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November 9, 2021

VIA ELECTRONIC FILING

Ms. A. Shonta Dunston, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4300

**RE: Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Initial
Comments and Proposed Rules
Docket No. E-100, Sub 178**

Dear Ms. Dunston:

Pursuant to the Commission's October 14, 2021 *Order Requesting Comments and Proposed Rules*, enclosed for filing in the above-referenced docket are Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Initial Comments and Proposed Rules to Implement Performance-Based Regulation of Electric Utilities.

If you have any questions, please do not hesitate to contact me. Thank you for your assistance with this matter.

Sincerely,

Jack E. Jirak

Enclosure

cc: Parties of Record

OFFICIAL COPY

Nov 09 2021

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Initial Comments and Proposed Rules to Implement Performance-Based Regulation of Electric Utilities, in Docket No. E-100, Sub 178, has been served by electronic mail, hand delivery, or by depositing a copy in the United States mail, postage prepaid, properly addressed to parties of record.

This the 9th day of November, 2021.



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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 178

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

)	DUKE ENERGY CAROLINAS, LLC
)	AND DUKE ENERGY PROGRESS,
In the Matter of)	LLC’S INITIAL COMMENTS AND
Rulemaking Proceeding to Implement)	PROPOSED RULES TO IMPLEMENT
Performance-Based Regulation of)	PERFORMANCE-BASED
Electric Utilities)	REGULATION OF ELECTRIC
)	UTILITIES

NOW COME Duke Energy Carolinas, LLC (“DE Carolinas”) and Duke Energy Progress, LLC (“DE Progress” or the “Company”) (collectively, the “Companies”), by and through their legal counsel, and respectfully submit the following initial comments and proposed rules in response to the North Carolina Utilities Commission’s (“Commission”) October 14, 2021 *Order Requesting Comments and Proposed Rules* (the “PBR Rulemaking Order”).

In support of the Companies’ proposed rules, the Companies state as follows:

PROCEDURAL BACKGROUND

On October 13, 2021, Governor Roy Cooper signed into law House Bill 951 (S.L. 2021-165) (the “Act”), which, *inter alia*, enacted N.C. Gen. Stat. §62-133.16, titled “Performance-based regulation authorized.” This section requires the Commission to adopt rules to implement the requirements of the section no later than February 10, 2022. Specifically, N.C. Gen. Stat. § 62-133.16(b) provides that:

In addition to the method for fixing base rates established under G.S. 62-133, the Commission is authorized to approve

performance-based regulation upon application of an electric public utility pursuant to the process and requirements of this section, so long as the Commission allocates the electric public utility's total revenue requirement among customer classes based upon the cost causation principle, including the use of minimum system methodology by an electric public utility for the purpose of allocating distribution costs between customer classes, and interclass subsidization of ratepayers is minimized to the greatest extent practicable by the conclusion of the [multiyear rate plan] period. This section shall not be construed to require the Commission to use the minimum system methodology for the purpose of classifying costs within a customer class when setting a basic facilities charge.

Performance-based regulation ("PBR") is defined by the Act as "an alternative rate-making approach that includes decoupling, one or more performance incentive mechanisms, and a multiyear rate plan, including an earnings sharing mechanism ("ESM"), or such other alternative regulatory mechanisms as may be proposed by an electric public utility." N.C. Gen. Stat. § 62-133.16(a)(7).

The Commission's PBR Rulemaking Order initiated a rulemaking proceeding to implement PBR as authorized by the statute and requested parties to submit comments and proposed rules addressing:

1. The specific procedures and requirements that an electric public utility shall meet when requesting approval of a PBR application;
2. The criteria for Commission evaluation of a PBR application;
3. The parameters for a technical conference process to be conducted by the Commission prior to submission of any PBR application consisting of one or more public meetings at which the electric public utility presents information regarding projected transmission and distribution expenditures and interested parties are permitted to provide comment and feedback; and

4. The process by which an electric public utility may address the Commission's reasons for rejection of a PBR application, which process may include collaboration between stakeholders and the electric public utility to cure any identified deficiency in an electric public utility's PBR application.

PBR Rulemaking Order at p. 1.

The Companies, along with Dominion Energy North Carolina, were made parties to the docket in the PBR Rulemaking Order which requests that parties submit initial comments and proposed rules on or before November 9, 2021 and reply comments on or before December 7, 2021.

POLICY CONSIDERATIONS IN SUPPORT OF AND BENEFITS OF
PERFORMANCE-BASED RATEMAKING

The Companies appreciate the opportunity to submit their proposed rules and initial comments for Commission consideration in this PBR Rulemaking proceeding. Before addressing the individual components of the Companies' proposed rules, these initial comments provide a brief overview of the Act, along with background details from the North Carolina Department of Environmental Quality's ("DEQ") development of the Clean Energy Plan, and the resulting North Carolina Energy Regulatory Process ("NERP").

The Act is the product of bipartisan negotiations that resulted in a constructive outcome supported by the Governor and legislative leaders from both parties and passed by overwhelming majorities in both the House and Senate. The Act establishes a framework administered by the Commission to achieve state carbon dioxide ("CO₂") emission reductions through the use of least cost planning to ensure continued reliability and affordable rates for customers served by such generation and authorizes the use of PBR

in North Carolina. The Act recognizes that achievement of the targeted CO₂ reductions requires the modernization of the ratemaking construct in North Carolina, consistent with modernized ratemaking practices around the country.¹ Traditional utility ratemaking is no longer adequate as utilities generally shift from building large-scale power plants to smaller, more frequent investments, such as for grid improvements and distributed energy resources enablement. In light of this transition, the Act introduces evolved ratemaking practices that will better position the Companies to meet the State’s policy goals and customer expectations while keeping the system affordable, reliable and resilient, while maintaining the Commission’s role in ensuring just and reasonable rates.

The PBR portion of the Act is consistent with and informed by Governor Cooper’s Clean Energy Plan and NERP. Specifically, the Clean Energy Plan stated that “North Carolina must establish a 21st century regulatory model that incentivizes business decisions that benefit both the utilities and the public in creating an energy system that is clean, affordable, reliable, and equitable.”² In fact, one of the key recommendations from the Clean Energy Plan to achieve that transition was the development and implementation of “policies and tools such as performance-based mechanisms, multiyear rate planning, and revenue decoupling, that better align utility incentives with public interest, grid needs, and state policy.”³ The NERP identified three mechanisms that should be adopted as a package:

¹ Following the passage of HB 951, only six states remain that have not adopted some type of alternative ratemaking. Notably, 24 states have adopted multiyear rate plans or formula rates and 30 states have adopted forward test years (partial/full). *Performance Based Regulation, Study Group Work Products*, 2020 NC Energy Regulatory Process, at 34, available at <https://deq.nc.gov/media/17684/download>.

² *North Carolina Clean Energy Plan: Transitioning to a 21st Century Electricity System*, N.C. Dept. of Environmental Quality, October 2019, at 12; available at https://files.nc.gov/ncdeq/climate-change/clean-energy-plan/NC_Clean_Energy_Plan_OCT_2019_.pdf.

³ *Id.* at 12, 67.

1. Decoupling – a ratemaking mechanism that severs the link between utility sales and revenues by authorizing allowed revenues separate from utility sales and adjusting prices periodically to ensure actual revenues match allowed revenues.

2. Performance incentive mechanisms (“PIMs”) – a ratemaking mechanism that ties some portion of a utility’s revenues or earnings to its performance on measurable customer, utility system, or public policy outcomes.

3. Multiyear rate plan (“MYRP”) with an earnings sharing mechanism – a ratemaking mechanism through which base rates and revenues are fixed for a multiyear term and a utility is barred from filing a rate case during that term (often referred to as a rate case moratorium). Rates or revenues are then periodically adjusted in non-rate case proceedings according to a predetermined formula or set of variables (e.g., inflation).

