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November 15, 2023

VIA ELECTRONIC FILING

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

RE: Application by Duke Energy Progress, LLC for Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider Pursuant to N.C. Gen. Stat. § 62-133.9 and Commission Rule R8-69; Docket No. E-2, Sub 1322

Dear Ms. Dunston:

Please find enclosed for filing in the above-referenced docket the Joint Proposed Order of Duke Energy Progress, LLC (the "Company") and the Public Staff of the North Carolina Utilities Commission (the "Public Staff"). The Joint Proposed Order addresses all items upon which the Company and the Public Staff agree in this matter. The Company and the Public Staff have made separate filings regarding the limited remaining contested issues. An electronic copy of the Joint Proposed Order is being emailed to briefs@ncuc.net. Please do not hesitate to contact me if you have any questions.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Marion "Will" Middleton, III
N.C. State Bar No. 50877

Appearing as Counsel for Duke Energy Progress, LLC

Enclosure

cc: Parties of Record

CERTIFICATE OF SERVICE

I certify that a copy of the Joint Proposed Order has been served on all parties of record either by electronic mail, hand delivery, or by depositing a copy in the United States mail, postage prepaid, properly addressed to all parties of record.

This 15th day of November 2023.

Marion "Will" Middleton, III

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 1322

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

HEARD: On Tuesday, September 19, 2023, at 9:18 a.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

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

APPEARANCES:

For Duke Energy Progress, LLC:

Ladawn Toon, Associate General Counsel, Duke Energy Corporation, NCRH 20/Post Office Box 1551, Raleigh, North Carolina 27602-1551[1]

Marion “Will” Middleton, III, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC, 2235 Gateway Access Point, Suite 2020, Raleigh, North Carolina 27607

For the Carolina Utility Customers Association:

Amanda Hawkins, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, Suite 1700, Wells Fargo Capitol Center Raleigh, North Carolina 27601

[1] The Commission granted Ladawn Toon’s motion to appear pro hac vice in this proceeding via *Order Granting Motion for Limited Appearance*, issued in this docket on September 11, 2023.

For the Carolina Industrial Group for Fair Utility Rates II:

> Douglas D.C. Conant, Bailey & Dixon, LLP, 434 Fayetteville Street, Suite 2500, North Carolina 27601

For the Using and Consuming Public:

> Anne M. Keyworth and Nadia L. Luhr, Staff Attorneys, Public Staff – North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300

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

On June 13, 2023, DEP filed an application for approval of its DSM/EE rider for 2023 ("Application") and the direct testimony and exhibits of Casey Q. Fields, Senior Strategy and Collaboration Manager for Duke Energy Business Services, LLC, a service company affiliate of DEP and a subsidiary of Duke Energy Corporation ("Duke Energy"), and Carolyn T. Miller, Manager of Rates and Regulatory Strategy for Duke Energy Carolinas, LLC ("DEC"), but supporting DEP as well.

On June 23, 2023, the Carolina Industrial Group for Fair Utility Rates II (CIGFUR) filed its petition to intervene. The Commission granted the petition on June 27, 2023. On July 3, 2023, Carolina Utility Customers Association, Inc. (CUCA) filed its petition to intervene. The Commission granted the petition on July 11, 2023. The intervention of the Public Staff is recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On June 30, 2023, the Commission issued an *Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring Public Notice* (the "Scheduling Order").

On August 24, 2023, DEP filed the Supplemental Testimony and Revised Exhibits of witnesses Casey Q. Fields and Carolyn T. Miller. On August 28, 2023, DEP filed a correction to the Supplemental Testimony and Revised Exhibits filed on August 24, 2023, clarifying a procedural matter.

On August 29, 2023, the Public Staff filed the Testimony and Exhibits of Hemanth Meda, Public Utilities Regulatory Analyst; Tommy Williamson, Jr., Utilities Engineer; and Warren Hirons, Project Manager at GDS Associates.[2]

On September 7, 2023, DEP filed the Rebuttal Testimony and Revised Exhibits of Casey Q. Fields, Carolyn T. Miller, and Lark L. Lee, Senior Director at Tetra Tech.

