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March 18, 2024

**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  
Reporting Requirements for the Affordability Stakeholder Group and  
Request for Limited Waivers of Section III, A.2.(B) and (G) of the  
Companies' Code of Conduct  
Docket Nos. E-7, Sub 1276 and E-2, Sub 1300**

Dear Ms. Dunston:

Please find enclosed for filing Duke Energy Carolinas and Duke Energy Progress, LLC's Reporting Requirements for the Affordability Stakeholder Group and Request for Limited Waivers of Section III, A.2.(B) and (G) of the Companies' Code of Conduct in the above-referenced dockets.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Hayes J. Finley". The signature is written in a cursive, flowing style.

Hayes J. Finley

Enclosure

cc: Parties of Record

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1300  
DOCKET NO. E-7, SUB 1276

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-2, SUB 1300	)	
	)	
In the Matter of	)	<b>DUKE ENERGY CAROLINAS, LLC AND</b>
Application of Duke Energy Progress, LLC	)	<b>DUKE ENERGY PROGRESS, LLC'S</b>
for Adjustment of Rates and Charges	)	<b>REPORTING REQUIREMENTS FOR</b>
Applicable to Electric Service in North	)	<b>THE AFFORDABILITY STAKEHOLDER</b>
Carolina and Performance Based Regulation	)	<b>GROUP AND REQUEST FOR LIMITED</b>
	)	<b>WAIVERS OF SECTION III, A.2.(B) AND</b>
DOCKET NO. E-7, SUB 1276	)	<b>(G) OF THE COMPANIES' CODE OF</b>
	)	<b>CONDUCT</b>
In the Matter of	)	
Application by Duke Energy Carolinas, LLC	)	
for Adjustment of Rates and Charges	)	
Applicable to Electric Service in North	)	
Carolina and Performance Based Regulation	)	

NOW COME Duke Energy Carolinas, LLC (“DEC”) and Duke Energy Progress, LLC (“DEP”, collectively “Duke” or the “Companies”), after discussions with members of the North Carolina Utilities Commission’s Affordability Stakeholder Group (“ASG”), to report upon the data and information that will be provided in the annual report and semi-annual report for the Customer Assistance Program (“CAP”) and to provide the schedule for which the Companies plan to file both semi-annual and annual reports, pursuant to the Commission’s August 18, 2023 *Order Accepting Stipulations, Granting Partial Rate Increase, and Requiring Public Notice*, Docket No. E-2, Sub 1300 (“*DEP Rate Case Order*”), the Commission’s December 15, 2023 *Order Accepting Stipulations, Granting Partial Rate Increase, Requiring Public Notice, and Modifying Lincoln CT CPCN Conditions*, Docket No. E-7, Sub 1276 and E-2, Sub 1134 (“*DEC Rate Case Order*,”

collectively, “*Rate Case Orders*”), and the Commission’s February 22, 2024 *Order Granting Extension of Time to File Reporting Requirements for Annual Customer Assistance Program Report* in the above-captioned dockets. Additionally, pursuant to Commission Rule R1-5 and Section II of the Companies’ Code of Conduct as approved by the Commission in its August 24, 2018 *Order Amending Regulatory Conditions*, in Docket Nos. E-2, Sub 1095A, E-7, Sub 1100A, and G-9, Sub 682A (“Code of Conduct”), the Companies request a limited waiver of Section III, A.2.(b) and (g) of the Code of Conduct so that they may include anonymous, aggregated non-public Customer Information in the annual and semi-annual reports for Customer Assistance Program (“CAP”) and share the anonymous, aggregated non-public Customer Information with the members of the ASG on a quarterly basis to enable the ASG to analyze the CAP.

Section II of the Code of Conduct provides that the Companies may seek a waiver of any aspect of this Code of Conduct by filing a request with the Commission showing that the circumstances of a particular case justify a waiver. For the reasons set forth in more detail herein, the circumstances of this case justify a limited waiver of these provisions of the Code of Conduct for purposes of furthering the work of the ASG consistent with the Commission’s directive to disclose zip code level data and other objectives outlined in *the Rate Case Orders*. The Companies have discussed their request for a time-limited waiver with the members of the ASG, including the Public Staff - North Carolina Utilities Commission (“Public Staff”). The requested limited waiver will remain in effect until the final annual report for CAP is filed with the Commission as outlined in *the Rate Case Orders*. In support of this request, the Companies show the following:

### Affordability Stakeholder Group Engagement

1. *The Rate Case Orders* required the Companies to convene a stakeholder engagement process to consider CAP data, metrics, and future CAP features. On October 6, 2023, the Companies invited members of the Low-Income Affordability Collaborative (“LIAC”) and Stipulating Parties<sup>1</sup> to join the ASG.