An earnings sharing mechanism allocates to customers a portion of utility overearnings that exceed (or under-earnings that fall short of) the earnings approved under a multiyear rate plan.⁴

In the Act, and more specifically, N.C. Gen. Stat. § 62-133.16, the North Carolina General Assembly incorporated all three mechanisms as required elements of PBR for electric utilities in the legislation. In summary, the Act directs the Commission to develop a plan to reduce CO₂ emissions of electric generating facilities in the state by 70% below 2005 levels by 2030 and attain carbon neutrality by 2050 and implements modernized ratemaking tools which will facilitate the achievement of such goals. PBR is a tool that will allow the Commission to more precisely align utilities’, customers’, and societal interests through regulatory mechanisms that incentivize electric public utilities to improve

⁴ *NERP PBR Fact Sheet*, December 2020, at 2; all NERP PBR documents are available at: <https://deq.nc.gov/CEP-NERP>.

operations and management of expenses, increase program effectiveness, and achieve identified regulatory or public policy goals.⁵

Finally, the Companies note that one of the purposes of PBR is to incent utilities to encourage efficient investment consistent with the Act through MYRPs that reduce the need for more frequent traditional base rate cases that require substantial time and resources from regulators, utilities and intervenors. Accordingly, the rules adopted by the Commission to implement PBR and MYRP should allow for an efficient and effective process for the annual PBR review that is limited in scope and duration so as to avoid turning the annual review process into a “mini rate case.” As the NERP pointed out, an MYRP contemplates periodic adjustments made in *non-rate case proceedings*.⁶ The more the annual review and adjustment process looks like a rate case and requires time and resources similar to a rate case, the more the purpose of PBR and MYRP is undermined. While it is important for the Commission to have the opportunity to conduct a review on a yearly basis during an MYRP, the PBR process is not intended to layer on top of the existing base rate case process an ongoing rate-case-like audit of a utility’s activity throughout the three-year period. Thus, the Companies’ proposed rules are designed to ensure that the PBR process fairly balances the need for adequate oversight with the benefits of a streamlined annual review process.

An important policy concern for the Commission to consider as it promulgates rules for the Act is the recent proliferation of rate case filings and related rate case costs. Rate cases are time-consuming and expensive endeavors for all involved. Rate case expenses

⁵ *Id.* at 1.

⁶ *Id.* at 2.

include costs for external consultants and attorneys, resource allocation of existing internal utility staff (who are diverted from operational and management duties), costs of internal staff, and the cost of governmental regulatory resources. Rather than file a base rate case proceeding every year, the MYRP is intended to expand the time between base rate cases and streamline the process for cost recovery in between rate cases. Benefits include reducing the frequency of rate case filings before the Commission, lowering the expenses of litigating these rate case filings, increased predictability of rate levels, allowing utilities to focus their efforts and resources on providing safe and reliable service, and administrative efficiency.

These benefits resulting from MYRPs were recognized by NERP. Specifically, NERP cited “State Performance-Based Regulation Using Multiyear Rate Plans for U.S. Electric Utilities,”⁷ a study funded by the U.S. Department of Energy through Lawrence Berkeley National Laboratory.⁸ This study noted the regulatory efficiency benefits of MYRPs as follows:

[MYRPs] are a different approach to regulation that is especially appealing when the alternative is frequent rate cases or expansive cost trackers. The regulatory process is streamlined and better utility performance can be encouraged due to stronger performance incentives and increased operating flexibility.⁹

Again, the streamlined regulatory process provided by an MYRP provides benefits to all rate case participants compared to the alternative of annual general rate case proceedings.

⁷ NERP “PBR Regulatory Guidance,” at p. 31. Available at: <https://deq.nc.gov/media/17684/download>

⁸ Lowry and Makos, *State Performance-Based Regulation Using Multiyear Rate Plans for U.S. Electric Utilities*, 2017. Available at https://eta-publications.lbl.gov/sites/default/files/multiyear_rate_plan_gmlc_1.4.29_final_report071217.pdf

⁹ *Id.* at iv.

Moreover, if executed properly, an MYRP has the potential to provide advance notice to customers and more rate certainty and predictability during the MYRP by pre-approving annual rate changes for capital projects over a three-year period. To the extent that the annual review process is unnecessarily complicated, drawn out, or allows parties to relitigate issues that were previously raised during the base rate case, then this predictability and stability is undermined.

In sum, it is important to find the right balance of regulatory oversight, transparency, and review, while fulfilling the intended goal of reducing the rate case burden on all stakeholders, allowing utilities to focus on clean energy goals without the burden of unnecessarily onerous regulatory requirements, and providing stable rates for customers. As discussed further below, the Companies' proposed rules are designed to strike this balance.

THE COMPANIES' COMMENTS ON THEIR PROPOSED REVISIONS TO
COMMISSION RULE R1-17

The Companies' proposed rules seek to ensure that the rules clearly outline the process for filing a PBR application and future review processes to provide transparency and facilitate Commission oversight, while avoiding overly burdensome intra-MYRP annual review processes that could inadvertently inhibit the policy goals of PBR.

1. Proposed Rules Structure

The Companies propose revising Commission Rule R1-17, which sets forth the requirements for a utility to file a request for revised rates, to include the requirements for an electric public utility to also propose a PBR plan because the Act requires that "an electric public utility shall be permitted to submit a PBR application in a general rate case

proceeding initiated pursuant to G.S. 62.133.”¹⁰ Thus, noting that in Docket No. W-100, Sub 63 Aqua North Carolina, Inc. and Carolina Water Service, Inc. of North Carolina (collectively, the “Water Companies”) have proposed to revise Commission Rule R1-17 to add subsection (l) to establish the requirements for water utilities to submit a Water and Sewer Investment Plan, the Companies propose that R1-17 be further revised to add subsection (m), attached as Exhibit A, to include their proposed rules setting forth the requirements for an electric public utility to submit a PBR plan filing.

2. Proposed Annual Review Riders

The Companies propose that the ESM, Decoupling Rate-Making Mechanism and the PIM penalties/incentives be accounted for as three separate riders to facilitate transparency and ease of administration, especially since the Decoupling Rate-Making Mechanism will only be applicable to the residential customer class. For the Decoupling Rider, the Company’s proposal attempts to align with the current process for Piedmont Natural Gas Company, Inc.’s decoupling mechanism, portions of which are important from an accounting perspective.

3. Proposed Revised Rule R1-17(m)

The following comments provide the explanation and rationale for the Companies’ proposed revised Rule R1-17(m):

- a. Subsection (1) states the purpose of Section (m) of R1-17, to set forth the procedures for an electric public utility to submit a PBR application as part of a revised rates filing submitted under G.S. § 62-133.

¹⁰ N.C. G.S. § 62.133.16(b).

- b. Subsection (2) sets forth the definitions of terms relevant to Section (m), which generally follow the definitions set forth in the Act, and includes additional defined terms as necessary to implement the various mechanisms.
- c. Subsection (3) sets forth the timeline for an electric public utility to provide notice of its intent to file a PBR application and request initiation of pre-filing technical conference to consider the Company's proposed transmission and distribution projects under the MYRP.
- d. Subsection (4) establishes the procedure for initiating the pre-filing technical conference, the information to be presented by the electric public utility, the manner in which interested stakeholders may provide feedback on the information presented by the electric public utility, and the timeline for completing the pre-filing technical hearing process.
- e. Subsection (5) sets forth the filing requirements for a PBR application. Paragraph (a) notes that all PBR applications must conform to the applicable existing rules for an electric public utility revised rate filing in Rule R1-17. Paragraph (b) identifies the specific mechanisms that must be included in a PBR application, consistent with the Act, including a decoupling mechanism, at least one Performance Incentive Mechanism, and an MYRP along with an earnings sharing mechanism. Paragraphs (c) through (e) outline the specific information that should be submitted to support a PBR application.

f. Subsection (6) provides the general procedures that apply for any PBR application. This subsection outlines several provisions that are consistent with the language in the Act, including that any approved PBR application shall remain in effect for no more than thirty-six (36) months, and shall exclude any forecasted generation plant with a total plant in service balance in excess of \$500 million, that the Commission may still grant deferral accounting for any extraordinary costs identified between rate cases that are not otherwise recognized in rates, and that the Commission may examine the reasonableness of an electric public utility's rates under a plan and initiate a proceeding to adjust base rates or PIM(s) as necessary. In addition, Subsection (6) provides that if the Commission fails to issue an order on a utility's rate filing during the statutory period, and the utility elects not to implement temporary rates, the Commission shall authorize deferred accounting or a mechanism for the utility to recover any shortfalls resulting from such delay. This added provision provides electric public utilities an alternative to implementing temporary rates. Subsection (6) also requires the Commission, in its order approving or modifying a PBR application, to approve templates for the calculations to adjust the Annual ESM Rider, the Annual PIM(s) Rider and the Annual Decoupling Rider. Having templates approved in the PBR application proceeding will provide the clarity needed for an efficient annual review process. Finally, this subsection clarifies that the riders will be designed to recover or

distribute revenues over a 12-month period, and indicates that a return component will be incorporated into the Annual Decoupling Rider, consistent with the Piedmont Natural Gas decoupling mechanism, and in the Annual ESM Rider. However, no return is proposed to be incorporated into the Annual PIMs Rider since the nature of incentives – whether rewards or penalties – is different than the nature of the costs in the other riders, and no cash has been advanced by either customers or shareholders that would necessitate a return.