On September 15, 2023, the Public Staff filed a motion for substitution of witness and adoption of testimony, requesting to substitute Michelle Boswell, Director of the Accounting Division, as the sponsor of testimony pre-filed by Hemanth Meda on August 29, 2023. On September 18, 2023, the Commission issued its *Order Allowing Adoption of Testimony and Accepting Substitution of Witness*. On September 18, 2023, the Public Staff filed the testimony of Michelle Boswell.

On September 18, 2023, DEP filed its affidavits of publication, as required by the Scheduling Order.

On September 19, 2023, the public witness hearing was called to order as scheduled. No public witnesses appeared. Also on September 19, 2023, the expert witness hearing took place as scheduled.

[2] Witness Hirons' Exhibit 2 contains confidential information. As a result, the Public Staff filed both public and confidential versions of that exhibit.

On November 15, 2023, DEP and the Public Staff filed a partial Joint Proposed Order reflecting the issues upon which these parties agree. That same day, DEP and the Public Staff each submitted separate filings as a supplement to the partial Joint Proposed Order that reflect each party's position on the contested issues in this docket.

<u>Cost Recovery Mechanism</u>

On June 15, 2009, in Docket No. E-2, Sub 931, the Commission issued an *Order Approving Agreement and Stipulation of Partial Settlement, Subject to Certain Commission-Required Modifications* in DEP's first DSM/EE rider proceeding ("Sub 931 Order"). In the Sub 931 Order, the Commission approved, with certain modifications, an Agreement and Stipulation of Partial Settlement ("Stipulation") between DEP, the Public Staff, and Wal-Mart Stores East, LP, and Sam's East, Inc., setting forth the terms and conditions for approval of DSM/EE measures and the annual DSM/EE rider proceedings pursuant to N.C.G.S. § 62-133.9 and Commission Rules R8-68 and R8-69. The Stipulation included a Cost Recovery and Incentive Mechanism for DSM and EE Programs ("Original Mechanism"), which was modified by the Commission in its Sub 931 Order and subsequently in its *Order Granting Motions for Reconsideration in Part* issued on November 25, 2009, in the same docket. The Original Mechanism as approved after reconsideration allowed DEP to recover all reasonable and prudent costs incurred and utility incentives earned for adopting and implementing new DSM and EE measures in accordance with N.C.G.S. § 62-133.9, Commission Rules R8-68 and R8-69, and the additional principles set forth in the Original Mechanism.

On January 20, 2015, in Docket No. E-2, Sub 931, the Commission issued an *Order Approving Revised Cost Recovery and Incentive Mechanism and Granting Waivers.* In that Order, the Commission approved an agreement between DEP, the Public Staff, Natural Resources Defense Council, and Southern Alliance for Clean Energy proposing revisions to the Original Mechanism, generally to be effective January 1, 2016 ("Revised Mechanism"). The Revised Mechanism allows DEP to recover all reasonable and prudent costs incurred and utility incentives earned for adopting and implementing new DSM and EE measures in accordance with N.C.G.S. § 62-133.9, Commission Rules R8-68 and R8-69, and the additional principles set forth in the Revised Mechanism.

On November 27, 2017, in Docket No. E-2, Sub 1145 ("Sub 1145"), the Commission issued its *Order Approving DSM/EE Rider and Requiring Filing of Proposed Customer Notice* ("Sub 1145 Order"), in which it approved the agreement to revise certain provisions of the Revised Mechanism reached by the Company and the Public Staff. The Revised Mechanism, as modified by the Sub 1145 Order, is set forth in Maness Exhibit I filed in Sub 1145 and is referred to herein as the "2017 Mechanism."

On October 20, 2020, in Docket Nos. E-2, Sub 931, and E-7, Sub 1032, the Commission issued its *Order Approving Revisions to Demand-Side Management and Energy Efficiency Cost Recovery Mechanisms* ("2020 Sub 931 Order"), in which it approved a revised prospective Mechanism ("2020 Mechanism"). The 2020 Mechanism includes the following substantive changes to the 2017 Mechanism that are applicable to DEP: (1) addition of a Program Return Incentive

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

Docket No. E-2, Sub 1322

Based upon consideration of DEP's Application, the pleadings, the testimony and exhibits received into evidence, and the record in its entirety, the Commission now makes the following:

FINDINGS OF FACT

1. DEP is a duly organized limited liability company existing under the laws of the State of North Carolina, is engaged in the business of developing, generating, transmitting, distributing, and selling electric power to the public in North and South Carolina, and is subject to the jurisdiction of the Commission as a public utility. DEP is lawfully before this Commission based upon its application filed pursuant to N.C.G.S. § 62-133.9 and Commission Rule R8-69.