2. *DEP Rate Case Order* requires an annual report that will be filed each year the CAP is effective. The Commission also directed semi-annual reporting for certain information pertaining to weatherization, energy efficiency, CAP, and health and safety repairs.

3. On November 9, 2023, the Companies convened the initial meeting with ASG members to discuss ASG scope, structure and reporting requirements as directed in the NCUC order. ASG members were encouraged to participate in one of five sub-teams. Based on feedback from ASG members, the ASG structure was reduced to three sub-teams. Each sub-team has participants representing a diverse group of organizations/companies. Each sub-team is led by one representative from Duke Energy and one representative from another ASG member.

4. ASG members have been encouraged to review the reporting requirements and provide feedback for additional reporting requirements that support the analysis of CAP. The Companies received suggested feedback and questions about the reporting requirements from the North Carolina Sustainable Energy Association (NCSEA) and

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<sup>1</sup> The Agreement and Stipulation of Partial Settlement Regarding Low-Income/Affordability Performance Incentive Mechanism and Affordability Issues between the Companies, Sierra Club, the North Carolina Justice Center, the North Carolina Housing Coalition, the Natural Resources Defense Council, the Southern Alliance for Clean Energy, Vote Solar, and the Public Staff stipulated the convening of the ASG. The stipulation was approved by the Commission in the *Rate Case Orders*.

Southern Environmental Law Center (SELC). At the second ASG meeting on December 8, 2023, the feedback and questions were shared with ASG members and later presented in the ASG meeting on January 18, 2024.

5. On February 27, 2024, the Public Staff provided additional feedback, and the ASG met for a third and fourth time on February 28, 2024 and March 8, 2024 to discuss the feedback provided regarding the semi-annual and annual reporting requirements. In addition, the feedback informed considerations by the sub-teams for data that may support the scope of its work. The Companies will continue to evaluate with ASG members what additional data is required for the sub-teams, such as to evaluate the effectiveness of CAP, and the Companies are committed to updating the Commission by no later than the third quarter of 2024.

6. The ASG is comprised of three sub-teams. Each sub-team held its initial kickoff meeting in first quarter of 2024. The sub-team scope of work is described below:

- a. Sub-Team A
  - i. Consider metrics and inputs used to access the CAP
  - ii. Explore how to identify impacts of CAP
- b. Sub-Team B
  - i. Explore and develop a tiered CAP
  - ii. Explore opportunities to improve CAP during the pilot and subsequent program
- c. Sub-Team C

- i. Explore how to identify and implement programs that maximize the deployment of federal funding available for weatherization and energy efficiency programs or services for low-income customers
- ii. Further explore the feasibility of tracking referral outcomes of such programs to CAP participants

### **Information to be Reported by DEP and DEC**

7. In its *DEP Rate Case Order*, the Commission directed the ASG to submit an annual report that includes, at a minimum, the data and information listed below in (a) through (g). The ASG members have agreed that the information will be reported by both DEC and DEP and will include a break-down of data by month. The additional information and data agreed to by ASG members to be included in the annual report are listed below each item required by the Commission.

- a. Number of customers enrolled in the CAP by zip code.
  - Number of active CAP customers by zip code and county.<sup>2</sup>
  - Number of active residential customers by zip code and county.
- b. Amount of dollars given in assistance by zip code.
  - Dollars given to active CAP customers by zip code and county.
- c. Percentage of total customers enrolled in the CAP by zip code and county.
  - Number of active CAP customers in zip code divided by the total number of active residential customers in the zip code.
  - Number of active CAP customers in county divided by the total number of active residential customers in the zip code.

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<sup>2</sup> There are many reasons for seeking County level data reporting, but chiefly there are numerous other reports and analyses, i.e. the Dept. of Commerce County Distress Rankings, that report at the county level. County level data reporting allows the ASG data to be compared and correlated with other available data.