- g. Subsection (7) is consistent with the language in the Act and states that an electric public utility must propose at least one PIM that is consistent with the Policy Goals, which the Commission may approve, modify or reject, and the type of mechanism the utility shall include in a proposed PIM(s) by which to collect/distribute any rewards/penalties (i.e., savings sharings, differentiated rates of return on common equity, or fixed financial rewards/penalties). The Companies propose that the rules not add additional requirements beyond what is in the Act related to PIM(s) to allow flexibility for a conservative approach during the first several PBR plans so that the utilities may limit the number of PIM(s) proposed and identify various tracking metrics to gather data and analyze. A measured and thoughtful approach is important as the electric public utilities and interested stakeholders gain experience and obtain more information about how to best track certain information so

that incentives are properly aligned with policy goals and consistently and correctly tracked.

- h. Subsection (8) outlines the criteria the Commission shall apply when evaluating a PBR application and mirrors the criteria provided for in the Act.
- i. Subsection (9) outlines the procedures for the utilities to cure any Commission-identified deficiencies if the Commission rejects a utility's PBR application.
- j. Subsection (10) outlines the annual decoupling verification and Annual ESM and PIM(s) Review process and the timeline and filing requirements for each review. Similar to the decoupling verification process already in place for Piedmont Natural Gas, the Companies propose to file quarterly status reports¹¹ for the Decoupling Rate-making Mechanism, and within forty-five (45) days of the conclusion of each Rate Year, the utility will file its calculation of the adjustment to the Annual Decoupling Rider, which the Public Staff shall verify and which shall go into effect within sixty (60) days of the end of each Rate Year. This filing and review timing is consistent with the Piedmont Natural Gas decoupling mechanism and important for accounting reasons. For the Annual ESM Rider and Annual PIM(s) Rider, the Companies propose that the Commission initiate a review process

¹¹ Piedmont Natural Gas files monthly status reports. For purposes of administrative efficiency, the Companies propose to file quarterly decoupling status reports.

within sixty (60) days of the end of the prior Rate Year, and that the electric public utility shall provide an Annual ESM and PIM(s) Review Report within ninety (90) days of the conclusion of the Rate Year. The subsection also provides for Public Staff review of the Annual ESM and PIM(s) Review Report. The Companies propose sixty (60) days for the Public Staff to review the report and provide its comments as a sufficient amount of time to verify the calculations for the Annual ESM and Annual PIM(s) rider adjustments. The Companies caution that this annual review process should not be a “mini rate case” in between rate filings, but rather should be a verification of the calculations in pre-approved templates. The Commission retains the option under Subsection (6), paragraph b. to initiate a proceeding for a more comprehensive review if necessary. Therefore, it is unnecessary and inefficient to require a burdensome process in the annual review process. Finally, this subsection clarifies what happens at the end of the PBR term if no subsequent rate case, with or without a PBR, has been filed. It would be beneficial to all parties to have clarity for this potential circumstance.

CONCLUSION

WHEREFORE, the Companies respectfully request that the Commission take their proposed rules and initial comments into consideration in reaching its decision in this proceeding.

Respectfully submitted, this the 9th day of November, 2021.



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Rule R1-17. FILING OF INCREASED RATES, APPLICATION FOR AUTHORITY TO ADJUST RATES.

(a) Application of Rule. — This rule does not apply to the establishment of a rate or charge for a new service, nor to an adjustment or a change of a particular rate or charge for the purpose of eliminating inequities, preferences, or discriminations. It does apply to all applications for or filings of a general increase in rates, fares, or charges for revenue purposes or to increase the rate of return on investment or to change transportation rates, fares, etc. All Class A and B electric, telephone, natural gas, water, and sewer utilities shall file written letters of intent to file general rate applications with the Commission thirty (30) days in advance of any filing thereof.

(b) Contents of Filing or Application. — The filing or application shall clearly set out the reasons or conditions which, in the opinion of the applicant, warrant an increase in applicant's rates, fares, or charges, whether such increase is to be brought about by a change in rate schedules, by a change in any classification, contract, practice, rule, regulation, or otherwise, and said application shall contain, among other things, the following data, either embodied in the application or attached thereto as exhibits:

- (1) Present Charges. — A statement (not necessarily in tariff form) showing the rates, fares, tolls, or other charges presently in effect which the applicant seeks to increase.
- (2) Proposed Charges. — A statement showing the rates, fares, tolls, or other charges which the applicant seeks to place in effect.
- (3) Original Cost. — A statement or exhibit showing the original cost of all property of the applicant used or useful in the public service to which such proposed increased rates relate. If the original cost of any such property cannot be accurately determined, such facts should be stated and the best estimate of the original cost given. In case such property consists of plants or facilities which have been devoted to the public use by some other person, municipality, or utility, and subsequently purchased by the applicant, the purchase price of such plants or facilities must be shown, and also the original cost and accrued depreciation at the time of purchase must be shown, if known.
- (4) Present Fair Value. — If applicant intends to offer proof as to the present fair value of its property, the application shall state the nature of such proof in such form and detail as to disclose fully the method used in obtaining such proof and the accuracy thereof. In the preparation of such data, it is recommended that the various property accounts be identified by the account numbers used in the Uniform System of Accounts.

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EXHIBIT A**

- (5) Depreciation. — The application shall show the accrued depreciation on said property as shown on applicant's books and the rate or method used in computing the amount charged to depreciation.
- (6) Material and Supplies. — A statement showing the cost of material and supplies which the applicant had on hand on the closing date of the twelve months' period referred to in (8) below. If the amount on hand is more or less than reasonably necessary for efficient and economical operation of the business, an explanation should be made.
- (7) Cash Working Capital. — A statement showing the amount of cash working capital which the petitioner keeps on hand and finds necessary to keep on hand for the efficient, economical operation of the business.
- (8) Operating Experience. — A statement covering the last twelve consecutive months for which data are available, showing
 - a. The gross operating revenues received,
 - b. The expenses incurred, including operating expenses, depreciation, and taxes, and
 - c. The net operating income for return on investment.
- (9) Effect of Proposed Increase. — A statement showing the applicant's estimate of
 - a. The additional annual gross revenue which the proposed increase in rates and charges will produce,
 - b. The additional annual expenses anticipated by reason of such additional gross revenue,
 - c. The net additional revenue which the proposed increase in rates will produce, and
 - d. The rate of return which the applicant estimates it will receive on the value of its property after giving effect to the proposed increase in rates.
 - e. This statement is to include the total capital structure of the utility before and after the proposed increase. Ratios for each component of the capital structure are to be shown with the common stockholders' equity capital and the net income used in the rate of return on the common equity calculation clearly identifiable.
 - f. Every general rate application shall contain a one-page Summary of all proposed increases and changes affecting customers and such Summary shall appear as Appendix 1.
 - g. Rescinded by NCUC Docket No. M-100, Sub 82, 4/27/81.
- (10) Balance Sheet. — The application shall include a balance sheet and income statement for a recent representative period.
- (11) Working Papers to Be Available. — Supporting data and working papers underlying the above exhibits shall be made available promptly upon request in the offices of the Commission or Public Staff in Raleigh or in an office of the public utility in North Carolina designated by the Commission, for examination by all interested parties.
- (12) All general rate case applications of Class A and B electric, telephone and natural gas companies, and Class A water and sewer companies shall be

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accompanied by the information specified in the following Commission forms respectively:

For Class A and B Electric Utilities:

(a) NCUC Form E-1, Rate Case Information Report — Electric Companies

For Class A and B Telephone Utilities:

(b) NCUC Form P-1, Rate Case Information Report — Telephone Companies

For Class A and B Natural Gas Utilities:

(c) NCUC Form G-1, Rate Case Information Report — Natural Gas Companies

For Class A Water and Sewer Utilities:

(d) NCUC Form W-1, Rate Case Information Report — Water and Sewer Companies

(13) Repealed.