2. The test period for purposes of this proceeding extends from January 1, 2022, through December 31, 2022.

3. The rate period for purposes of this proceeding extends from January 1, 2024, through December 31, 2024.

4. DEP has requested approval for the recovery of costs, and utility incentives where applicable, related to the following DSM/EE programs:

Residential

- EE Education Program for Schools
- Multi-Family EE Program
- My Home Energy Report (MyHER)
- Neighborhood Energy Saver (Low-Income)
- Smart $aver EE Program
- New Construction Program

- Load Control Program (EnergyWise)
- Save Energy and Water Kit (now part of the EE Appliances Program)
- Energy Assessment Program
- Low-Income Weatherization Pay for Performance
- Energy Efficient Appliances and Devices Program

Non-Residential

- Smart $aver Energy Efficient Products and Assessments
- Smart $aver Performance Incentive Program
- Small Business Energy Saver
- Commercial, Industrial, and Governmental ("CIG") Demand Response Automation
- EnergyWise for Business

Combined Residential and Non-Residential

- EE Lighting
- Distribution System Demand Response ("DSDR")[3]

These programs are eligible for cost and utility incentive recovery, where applicable.

5. Pursuant to Paragraph 19 of the 2017 Mechanism and Paragraph 20 of the 2020 Mechanism, programs benefiting low-income customers are not required to be cost-effective for inclusion in the rider.

6. For purposes of inclusion in this DSM/EE rider, the Company's overall portfolio of residential and non-residential DSM and EE programs is cost-effective.

7. The evaluation, measurement, and verification (EM&V) reports filed as Fields Exhibits A, B, C, D, F, G, H, and I are acceptable for purposes of this

[3] As explained in witness Miller's Direct Testimony, the Company proposed including the DSDR program as part of base rates in Docket No. E-2, Sub 1300. As a result, the Company is not including prospective DSDR costs as part of the rider filing but will continue to collect DSDR costs and amortizations through Vintage 2023 as part of the DSM/EE rider. (Miller Direct at 11-12.)

proceeding and should be considered complete for purposes of calculating program impacts. DEP has appropriately incorporated the results of these EM&V reports into the DSM/EE rider calculations. With respect to Fields Exhibit E (EM&V for Smart $aver Non-Residential Program Years 2018-2019), the Company and the Public Staff were unable to reach an agreement in the application of the EM&V report for calculating program impacts. The Commission addresses Fields Exhibit E below—however, the record reveals that the Public Staff's recommendation with respect to Fields Exhibit E is limited and would not impact the actual rates in the rider.

8. [Reserved.][4]

9. In its direct testimony and exhibits, DEP requested the recovery of NLR in the amount of $35,134,042 and PPI/PRI in the amount of $15,865,808 through the EMF component of the total DSM/EE rider, and NLR of $41,479,043 and PPI/PRI of $15,482,020 for recovery in the forward-looking, or prospective component of the total rider.

10. In its supplemental direct testimony and exhibits, DEP requested the recovery of NLR in the amount of $35,133,404 and PPI/PRI in the amount of $15,865,823 through the EMF component of the total DSM/EE rider, and NLR of $41,478,824 and PPI/PRI of $14,393,799 for recovery in the forward-looking, or prospective component of the total rider. These updates result from (1) minor

[4] The Company and the Public Staff filed separate supplemental filings that address Witness Fields' Direct Exhibit E. The Company's supplemental filing addresses this issue as Finding of Fact No. 8. The Public Staff's supplemental filing addresses this issue as separate Findings of Fact Nos. 1-7. The Public Staff's findings of fact are not intended to replace Findings of Fact Nos. 1-7 contained herein, but are submitted in addition to those findings.

corrections identified by the Company that impact the non-residential billing factor and (2) a change in the regulatory fee applied to noncompetitive jurisdictional revenues pursuant to the Commission's June 30, 2023 *Order Increasing Regulatory Fee Effective July 1, 2023* issued in Docket No. M-100, Sub 142.