- d. Percentage of total customers enrolled in the CAP that have had disconnections.
  - Number of CAP customers disconnected for non-payment divided by the total number of active CAP customers.
- e. Identification of the zip codes which have the highest number of residential nonpayment disconnections.
  - Number of CAP customers disconnected for nonpayment, by zip code and county.
  - Number of residential customers disconnected for nonpayment, by zip code and county.
- f. Range, average, and median bill size for customers enrolled in the CAP.
  - Range (max - min), average and median bill of active CAP customers by zip code and county.
- g. Recommendations relating to potential changes in the CAP that would have the potential to improve the program during the pilot or as part of a subsequent program.
- h. Track and report to the actual CAP costs and benefits by residential and non-residential customers — exceeded, equaled, or fell below estimates provided to the Commission by DEP in the DEP Rate Case.
  - To be reported on (i) the date on which the second annual CAP report is filed or (ii) the date on which DEP requests an extension of CAP (or implementation of a similar program), whether as part of future rate case or otherwise.<sup>3</sup>

8. Additionally, the Commission directed the Companies to track and report semi-annually how funds for health and safety repairs are spent. The semi-annual report will include:

- a. Dollar amount given in weatherization help to customers by zip code and county.
- b. Dollar amount given to energy efficiency help to customers by zip code and county.

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<sup>3</sup> This information will not be provided monthly and will be included in the second annual CAP report (to be filed in 2026).

- c. Percentage of customers who receive CAP and are referred to weatherization and energy efficiency programs or services by zip code and county.
- d. Percentage of customers who receive CAP and receive weatherization and energy efficiency assistance after being referred to those programs and services by zip code and county.
- e. Identify the most frequent types of health and safety repairs that may be necessary and required to enable customers to qualify for weatherization programs.

### **Reporting Schedule**

9. The semi-annual report will be filed by August 15, 2024. The first annual report will be filed by February 15, 2025, for the preceding 12 months and will include all the information in the preceding section.

### **REQUEST FOR LIMITED WAIVERS**

10. The Companies are committed to achieving the ASG's goals as set forth in the *Rate Case Orders*. As the ASG focuses on achieving the Commission's objectives, participants have expressed a need to view certain information specific to groups of customers described in Paragraphs 7-8, which would necessitate the Companies' disclosure of non-public Customer Information, as defined by the Companies' Code of Conduct.<sup>4</sup>

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<sup>4</sup> "Customer Information" is defined as: "Non-public information or data specific to a Customer or a group of Customers, including, but not limited to, electricity consumption, natural gas consumption, load profile, billing history, or credit history that is or has been obtained or compiled by DEC, DEP, or Piedmont in connection with the supplying of Electric Services or Natural Gas Services to that Customer or group of Customers." Section I, definitions. "Electric Services" means "Commission-regulated electric power generation, transmission, distribution, delivery, and sales, and other related services, including but not limited to, administration of Customer accounts and rate schedules, metering, billing, standby service, backups, and changeovers of service to other suppliers." Notably, the Code of Conduct does not apply to information pertaining to race, gender, age, income levels, type of dwelling (e.g., multi-family, single family,



Section III of the Company's Code of Conduct prohibits the disclosure of any "Customer Information" without a customer's consent, except where required to do so by a court or agency, including the Commission.<sup>5</sup>

11. The Code of Conduct contains numerous provisions regulating the Companies' treatment of Customer Information.<sup>6</sup> Specific to this request, Section III, A. 2(b) provides that the Companies shall not disclose Customer Information without the Customer's consent, and then only to the extent specified by the Customer. Section III, A. 2(g) requires DEC and DEP to take appropriate steps to store Customer Information in a manner that limits access to those persons permitted to receive it and shall require all persons with access to such information to protect its confidentiality. Section III, A.2(f)(iii) allows the Companies to disclose Customer Information to a state agency or court of competent jurisdiction if required in writing to do so by the agency or court.

12. In addition to customer privacy concerns, which the Companies take very seriously, the Code of Conduct recognizes that the Companies collect non-public information about their customers that could have competitive value to the Companies' affiliates and to third-parties.<sup>7</sup> Because the Companies' customers' non-public data is necessarily collected and maintained to allow for the Companies' provision of electric utility service to both individual customers and groups of customers, the Code of Conduct generally prohibits the Companies from disclosing non-public Customer Information specific to a customer or a group of customers to the Companies' nonpublic utility

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manufactured), location of dwelling (e.g., city or suburb), house value, etc. The Companies do not collect or maintain these types of demographic data about their customers.

<sup>5</sup> See Section III, A.2(f)(iii).

<sup>6</sup> See e.g. Code of Conduct, Disclosure of Customer Information, Sec. III, A. 2.(a) – (k).