In the event any affected utility wishes to rely on G.S. 62-133 (c) and offer evidence on actual changes based on circumstances and events occurring up to the time the hearing is closed, such utility should file with any general rate application detailed estimates of any such data and such estimates should be expressly identified and presented in the context of the filed test year data and, if possible, in the context of a twelve (12) month period of time ending the last day of the month nearest and following 120 days from the date of the application. Said period of time should contain the necessary normalizations and annualizations of all revenues, expenses and rate base items necessary for the Commission to properly investigate the impact of any individual circumstance or event occurring after the test period cited by the applicant in support of its application. Any estimate made shall be filed in sufficient detail for review by the Commission.

(c) Supplemental Data. — The Commission shall consider such relevant, material, and competent evidence as may be offered by any party to the proceeding tending to show actual changes in costs, revenues, or the cost of the public utility's property used and useful, or to be used and useful within a reasonable time after the test period, in providing the service rendered to the public within this State, including its construction work in progress, which is based upon circumstances and events occurring up to the time the hearing is closed.

Information relating to the change(s) referred to above relied upon by the applicant shall be filed with the Commission ten (10) working days prior to the date that the testimony of the Public Staff and other intervenors is due to be filed to the extent said change(s) are known by the applicant at that time.

To the extent that additional information becomes available subsequent to ten (10) working days prior to the filing of testimony by the Public Staff and other intervenors, such information which will be offered to support change(s) shall be made available to the Commission and other parties as soon as practicable. Under such circumstances the Public Staff and other intervenors shall have the right to address said evidence through

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additional direct testimony, such option to be exercised at the discretion of the Public Staff and other intervenors.

(d) Notice of General Rate Application and Hearing. — Within thirty (30) days from the filing of any general rate case application by any electric, telephone, or natural gas utility, such utility should provide public notice to its customers in newspapers having general circulation in its service area as follows:

(Public Utility) filed a general rate application with the North Carolina Utilities Commission on (date) requesting an increase in additional annual revenues of approximately (Amount of proposed increase in dollars).

The Utilities Commission will set a public hearing on the rate application within six months from the date of filing and will require detailed Notice to the Public regarding the proposed rates in advance of the Hearing.

The Commission will thereafter prescribe the form of Notice to the Public in the Order scheduling the Hearing.

(e) Parties. — To the end that those affected by any proposed increase in rates or charges may have every opportunity to be heard, such persons may become parties to such proceedings as provided by Rule R1-6, or as provided by Rule R1-19, or without filing formal pleading by entering their appearances of record at the time the cause is called for hearing, as provided by Rule R1-23, but matters settled at prehearing conferences or by stipulations of parties, as provided in G.S. 62-69 will not ordinarily be set aside or changed at the instance of those not parties of record at the time.

(f) Denial of Filing or Application for Failure to Include Material Contents.

(1) The Commission on its own motion or at the request of the Commission Staff, Public Staff, or any party in interest in any general rate case shall review the filing or application within 15 days after such filing and notify the applicant by letter of any additional information needed to complete the filing under Rule R1-17, and give notice to the applicant of the remedy provided by this rule for securing such information, and give the applicant 5 days to file such additional information in satisfaction of said letter request.

(2) If any material data or information required by Rule R1-17 (b) is not filed with the tariff or application for rate increase and is not secured after informal request as provided in Rule R1-17 (f) (1) above, the Commission on its own motion or on motion of the Commission Staff, Public Staff, or motion of any party having an interest in the proceeding made within 30 days after the filing of said tariff or application, may order the utility to appear and show cause within a period of 20 days after issuance of said order why said filing or application should not be denied for failure to comply with any material provision of this rule, including the filing of the contents of said application as prescribed under subsection (b) above.

(3) Such order to appear and show cause why the tariff filing or application should not be dismissed for failure to file material contents thereof shall specify with particularity the alleged deficiency or deficiencies in said tariff filing or application.

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- (4) Any utility company served with such a show cause order shall have the right to file all of the data and information and exhibits alleged as deficiencies in said show cause order at any time prior to the hearing on said show cause order or at the hearing on said show cause order and thus satisfy the show cause order, whereupon such show cause order shall be dismissed before or at the hearing set thereon, and the proceeding on the tariff filing or rate application shall proceed as in the case of a properly filed tariff or application for a general rate increase.
- (5) If the Commission shall find after notice and hearing that the filing or application is incomplete and does not contain material portions of the contents required under subsection (b) necessary for complete determination of the justness and reasonableness of the rates filed or applied for, and that the applicant has failed to file said material data and information necessary for determination of the justness and reasonableness of said rates after notice and opportunity to complete said filing as provided herein, the Commission shall deny said application or dismiss said tariff filing, without prejudice to the refiling of said application or tariff filing with the complete contents prescribed herein.
- (6) The Commission shall make its determination on such show cause order within ten (10) days after the show cause hearing provided in this subsection, and shall issue an order thereon dismissing the show cause proceeding where such deficiencies are satisfied and continuing the investigation of the application, or dismissing the filing or application for material and unsatisfied deficiencies therein as provided in this subsection.

(g) Procedure for Applications Under G.S. 62-133(f). — Repealed by NCUC Docket No. G-100, Sub 58, 2/17/92.

(h) Procedure for Participation in Exploration and Drilling Programs and Approval of Associated Changes in Natural Gas Rates. — Repealed by NCUC Docket No. G-100, Sub 79, 12/02/99.

(i) Procedure for Filings under G.S. 62-134(d). —

- (1) Any public utility adopting the basic retail rates of its wholesale electricity supplier under the provisions of G.S. 62-134(d), including each subsequent adoption of modified basic retail rates of its wholesale supplier, shall within 30 days of such adoption file with the Commission a Report of Adoption. The Report shall include the following as a minimum:
 - (a) A balance sheet as of a date within three months of the date of adoption.
 - (b) An income statement for the twelve months ending at the date of the balance sheet.
 - (c) An estimate of the revenues to be produced by rates that have been adopted.
- (2) If the utility elects to adopt the monthly adjustments in the retail fuel charge of its wholesale supplier, then it must adopt decrease adjustments as well

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as increase adjustments. In such event, the utility shall file with the Commission a letter notice of each such adoption but is not required to file the Report of Adoption required under (i) (1) above.