11. In its rebuttal testimony and exhibits, DEP requested the recovery of NLR in the amount of $35,124,511 and PPI/PRI in the amount of $15,880,505 through the EMF component of the total DSM/EE rider, and NLR of $41,478,824 and PPI/PRI of $14,393,799 for recovery in the forward-looking, or prospective component of the total rider. These numbers were adjusted from the Company's supplemental testimony in response to certain recommendations by the Public Staff. However, these adjustments were not significant enough to change the billing factors proposed in the Company's supplemental direct Testimony. DEP's proposed recovery of NLR and PPI/PRI is consistent with the 2020 Mechanism and is appropriate.

12. For purposes of the DSM/EE rider to be set in this proceeding and subject to review in DEP's future DSM/EE rider proceedings, the reasonable and appropriate estimate of the Company's North Carolina retail DSM/EE program rate period amounts, consisting of its amortized operations and maintenance ("O&M") costs, depreciation, capital costs, taxes, amortized incremental administrative and general ("A&G") costs, carrying charges, NLR, and PPI/PRI, is $166,075,379 (excluding the North Carolina Regulatory Fee, or "NCRF"), and this is the appropriate amount to use to develop the forward-looking or prospective DSM/EE revenue requirement.

13. For purposes of the EMF component of its DSM/EE rider, DEP's reasonable and prudent North Carolina retail test period costs and incentives, consisting of its amortized O&M costs, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, are $152,581,088. Therefore, the test period revenue requirement, as reduced by the test period revenues collected and miscellaneous adjustments, is $(24,884,526), which is the test period over-collection that is appropriate to use as the DSM/EE EMF revenue requirement in this proceeding.

14. After assignment or allocation to customer classes in accordance with N.C.G.S. § 62-133.9, Commission Rule R8-69, and the Commission Orders in Docket No. E-2, Sub 931, the revenue requirements for each rate class, excluding the NCRF, are shown in the table below.

DSM/EE PROSPECTIVE COMPONENT:	
Residential	$ 115,633,430
General Service EE	$ 45,976,477
General Service DSM	$ 4,386,053
Lighting	$ 79,419
Total	**$ 166,075,379**

DSM/EE EMF COMPONENT:	
Residential	$ (8,130,707)
General Service EE	$ (15,909,290)
General Service DSM	$ (766,552)
Lighting	$ (77,976)
Total	**$ (24,884,526)**

15. The appropriate and reasonable North Carolina retail class level kilowatt hour ("kWh") sales for use in determining the DSM/EE and DSM/EE EMF billing factors in this proceeding are:

Rate Class kWh Sales

Residential	17,128,995,467
General Service EE	8,734,624,909
General Service DSM	8,660,219,034
Lighting EE	371,886,089
Lighting DSM	371,703,126

16. The appropriate DSM/EE EMF billing factors, excluding NCRF, are: (0.047) cents per kWh for the Residential class; (0.182) cents per kWh for the EE component of the General Service classes; (0.009) cents per kWh for the DSM component of the General Service classes; and (0.021) cents per kWh for the Lighting class. The factors do not change with the NCRF included.

17. The appropriate forward-looking, or prospective DSM/EE rates to be charged by DEP during the rate period, excluding NCRF, are: 0.675 cents per kWh for the Residential class; 0.526 cents per kWh for the EE component of the General Service classes; 0.051 cents per kWh for the DSM component of the General Service classes; and 0.021 cents per kWh for the Lighting class.

18. The appropriate forward-looking, or prospective DSM/EE rates to be charged by DEP during the rate period, including NCRF, are: 0.676 cents per kWh for the Residential class; 0.527 cents per kWh for the EE component of the General Service classes; 0.051 cents per kWh for the DSM component of the General Service classes; and 0.021 cents per kWh for the Lighting class.

19. The appropriate total DSM/EE annual riders including the forward looking and the EMF rate (including NCRF) for the Residential, General Service, and Lighting rate classes are increments of 0.629 cents per kWh for the Residential class; 0.345 cents per kWh for the EE portion of the General Service class; 0.042 cents per kWh for the DSM portion of the General Service class; and 0.000 cents per kWh for the Lighting class.

