continues to put forth that there is a complete 100% degradation of savings immediately.

As it stands, I find no convincing evidence in the docket that supports the program being treated as a new one-year measure every year and I find substantial evidence that suggests the program is a multi-year program in which a customer's participation in one year leads to impacts that occur over a multi-year period. I note that one of the key conclusions of the EM&V report states:

> If Duke Energy continues to consistently introduce new cohorts to the program, program management should generally expect the newest cohorts to underperform relative to the established cohorts. Currently, 15% of DEC

and 19% of DEP program participants should be considered as not fully mature." 2019 EM&V Report, Evans Exhibit 16, at 50.

The EM&V report clearly frames the MyHER program as a multi-year effort in which most current participants of the program have received MyHER behavioral messages for years and the number of years they have participated in the program has a statistically significant impact on their energy savings. Furthermore, the EM&V report clearly states that customers that have participated in the program for multiple years behave differently than truly new customers that have never participated in the program. I can therefore only conclude, in the absence of evidence to the contrary, that MyHER is a multi-year program. This calls into question how each year's worth of messaging can be treated as a new program with a full slate of new participants that on average use the same amount of energy as do customers that have never participated in the program.

While I am supportive of the language in this Order that requires DEC to carry out a persistence study, I do not think that the current one-year measure assumption - given the major impact on customer bills - should be allowed to continue unchanged for the foreseeable future until a multi-year persistence study is completed. Behavioral programs such as MyHER are implemented by many utilities across the country and persistence studies for those programs are publicly available, widely circulated and referenced. I believe that until a DEC persistence study is completed, the results of persistence studies in other utility service areas should be used to support or refute the assumption that each year be treated as a new one-year program. If DEC wishes to continue to put forth the one-year measure assumption, then I feel they should be obligated to show that this at least follows common approaches to how these programs perform and are framed and how energy savings are calculated.

My second concern regarding the appropriateness of the size of the MyHER utility incentive arises from the evidence in the record that suggests much of the "Net Lost Revenues" DEC is requesting are attributed to sales reductions that were already in place; known and measurable; and taken into consideration when rates were last set.

DEC requests a lost revenue incentive of $17,467,498 based on estimating that the 1,012,202 households that will receive MyHER messaging in 2023 will purchase 246,382,092 fewer kWh than they would have if they had never been participants in the MyHER program. However, DEC also testified that 978,791 households participated in the MyHER program in 2019 and that these customers bought 240,057,427 kWh less in 2019 than they would have bought if they had not been MyHER participants. (Historical and projected for 2023 and 2024 NC Energy Savings for MyHER Program, DEC Late Filed Exhibit 3). DEC further testified that when it was preparing its last rate case that produced its current rates, there were no adjustments made to add back the savings of the 2019 MyHER program even though it was assumed to be a one-year measure that would end at the end of the year and not continue into 2020. In other words, the test year sales assumption appears to assume that the savings from the 2019 MyHER program would continue.

If the known and measurable savings from the 2019 MyHER implementation were not expected to continue, then it would seem more appropriate for the annual sales used in the rate test year be adjusted at the same time other pro-forma adjustments are being made to reflect this. In other words, the test year sales used for rate setting would not assume MyHER program continuation and would be adjusted accordingly by subtracting out those anticipated savings.

The result of these assumptions and approaches, is that DEC appears to have rates set at a level that would produce its revenue requirement and keep DEC whole without depending on the revenues from the forgone sales attributed to MyHER participants.

It is important to point out that when the MyHER program was initially approved in 2012, DEC had rates that were based on a test year that did not include reduced sales resulting from any MyHER participation. At that time, DEC could demonstrate that the lost revenue due to MyHER program foregone sales would produce unexpected and unplanned for revenue losses at least until rates were reset in a general rate case. Under this circumstance, it was appropriate to classify the revenue foregone for the first several years of this program as unexpected lost revenue. I can see how it could be argued that NLR payments at that time were needed to encourage DEC to implement the program and balance the sizable disincentive due to lost sales that could not and were not planned for when rates had been set. Now that the MyHER program has matured and rates have been adjusted to reflect robust recurring energy savings from MyHER, the current requested lost revenue would appear to be an incentive that far exceeds any real net financial losses attributable to the program.

I am not calling into question the entire use of net lost revenue incentives because they are clearly envisioned in the cost recovery mechanism, but when the result is compensation for sales reductions that could have and evidently were predicted during the last rate case, I believe the appropriateness of its application needs to be re-examined. I believe that DEC should provide clear evidence in its next rider application that the net lost revenue incentive it is requesting corresponds to foregone sales that could not be and were not accounted for during its last rate case. For example, DEC estimates 445,259 ***new*** participants will join the program between when the rates were last set and this year. (Historical and projected for 2023 and 2024 NC Energy Savings for MyHER Program, Id.) Since savings for those new customers net of any opt outs of existing customers were not known and measurable in 2019 and the implementation of the MyHER programs for those added customers was clearly a “new” program, it would seem more realistic and appropriate to put forth justification for some amount of lost revenue incentives due to these truly new participants rather than lost revenue for the full 1,012,202 participants.

/s/ Jeffrey A. Hughes
Commissioner Jeffrey A. Hughes

/s/ Daniel G. Clodfelter
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