- (3) Filings of notice of adoption of basic rate changes under (i) (1) above shall be accompanied by the filing fee required for applications for rate increases but a filing fee is not required with monthly notices of adoption of adjustments to fuel charges.
 - (4) A new docket number shall be assigned to each filing under (i) (1) above. Subsequent monthly filings under (i) (2) above shall be made in the same docket until a new basic rate increase docket is established.
- (j) Repealed.
- (k) Procedure for Rate Adjustments Under G.S. 62-133.4.
- (1) Purpose. The purpose of this Section (k) of Rule R1-17 is to set forth the procedures by which local distribution companies can file to adjust their rates pursuant to G.S. 62-133.4. The intent of these rules is to permit LDCs to recover 100% of their prudently incurred gas costs applicable to North Carolina operations.
 - (2) Definitions. As used in this Section (k) of Rule R1-17, the following definitions shall apply:
 - (a) "LDC" shall mean local distribution company.
 - (b) "Gas Costs" shall mean the total delivered cost of gas paid or to be paid to Suppliers, including, but not limited to, all commodity/gas charges, all direct, transaction-related costs arising from an LDC's prudent efforts to stabilize or hedge commodity gas costs, demand charges, peaking charges, surcharges, emergency gas purchases, over-run charges, capacity charges, standby charges, reservation fees, gas inventory charges, minimum bill charges, minimum take charges, take-or-pay charges, storage charges, service fees and transportation charges, and other similar charges in connection with the purchase, storage or transportation of gas for the LDC's system supply.
 - (c) "Suppliers" shall mean any person or entity, including affiliates of the LDC, who locates, produces, purchases, sells, stores and/or transports natural gas or its equivalent for or on behalf of an LDC, or who provides hedging tools, including, but not limited to financial tools, designed to stabilize the LDC's commodity prices. Suppliers may include, but not be limited to, interstate pipeline transmission companies, producers, brokers, marketers, associations, intrastate pipeline transmission companies, joint ventures, providers of Liquefied Natural Gas, Liquefied Petroleum Gas, Synthetic Natural Gas and other hydrocarbons used as feed stock, other LDCs and end-users.
 - (d) "Benchmark Commodity Gas Costs" shall mean an LDC's estimate of the City Gate Delivered Gas Costs for long-term gas supplies,

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excluding Demand Charges and Storage Charges as approved in the LDC's last general rate case or gas cost adjustment proceeding. The Benchmark Commodity Gas Costs may be amended from time to time as provided in Section (k)(3)(a).

- (e) "City Gate Delivered Gas Costs" shall mean the total delivered Gas Costs to an LDC at its city gate.
 - (f) "Commodity and Other Charges" shall mean all Gas Costs other than Demand Charges and Storage Charges and any other gas costs determined by the Commission to be properly recoverable from sales customers.
 - (g) "Demand Charges and Storage Charges" shall mean all Gas Costs which are not based on the volume of gas actually purchased or transported by an LDC and any other gas costs determined by the Commission to be properly recoverable from customers.
- (3) Rate Adjustments Under these Procedures.
- (a) Sales Rates. In the event an LDC anticipates a change in its City Gate Delivered Gas Costs, the LDC may apply and file revised tariffs in order to increase or decrease its rates to its customers as hereinafter provided. The Commission may issue an order allowing the rate change to become effective simultaneously with the effective date of the change or at any other time ordered by the Commission. If the Commission has not issued an order within 120 days after the application, the LDC may place the requested rate adjustment into effect. Any rate adjustment under this Section (k)(3)(a) is subject to review under Section (k)(6).
 - (i) Demand Charges and Storage Charges. Whenever an LDC anticipates a change in the Demand Charges and Storage Charges, the LDC may (as hereinabove provided) change its rates to customers under all rate schedules by an amount computed as follows:
[(Total Anticipated Demand Charges and Storage Charges - Prior Demand Charges and Storage Charges) X NC Portion*]/ Sales & Transportation Volumes* = Increase (Decrease) Per Unit
*Established by the Commission in the last general rate case.
 - (ii) Commodity and Other Charges. Whenever the LDC's estimate of its Benchmark Commodity Gas Costs changes, an LDC may (as hereinabove provided) change the rates to its customers purchasing gas under all of its sales rate schedules by an amount computed as follows:
{[Volumes of gas purchased* (excluding Company Use and Unaccounted For) X (New Benchmark Commodity Gas Costs - Old Benchmark Commodity Gas Costs)] X NC Portion*}/ {Volumes of gas purchased for System Supply* (excluding Company Use and Unaccounted For)* X NC Portion*}= Increase (Decrease) Per Unit

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*Established by the Commission in the last general rate case

- (b) Transportation Rate. Firm and/or interruptible transportation rates shall be computed on a per unit basis by subtracting the per unit Commodity and Other Charges included in the applicable firm or interruptible sales rate schedule from the applicable firm or interruptible rate schedule exclusive of any decrements or increments. Commodity deferred account increments or decrements shall not apply to transportation rates unless the Commission specifically directs otherwise. Demand and storage increments or decrements shall apply to transportation rates.
- (c) Other Changes in Purchased Gas Costs. The intent of these procedures is to permit an LDC to recover its actual prudently incurred Gas Costs. If any other Gas Costs are incurred, they will be handled as in Section (3)(a)(i) if they are similar to Demand Charges and Storage Charges, or as in Section (3)(a)(ii) if they are similar to Commodity and Other Charges.
- (4) True-up of Gas Costs.
 - (a) Demand Charges and Storage Charges. On a monthly basis, each LDC shall determine the difference between (a) Demand Charges and Storage Charges billed to its customers in accordance with the Commission-approved allocation of such costs to the LDC's various rate schedules and (b) the LDC's actual Demand Charges and Storage Charges. This difference shall be recorded in the LDC's deferred account for demand and storage charges. Increments and decrements for this deferred account, including the portion of the Commodity and Other Charges true-up calculated under Section (4)(b) and apportioned to this deferred account, flow to all sales and transportation rate schedules. Where applicable, the percentage allocation to North Carolina shall be the percentage established in the last general rate case.
 - (b) Commodity and Other Charges. On a monthly basis, each LDC shall determine with respect to gas sold (including company use and unaccounted for) during the month the difference between (a) the actual Commodity and Other Charges incurred and (b) the actual Commodity and Other Charges billed to customers. This difference shall be apportioned each month to the LDC's deferred account for commodity and other charges based on the ratio of volumes sold to the volumes purchased for that month. The residual portion of the difference not apportioned to the LDC's deferred account for commodity and other charges shall be apportioned each month to the LDC's deferred account for Demand Charges and Storage Charges. Increments and decrements for Commodity and Other Charges flow to all sales rate schedules.
 - (c) Repealed.
 - (d) Supplier Refunds and Direct Bills. In the event an LDC receives supplier refunds or direct bills with respect to gas previously

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purchased, the amount of such supplier refunds or direct bills will be recorded in the appropriate deferred account, unless directed otherwise by the Commission.

- (5) Other.
 - (a) Gas Costs changes not tracked concurrently shall be recorded in each LDC's appropriate deferred account.
 - (b) The Commodity and Other Charges portion of gas inventories shall be recorded at actual cost and the difference in that cost and the cost last approved under Section (k)(3)(a)(ii) shall be recorded in the deferred account when the gas is withdrawn from inventory.
 - (c) Each LDC shall file with the Commission (with a copy to the Public Staff) a complete monthly accounting of the computations under these procedures, including all supporting workpapers, journal entries, etc., within 45 days after the end of each monthly reporting period. All such computations shall be deemed to be in compliance with these procedures unless within 60 days of such filing the Commission or the Public Staff notifies the LDC that the computations may not be in compliance; provided, however, that if the Commission or the Public Staff requests additional information reasonably required to evaluate such filing, the running of the 60 day period will be suspended for the number of days taken by the LDC to provide the additional information.
 - (d) Periodically, an LDC may file to adjust its rates to refund or collect balances in these deferred accounts through decrements or increments to current rates. In filing for an increment or decrement, the LDC shall state the amount in the deferred account, the time period during which the increment or decrement is expected to be in effect, the rate classes to which the increment or decrement is to apply, and the level of volumes estimated to be delivered to those classes. Any such increments or decrements shall be made on a flat per dekatherm basis for all affected rate classes, unless otherwise ordered by the Commission.
 - (e) Notwithstanding the provisions of this Rule, an LDC may offset negotiated losses in any manner authorized by the Commission.
- (6) Annual Review.
 - (a) Annual Test Periods and Filing Dates. Each LDC shall file and submit to the Commission the information required in Section (k)(6)(c) for an historical 12-month test period. This information shall be filed by Toccoa Natural Gas on or before September 1 of each year based on a test period ended June 30. This information shall be filed by Frontier Natural Gas, LLC, on or before December 1 of each year based on a test period ended September 30. This information shall be filed by Piedmont Natural Gas Company, Inc., on or before August 1 of each year based on a test period ended May 31. This information shall be filed by Public Service Company of North

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Carolina, Inc., on or before June 1 of each year based on a test period ended March 31.