<sup>7</sup> See generally, Code of Conduct, Sec. III, A.(2) (c), (i) and (j) and B.(9) (ensuring that the Companies' affiliates do not obtain an anti-competitive or discriminatory advantage over non-affiliated, third-party market participants through the sharing of non-public Customer Information).

operations, affiliates, or to non-affiliated third parties, absent written, electronic, or recorded verbal authorization from the affected customer or group of customers.<sup>8</sup>

13. The Code of Conduct applies to individual residential customers without question, but the meaning of non-public “data specific to a group of customers” is less defined. In Docket No. E-7, Sub 997, the Commission concluded that the Companies’ proposal to disclose aggregated, anonymous customer energy usage data to the City of Charlotte at the zip code plus four level, without any customer authorization, necessitated a time-limited waiver of the Code of Conduct.<sup>9</sup> The City of Charlotte had requested the non-public customer information to complete its Quality of Life Study. In allowing the Companies’ limited waiver, the Commission relied on the following: the research the City of Charlotte was conducting would ultimately benefit its citizens (and DEC’s customers); the disclosure of the non-public data in the aggregate was unlikely to lead to any affiliate of DEC gaining a competitive advantage; and the aggregated information at that level did not raise any customer privacy concerns because no customer identifying or individual customer-specific information would be included.

14. Additionally, in its March 10, 2022 *Order Granting Time Limited Waiver of Code of Conduct Provisions with Conditions*<sup>10</sup> for the LIAC, the Commission concluded that there was good cause to grant DEC and DEP’s requested waiver of Section III, A.2.(b) and (g) of the Code of Conduct, so that the Companies can disclose aggregated residential Customer Information to certain LIAC participants for use in the LIAC’s discussions and recommendations to the Commission.

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<sup>8</sup> Id. at 2.(b).

<sup>9</sup> *Order Approving Limited Waiver of Code of Conduct*, Docket No. E-7, Sub 997, issued February 29, 2012.

<sup>10</sup> See Docket Nos. E-7, Sub 1214, E-2, Sub 1219.

15. Because the Commission has ordered certain data to be included in an annual report, the Companies do not need to seek a waiver for the specific information ordered which is exempt from the Code of Conduct but will need a waiver to include additional and more specific data and information agreed to by the ASG, including county-level data. Based on these discussions, the Companies believe that to timely meet the Commission's goals outlined in *the Rate Case Orders*, and in the interest of protecting customers' anonymity, it is necessary and appropriate to limit the sharing of aggregated non-public data at the zip code and county level to zip codes or counties that have no fewer than 15 residential customer accounts and no one customer makes up more than 15% of the load ("Rule of Fifteens"). For zip codes or counties with less than 15 residential customer accounts or with a customer who makes up more than 15% of the load, the report will aggregate the total and reflect them as "other." Such sharing is also contemplated for both the semi and annual reports. Therefore, the Companies respectfully request a limited waiver of the provisions of the Code of Conduct that govern their disclosure of non-public customer data to third parties without customer authorization.

16. Additionally, the Companies request guidance from the Commission on whether to provide this annual report confidentially, or whether to file the report publicly. Should the Commission require the Companies to file the annual report publicly, the Companies request a limited waiver under the Code of Conduct to do so.

#### **Circumstances Justifying a Waiver**

17. The circumstances justifying the requested limited waiver in this case are as compelling as those justifying the limited waiver in Docket No. E-7, Sub 997 and for the LIAC. The ASG's work is expressly intended to improve the CAP, and the requested

limited waiver is necessary for this work. Moreover, like the LIAC, the ASG is being conducted pursuant to the *Rate Case Orders* and with Commission oversight. Therefore, the objectives and parameters of the ASG have been made clear. To further ensure protection of the Customer Information, however, the Companies request that the Commission allow the limited waiver for purposes of complying with *the Rate Case Orders* and with respect to the objectives of the ASG only and for no other purpose.

18. As in Docket No. E-7, Sub 997 and the LIAC, the Customer Information in this proceeding to be disclosed would be aggregated with no specific individual customer identifiers, such as account numbers or specific mailing or residence addresses. Therefore, individual customer's privacy will be protected. Additionally, this request involves only residential customers, instead of all classes of customers, so the potentially sensitive, competitive information of the Companies' commercial and industrial customers will not be disclosed, even in the aggregate. Moreover, the anonymous, non-public Customer Information aggregated to the proposed level will not lead to any competitive advantage for DEC's or DEP's affiliates.