- (b) **Public Hearings.** The Commission shall schedule an annual public hearing pursuant to G.S. 62-133.4(c) in order to compare each LDC's prudently incurred Gas Costs with Gas Costs recovered from all its customers that it served during the test period. The public hearing for Toccoa Natural Gas shall be on the first Wednesday of November. The public hearing for Frontier Natural Gas, LLC, shall be on the first Tuesday of March. The public hearing for Piedmont Natural Gas Company, Inc., shall be on the first Tuesday of October. The public hearing for Public Service Company of North Carolina, Inc., shall be on the second Tuesday of August. The Commission, on its own motion or the motion of any interested party, may change the date for the public hearing and/or consolidate the hearing required by this section with any other docket(s) pending before the Commission with respect to the affected LDC.
- (c) **Information Required in Annual Filings.** Each LDC shall file information and data showing the LDC's actual gas costs, volumes of purchased gas, weather-normalized sales volumes, sales volumes, negotiated sales volumes and transportation volumes and such other information as may be directed by the Commission. All such information and data shall be accompanied by workpapers and direct testimony and exhibits of witnesses supporting the information.
- (d) **Notice of Hearings.** Each LDC shall publish a notice for two (2) successive weeks in a newspaper or newspapers having general circulation in its service area, normally beginning at least 30 days prior to the hearing, notifying the public of the hearing before the Commission pursuant to G.S. 62-133.4 and setting forth the time and place of the hearing.
- (e) **Petitions to Intervene.** Persons having an interest in any hearing held under the provisions of this Section (k) may file a petition to intervene setting forth such interest at least 15 days prior to the date of the hearing. Petitions to intervene filed less than 15 days prior to the date of the hearing may be allowed in the discretion of the Commission for good cause shown.
- (f) **Filing of Testimony and Exhibits by the Public Staff and Intervenors.** The Public Staff and other intervenors shall file direct testimony and exhibits of witnesses at least 15 days prior to the hearing date. If a petition to intervene is filed less than 15 days prior to the hearing date, it shall be accompanied by any direct testimony and exhibits of witnesses the intervenor intends to offer at the hearing.
- (g) **Filing of Rebuttal Testimony.** An LDC may file rebuttal testimony and exhibits within 10 days of the actual receipt of the testimony of the party to whom the rebuttal testimony is addressed.

(l) Procedure for Rate Adjustments Under G.S. 62-133.1B. [*Water company rule proposal revisions pending for this section in Docket No. W-100, Sub 63.*]

(m) Procedure for Performance-Based Regulation for Electric Public Utilities Under G.S. 62-133.16.

- (1) Purpose. The purpose of this Section (m) of Rule R1-17 is to set forth the procedures by which electric public utilities can submit a performance-based regulation application in a general rate case proceeding initiated pursuant to G.S. 62-133.
- (2) Definitions. As used in this Section (m) of Rule R1-17, the following definitions shall apply:
 - (a.) “Annual Decoupling Verification” shall mean the annual proceeding established by the Commission pursuant to GS 62-133.16(c)(1)(c) to determine the amount of distributions or collections necessary under the Decoupling Rate-making Mechanism.
 - (b.) “Annual ESM and PIM(s) Review” shall mean the annual proceeding established by the Commission pursuant to GS 62-133.16(c)(1)(c) to determine the amount, if any, of sharing necessary under the Earnings Sharing Mechanism, and distributions or collections necessary under the Performance Incentive Mechanisms.
 - (c.) “Annual ESM and PIM(s) Review Report” shall mean the annual filing to be submitted by the electric public utility after the conclusion of each Rate Year of an MYRP, consistent with Section (10) below.
 - (d.) “Annual PBR Review Riders” shall mean, collectively, the three riders established by the Commission pursuant to GS 62-133.16(c)(1)(b) to share any amounts necessary under the Earnings Sharing Mechanism (the “Annual ESM Rider”), and distribute or collect any amounts necessary under the Decoupling Rate-making Mechanism (the “Annual Decoupling Rider”), and distribute or collect any amounts calculated under the Performance Incentive Mechanism (the “Annual PIM(s) Rider”). The Annual PBR Review Riders shall be designed to distribute or collect amounts within a 12-month period.
 - (e.) “Base Year” shall mean the fully historic 12-month period, consistent with R1-17(b)(8) above, that the electric public utility uses as the basis for any pro-forma adjustments to revenues and costs in establishing Rate Year revenue requirements.
 - (f.) “Cost Causation Principle” means establishment of a causal link between a specific customer class, how that class uses the electric system, and costs incurred by the electric public utility for the provision of electric service.
 - (g.) “Decoupling Rate-making Mechanism” means a rate-making mechanism for residential customers intended to break the link

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between an electric public utility's revenue and the level of consumption of electricity on a per customer basis by its residential customers that meets the requirements of G.S. 62-133.16(c)(2).

- (h.) "Distributed Energy Resource" or "DER" means a device or measure that produces electricity or reduces electricity consumption and is connected to the electric distribution system, either on the customer's premises or on the electric public utility's primary distribution system. A DER may include any of the following: energy efficiency, distributed generation, demand response, microgrids, energy storage, energy management systems, and electric vehicles.
- (i.) "Earnings Sharing Mechanism" or "ESM" means an annual rate-making mechanism that shares surplus earnings between the electric public utility and customers over the period of time covered by a Multiyear Rate Plan.
- (j.) "Multiyear Rate Plan" or "MYRP" means a rate-making mechanism under which the Commission sets base rates for a multiyear period that includes authorized periodic changes in base rates without the need for the electric public utility to file a subsequent general rate application pursuant to G.S. 62-133, along with an Earnings Sharing Mechanism.
- (k.) "Performance Incentive Mechanism(s)" or "PIM(s)" means a rate-making mechanism that links electric public utility revenue or earnings to electric public utility performance in targeted areas consistent with Policy Goals, as defined in Section R1-17(m)(2)k, approved by the Commission, and includes specific performance metrics and targets against which electric public utility performance is measured.
- (l.) "Performance-Based Regulation" or "PBR" means an alternative rate-making approach that includes a Decoupling Rate-making Mechanism, one or more Performance Incentive Mechanisms, and a Multiyear Rate Plan, including an Earnings Sharing Mechanism, or such other alternative regulatory mechanisms as may be proposed by an electric public utility.
- (m.) "Policy Goal(s)" means the expected or anticipated achievement of operational efficiency, cost-savings, or reliability of electric service that is greater than that which already is required by State or federal law or regulation, including standards the Commission has established by order prior to and independent of a PBR application, provided that, with respect to environmental standards, the Commission may not approve a Policy Goal that is more stringent than is established by (i) State law, (ii) federal law, (iii) the Environmental Management Commission pursuant to G.S. 143B-282, or (iv) the United States Environmental Protection Agency.
- (n.) "Rate Year" means each twelve-month period of the MYRP, which twelve-month periods must end on a quarter end (March, June, September, or December).

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- (o.) "Tracking Metric(s)" means a methodology for tracking and quantitatively measuring and monitoring outcomes or electric public utility performance.
- (3) Pre-Filing Notice. An electric public utility shall file a written letter of intent to file a PBR application and request initiation of a pre-filing PBR technical conference process at least sixty (60) days in advance of filing a PBR application.
- (4) Pre-Filing Technical Conference.
- (a.) Upon receiving an electric public utility's request, the Commission will initiate a pre-filing technical conference process which will consist of one or more public meetings at which the electric public utility will present information regarding projected transmission and distribution capital expenditures expected to be included in the PBR application. The Commission will require the electric public utility to provide advance electronic notice of the public meeting(s) to interested parties in such form as the Commission may require.
- (b.) At the pre-filing technical conference, the electric public utility will present for each transmission and distribution capital project:
- (i) Project description
- (ii) Project justification
- (iii) Estimated costs and estimated in-service dates.
- (c.) At the pre-filing technical conference, interested parties are permitted to provide comment and feedback in such manner as may be ordered by the Commission; provided, however, no cross-examination of parties shall be permitted.
- (d.) The pre-filing technical conference process shall be completed within sixty (60) days from the date the electric public utility requests initiation of such process.
- (5) Filing Requirements.
- (a.) A PBR application must be filed in a general rate case proceeding initiated pursuant to G.S. 62-133 and must be consistent with the rules otherwise prescribed in R1-17 unless otherwise noted in this Section.
- (b.) An electric public utility's PBR application shall include a Decoupling Rate-making Mechanism, one or more PIM(s), and an MYRP, including both an Earnings Sharing Mechanism and proposed revenue requirements and base rates for each of the Rate Years of a MYRP or a method for calculating the same. The PBR application may also include proposed Tracking Metrics with or without targets or benchmarks to measure electric public utility achievement.

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- (c.) With respect to an MYRP, an electric public utility shall include:
- (i) Descriptions of the forecasted capital spending projects that the electric public utility proposes to include in the MYRP, including:
 - a. Projected plant in service amount, including AFUDC, if applicable, and
 - b. Projected in-service month and year for each capital spending project.
 - (ii) Calculation of revenue requirements associated with the forecasted capital spending projects for each Rate Year of the MYRP, including return on investments net of accumulated depreciation, income taxes, depreciation expense, property taxes, and associated operations and maintenance expense net of associated operations and maintenance savings.
 - a. A calculation of the proposed percent increase for Rate Years 2 and 3, if applicable, of the MYRP.
 - b. Proposed allocation of the revenue requirements to the customer classes.
 - c. All proposed rate schedules for each Rate Year.
 - d. The rate schedule for the Annual ESM Rider for Rate Year 1, initially set at \$0 in the first PBR application, and a template showing the calculation for annual adjustment to the rider, including how amounts will be allocated to the customer classes and any pro forma adjustments that the electric public utility proposes to make to the financial results used in the ESM in addition to those specified in GS 62-133.16(c)(1)c.1.
- (d.) With respect to a Decoupling Rate-making Mechanism, an electric public utility shall include:
- (i) The proposed revenue requirement per residential customer for each year of the MYRP, and any monthly shaping of said amount.
 - (ii) If net lost revenues are collected through a demand-side management and energy efficiency (“DSM/EE”) rider, a plan to ensure that that there is no double collection of net lost revenues through the DSM/EE rider and the Decoupling Rate-making Mechanism.

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- (iii) Proposed accounting entries for decoupling true-up entries.
 - (iv) The rate schedule for the Annual Decoupling Rider for Rate Year One, initially set at \$0 in the first PBR application, and a template showing the calculation for annual adjustment to the rider.
- (e.) With respect to PIM(s), an electric public utility shall include:
- (i) Proposed PIM(s), including the Policy Goal targeted by the PIM(s), the method of measuring performance, and calculation of incentive and/or penalty.
 - (ii) The rate schedule for the Annual PIM(s) Rider for Rate Year One initially set at \$0 in the first PBR application, and a template showing the calculation for annual adjustment to the rider, including how amounts will be allocated to the customer classes.
 - (iii) Any Tracking Metrics proposed by the electric public utility that will be reported in the Annual ESM and PIM(s) Review but will not be tied to a financial incentive or penalty.
- (6) General Procedures.
- (a.) Any PBR application approved by the Commission shall remain in effect for a plan period of not more than thirty-six (36) months.
 - (b.) At any time prior to expiration of a PBR plan period, the Commission, with good cause and upon its own motion or petition by the Public Staff, may examine the reasonableness of an electric public utility's rates under a plan, conduct periodic reviews with opportunities for public hearings and comments from interested parties, and initiate a proceeding to adjust base rates or PIM(s) as necessary. If the Commission initiates such a proceeding, the electric public utility shall have the right to respond and file testimony and exhibits to address the reasonableness of its rates under an approved plan. No adjustments to the base rates or PIM(s) shall be made unless the Commission finds after notice and hearing that the current rates or PIM(s) under a plan are not just and reasonable and not in the public interest.
 - (c.) The approval of a PBR shall not be construed to limit the Commission's authority to grant additional deferrals between rate cases for extraordinary costs not otherwise recognized in rates.
 - (d.) Should the Commission fail to approve, modify, or reject the electric public utility's PBR application prior to end of the three hundred (300)

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day suspension period allowed under G.S, 62-133.16 and the electric public utility elects not to implement the requested rates prior to the Commission issuing an order, the Commission shall authorize deferred accounting or such other mechanism that will allow the electric public utility to recover revenue shortfalls resulting from such delay, including carrying costs at the electric public utility's last authorized weighted average cost of capital.

- (e.) If the electric public utility forecasts that any single new generation plant with a total plant in service balance in excess of \$500 million will be placed into service during the term of the MYRP, such plant shall not be included in an MYRP, but instead the electric public utility may, either as part of the PBR application or separately, request a deferral accounting order for such plant.
- (f.) In its order approving or modifying the PBR application, the Commission shall approve the template to be used to calculate the annual adjustments, if any, to the Annual ESM Rider. In the Annual ESM and PIM(s) Review, if the Commission determines an amount to be shared with customers pursuant to the ESM, the electric public utility shall establish a regulatory liability. The Annual ESM Rider shall be designed to distribute the sharing amount over a 12-month period, including a return on the regulatory liability at the electric public utility's last authorized weighted average cost of capital.
- (g.) In its order approving or modifying the PBR application, the Commission shall approve an annual revenue requirement per residential customer for each Rate Year and an appropriate distribution of said revenue requirement per customer in each month of the year. The approved monthly revenue requirements times the actual number of residential customers each month shall become the target revenue for the residential class. Each month, the electric public utility shall defer to a regulatory asset or liability account the difference between the actual revenue and the target revenue for the residential class. The regulatory asset or liability shall accrue a return at the electric public utility's last authorized weighted average cost of capital. The electric public utility shall file quarterly reports with the Commission on the status of the decoupling regulatory asset or liability. Adjustments to the Annual Decoupling Rider should be designed to collect or distribute the amount in the regulatory asset or liability over a 12-month period. In its order approving or modifying the PBR application, the Commission shall approve the template to be used to calculate the annual adjustments to the Annual Decoupling Rider.
- (h.) In its order approving or modifying the PBR application, the Commission shall approve the template to be used to calculate the annual adjustments, if any, to the Annual PIM(s) Rider. In the Annual ESM and PIM(s) Review, if the Commission determines reward or penalty amounts under the PIM(s), the electric public utility shall

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establish a regulatory asset or liability. The Annual PIM Rider shall be designed to distribute or collect the penalties or rewards over a 12-month period. No return shall accrue on the rewards or penalties.

- (i.) The notice to customers of the electric public utility's general rate increase shall include the proposed tariff rates for each denoted Rate Year in the Plan.

(7) Performance-Based Metrics.

- a. As part of PBR application, the electric public utility shall propose, and the Commission may modify, reject, or approve, one or more PIM(s) that are consistent with the Policy Goals, as that term is defined in this Rule R1-17.
- b. The PIM(s) proposed by an electric public utility shall include one or more of the following:
- i. Rewards based on the sharing of savings achieved by meeting or exceeding a specific Policy Goal.
 - ii. Rewards or penalties based on differentiated authorized rates of return on common equity to encourage electric public utility investments or operational changes to meet a specific Policy Goal, which shall not be greater than twenty-five (25) basis points.
 - iii. Fixed financial rewards to encourage achievement of specific Policy Goals, or fixed financial penalties for failure to achieve Policy Goals.

(8) Criteria for Evaluating a PBR Application.

- (a.) In reviewing any such PBR application under this section, the Commission shall consider whether the PBR application:
- (i.) Assures that no customer or class of customers is unreasonably harmed and that the rates are fair both to the electric public utility and to the customer.
 - (ii.) Reasonably assures the continuation of safe and reliable electric service.
 - (iii.) Will not unreasonably prejudice any class of electric customers and result in sudden substantial rate increases or "rate shock" to customers.
- (b.) In reviewing any such PBR application under this section, the Commission may consider whether the PBR application:
- (i.) Encourages peak load reduction or efficient use of the system.
 - (ii.) Encourages utility-scale renewable energy and storage.
 - (iii.) Encourages DERs.
 - (iv.) Reduces low-income energy burdens.