19. The Companies have relied upon the Public Staff's filed proposed amendments to Commission Rule R8-51 that are currently pending before the Commission in Docket No. E-100, Sub 161, for guidance in proposing this waiver. Specifically, with respect to requests for aggregated data from a utility, the proposed subsection of that Rule provides that:

A utility may disclose readily available aggregated customer data that consists of *at least fifteen customers*, where the data of a single customer or premise associated with a single customer's data does not comprise 15 percent or more of the aggregated data within the same customer class. In aggregating customer data to create an aggregated data report, a utility must ensure the data does not include any

unique identifiers. A utility shall not be obligated to provide aggregated customer data in response to multiple overlapping requests from or on behalf of the same requestor that have the potential to identify customer data.<sup>11</sup>

The Public Staff's proposed Rule was not expressly intended to apply to stakeholder proceedings, such as the ASG, where numerous parties will be obtaining the Customer Information at the same time. Nevertheless, for purposes of this proceeding, if the Commission allows the requested, time-limited waiver of the Code of Conduct, the Companies will use this provision of the Public Staff's proposed Rule to guide how it aggregates requested Customer Information.

20. Similar to the Memoranda of Understanding ("MOU") that were used in the LIAC and University of Charlotte, the Companies propose to use a similar approach to sharing the information with members of the ASG. Prior to receiving the Customer Information, members of the ASG and any members of their organization that will be reviewing the Customer Information will be required to enter an MOU with the Companies. The MOU shall include an acknowledgement that the Customer Information provided by the Companies is confidential, and commitment from the member of the ASG that it will use reasonable diligence to protect against the possibility of Customer Information being disclosed to any other person who has not signed the MOU and will only use the information for purposes identified by the ASG.

21. Based on the foregoing, the Companies' request of a limited waiver of the provisions of the Code of Conduct governing their disclosure of non-public Customer Information strikes the appropriate balance among protecting non-public Customer

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<sup>11</sup> Initial Comments and Proposed Draft Rules of the Public Staff, at Appendix II, p.5, filed Feb. 10, 2020 in Docket No. E-100, Sub 161. (Emphasis added.)

Information, expeditiously meeting the Commission's goals with respect to the ASG's work and complying with the Code of Conduct.

22. If the Commission allows this limited waiver, the Companies respectfully and additionally request, in an abundance of caution, that the Commission further include language similar to that included in the waiver for the LIAC, providing that:

DEC and DEP shall use reasonable diligence in preventing improper disclosure of the Customer Information provided to the members of the ASG and any members of those organizations that will be reviewing the Customer Information and shall comply with Section III.A.2(k) of the Code of Conduct if they become aware of any improper disclosure or use of the Customer Information. DEC and DEP shall not be held responsible or liable for an improper disclosure or use of the Customer Information provided to ASG members and their organizations if they have used reasonable diligence to prevent any such improper disclosure or use.<sup>12</sup>

23. The Companies are authorized to state that the Public Staff supports the granting of this request for the limited waiver of the Code of Conduct for the purpose of furthering the work of the ASG.

WHEREFORE, the Companies respectfully request that the Commission issue an Order (i) waiving Section III, A.2.(b) and (g) of the Code of Conduct that govern the Companies' disclosure of Customer Information for the sole purpose of the ASG's work toward meeting the Commission's objectives in the *Rate Case Orders*, up to and including, to file such information in public reports, (ii) providing that the limited waiver expires upon the filing of the final report of the ASG with the Commission, (iii) including the proposed language providing that nothing in the limited waiver shall be construed to impose any liability on DEC and DEP or their directors, officers and employees related to the limited

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<sup>12</sup> See Page 6 of the Commission's March 10, 2022, *Order Granting Time Limited Waiver of Code of Conduct Provisions with Conditions*, Docket Nos. E-7, Sub 1214, E-7, Sub 1213, E-7, Sub 1187, E-2, Sub 1219 and E-2, Sub 1193.

waiver and that DEC and DEP shall not be responsible for the security of the information or its use or misuse by any third party if they have used reasonable diligence to prevent any such improper disclosure or use; and (iv) order the Companies to file the annual report confidentially, or in the alternative, publicly, and grant a limited waiver of the Code of Conduct to do so.

Respectfully submitted, this the 18<sup>th</sup> day of March, 2024.



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### **CERTIFICATE OF SERVICE**

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Reporting Requirements for the Affordability Stakeholder Group and Request for Limited Waivers of Section III, A.2.(B) and (G) of the Companies' Code of Conduct, in Docket Nos. E-7, Sub 1276 and E-2, Sub 1300, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid, to parties of record.

This the 18<sup>th</sup> day of March 2024.



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