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- (v.) Encourages energy efficiency.
 - (vi.) Encourages carbon reductions.
 - (vii.) Encourages beneficial electrification, including electric vehicles.
 - (viii.) Supports equity in contracting.
 - (ix.) Promotes resilience and security of the electric grid.
 - (x.) Maintains adequate levels of reliability and customer service.
 - (xi.) Promotes rate designs that yield peak load reduction or beneficial load-shaping.
- (9) Procedure Upon Commission Rejection of a PBR application. In the event that the Commission rejects a PBR application, the Commission shall provide a detailed explanation of the deficiency in its order ruling on the PBR application. The Commission shall provide the electric public utility with a period of no more than ninety (90) days to file a proposed cure to the identified deficiency, or to collaborate with stakeholders and file a proposed cure to the identified deficiency. In the event that the Commission rejects a PBR application, the Commission shall nevertheless establish the electric public utility's base rates in accordance with G.S. 62-133 based on the PBR application. If the electric public utility files a proposed cure to the deficiency, the Commission shall issue an order approving or rejecting the PBR application with the proposed cure within sixty (60) days.
- (10) Annual Decoupling Verification and Annual ESM and PIM(s) Review.
- (a.) Within forty-five (45) days of the conclusion of each quarter (March, June, September, December) of the MYRP, the electric public utility shall file a quarterly status report for the Decoupling Rate-making Mechanism. Within forty-five (45) days following the conclusion of each Rate Year, the electric public utility shall file its calculation of the adjustment to the Annual Decoupling Rider per the template approved by the Commission. The Public Staff shall verify the calculation and the new rider rates shall be effective sixty (60) days following the conclusion of each Rate Year.
 - (b.) Within sixty (60) days following the conclusion of each Rate Year, the Commission shall initiate an Annual ESM and PIM(s) Review proceeding. Within ninety (90) days following the conclusion of each Rate Year, the electric public utility shall file an Annual ESM and PIM(s) Review Report. The Annual ESM and PIM(s) Review Report filing shall contain the following:
 - (i.) Financial data, including the electric public utility's earned return on equity, for actual results during the applicable Rate Year filed in compliance with Commission Rule R1-17(b)(3)-(10), and including a weather normalization adjustment, an adjustment to remove any penalties or

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- rewards from PIM(s) incentives and any incentives related to demand-side management and energy efficiency measures pursuant to G.S. 62-133.9(f), and any other pro forma adjustments approved by the Commission in its order approving or modifying the PBR application.
- (ii.) Schedule showing the calculation of any sharing amounts due under the Annual ESM Rider.
 - (iii.) Schedule showing the calculation of any rewards or penalties provided for in PIM(s) approved by the Commission to be included in the Annual PIM(s) Rider.
- (c.) The Public Staff shall review the Annual ESM and PIM(s) Review Report and, within sixty (60) days of submission of the filing by the electric public utility, shall submit a report to the Commission describing its findings and any recommendations emanating from the review. The electric public utility shall have thirty (30) days to file a reply to the Public Staff's report. The Commission shall issue an order establishing the adjustments to the Annual ESM and PIM(s) Riders within two hundred and seventy (270) days following the conclusion of each Rate Year, and the adjustments shall be effective no more than one year after the conclusion of the Rate Year being reviewed with rates set to recover or distribute approved rider amounts over a 12-month period.
- (d.) The Commission shall examine the earnings of the electric public utility during the Rate Year to determine if the earnings exceeded the authorized rate of return on equity determined by the Commission in the proceeding establishing the PBR.
- (i.) If the adjusted earnings exceed the authorized rate of return on equity plus fifty (50) basis points, the excess earnings above the authorized rate of return on equity plus 50 basis points shall be shared with customers in the Annual ESM Rider established by the Commission.
 - (ii.) If the adjusted earnings fall below the authorized rate of return on equity, the electric public utility may file a rate case pursuant to G.S. 62-133. If the adjusted earnings of the electric public utility fall below the authorized rate of return on equity in its Annual ESM and PIM(s) Review Report, and the electric public utility chooses to file a rate case pursuant to G.S. 62-133, the electric public utility may file such rate case concurrent with its Annual ESM and PIM(s) Review Report or after such time, but before the filing of a subsequent Annual ESM and PIM(s) Review Report. The approved PBR will stay in effect until new rates and a new PBR, if applicable, are established by the Commission in the rate case proceeding.
- (e.) Any penalties or rewards from PIM(s) incentives and any incentives related to demand-side management and energy efficiency

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measures pursuant to G.S. 62-133.9(f) shall be excluded from the determination of any sharing pursuant to the ESM.

- (f.) The Commission shall evaluate the performance of the electric public utility with respect to Commission-approved PIM(s) applicable in the Rate Year. Any financial rewards shall be collected from customers and any penalties distributed to customers, in each case, through the rider established by the Commission.
- (g.) If the electric public utility does not file a general rate case or successor PBR application to become effective after the final Rate Year, any approved PIM(s) shall expire but the base rates, Earnings Sharing Mechanism, and Decoupling Rate-making Mechanism effective for the final Rate Year will continue until the effective date of Commission-approved base rates from a subsequent general rate case. The electric public utility shall continue to file an Annual ESM and PIM(s) Review Report for each 12-month period beyond the end of the last Rate Year of the PBR plan for the ESM and continue to file annual adjustments to the Decoupling Rate-making Mechanism.

(NCUC Docket No. M-100, Sub 29, 5/6/70; NCUC Docket No. M-100, Sub 29, 8/11/70; NCUC Docket No. G-100, Sub 14, 10/15/71; NCUC Docket No. M-100, Sub 46, 12/15/71; NCUC Docket No. G-100, Sub 22, 6/26/75; NCUC Docket No. M-100, Sub 58, 7/18/75; NCUC Docket No. M-100, Sub 64, 10/28/75; NCUC Docket No. M-100, Sub 58, 2/3/76; NCUC Docket No. M-100, Sub 58, 8/4/77; NCUC Docket No. M-100, Sub 73, 9/12/77; NCUC Docket No. E-100, Sub 31, 10/4/77; NCUC Docket No. M-100, Sub 75, 10/27/77; NCUC Docket No. G-100, Sub 22, 8/1/77; NCUC Docket No. M-100, Sub 82, 1/23/79; NCUC Docket No. G-100, Sub 22, 8/8/79; NCUC Docket No. G-100, Sub 40, 8/19/80; NCUC Docket No. M-100, Sub 82, 4/27/81; NCUC Docket No. M-100, Sub 88, 2/17/82; NCUC Docket No. G-100, Sub 40, 9/8/82; NCUC Docket No. M-100, Sub 90, 9/14/83; NCUC Docket No. M-100, Sub 101, 3/23/84; NCUC Docket No. M-100, Sub 90, 8/25/87; NCUC Docket No. W-100, Sub 12, 5/14/91; NCUC Docket No. G-100, Sub 22, 6/19/91; NCUC Docket No. W-100, Sub 12, 9/4/91; NCUC Docket No. G-100, Sub 58, 2/17/92; NCUC Docket No. G-100, Sub 58, 4/9/92; NCUC Docket No. W-100, Sub 12, 2/22/94; NCUC Docket No. G-100, Sub 58, 7/12/94; NCUC Docket No. W-100, Sub 12, 7/14/94; NCUC Docket No. T-100, Sub 32, 8/23/95; NCUC Docket No. W-100, Sub 12, 3/13/96; NCUC Docket No. G-100, Sub 74, 12/4/97; NCUC Docket No. G-100, Sub 78, 06/30/99; NCUC Docket No. M-100, Sub 128, 10/27/99; NCUC Docket No. G-100, Sub 58, 4/18/00; NCUC Docket No. G-100, Sub 58, 10/02/01; NCUC Docket No. G-100, Sub 79, 10/28/03; NCUC Docket No. G-100, Sub 84, 02/11/04; NCUC Docket No. G-100, Sub 87, 07/08/09; NCUC Docket No. G-100, Sub 87, 07/17/09; NCUC Docket No. M-100, Sub 140, 12/03/13; NCUC Docket No. W-100, Sub 58, 03/26/19; NCUC Docket No. W-100, Sub 63, XX/XX/XXX; NCUC Docket No. E-100, Sub 178, XX/XX/XXXX.)