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

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 1

This finding of fact, which is supported by DEP's Application, is essentially informational, procedural, and jurisdictional in nature, and is uncontroverted.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2-3

No party opposed DEP's proposed rate period and test period. The rate period and test period proposed by DEP are reasonable and consistent with the 2017 and 2020 Mechanisms approved by the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 4

The evidence for this finding of fact can be found in DEP's Application, the testimony and exhibits of DEP witnesses Miller and Fields, the testimony of Public Staff witness Williamson, and various Commission orders in program approval dockets.

DEP witness Miller's supplemental direct testimony shows the portfolio of DSM/EE programs that is associated with the Company's request for approval of this rider. (Miller Supplemental Direct at 4-5.) The direct testimony of DEP witness Fields lists the DSM/EE programs for which the Company is requesting cost recovery, and incentives where applicable, in this proceeding. (Fields Direct at 12-13.)

In his testimony, Public Staff witness Williamson stated that he has reviewed the DSM/EE programs for which the Company seeks cost recovery and noted that both the Company's residential and non-residential portfolio have been cost-effective during the 2018 through 2022 timeframe. (Williamson Direct at 12.) The Public Staff did not object to the programs included in the Company's Application for cost recovery and witness Williamson verified that changes to program impacts and participation were appropriately incorporated into the rider calculations for each DSM/EE program. (Williamson Direct at 15.)

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

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5-6

The evidence for these findings of fact can be found in the testimony and exhibits of Company witness Fields and the testimony and exhibits of Public Staff witnesses Williamson and Boswell.

Summary of the Evidence

DEP witness Fields testified that the Company reviewed the portfolio of DSM/EE programs and performed prospective analyses of each of its programs and the aggregate portfolio for the Vintage 2024 period, the results of which are incorporated in Fields Exhibit No. 7. (Fields Direct at 14.) DEP witness Fields provided cost-effectiveness scores indicating that all programs pass the UCT threshold of 1.0, with the exception of the low-income programs and EnergyWise for Business.[5] (Fields Supplemental Ex. 7.) However, taken as a whole, the Company's residential and non-residential portfolios of DSM/EE programs are cost-effective. (Fields Supplemental Ex. 7.)

DEP witness Fields also testified that the Company has begun working with its third-party EM&V vendor to finalize the schedule of the MyHER program by the fourth quarter of 2023, and that the recommendation from the vendor is to study persistence of energy savings for a period of two years, with an interim report for first-year persistence expected to be available in the first quarter of 2025 and the final report expected to be available in the third quarter of 2026. (Fields Direct at 10.)

Public Staff witness Williamson stated in his testimony that he reviewed DEP's calculations of cost-effectiveness under each of the four standard cost-effectiveness tests – UCT, TRC, Participant, and Ratepayer Impact Measure. (Williamson Direct at 7-11.) The Public Staff also compared the cost-effectiveness test results in previous DSM/EE proceedings to the current filing and developed a trend of cost-effectiveness that serves as the basis for the Public Staff's recommendation of whether a program should be terminated. (Williamson Direct at 9-10.) Witness Williamson explained that the Public Staff's evaluation does not rely on one specific calculation to evaluate program performance and that the DSM/EE rider proceeding simply provides a snapshot of the cost-effectiveness and performance of the programs and portfolio. (Williamson Direct at 10.) That said,

[5] DEP witness Fields stated that EnergyWise for Business is in its first year of the newly modified program, which was designed to increase cost effectiveness and is in the process of ramping up program performance. (Fields Direct at 14.)

witness Williamson noted that both the Company's residential and non-residential portfolios have been cost-effective during the 2018 through 2022 timeframe. (Williamson Direct at 12; Williamson Exhibit 2.)

Discussion and Conclusions

No party challenged inclusion of the above-listed programs in the Company's DSM/EE rider for cost recovery. Based upon the foregoing, the Commission concludes that for purposes of inclusion in Rider 15, the Company's aggregate DSM/EE portfolio appropriately projects cost-effectiveness and is approved as described. The Company will continue to update the Commission on the progress of the MyHER persistence study in the annual rider proceedings until the report is final and filed with the Commission.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence for this finding of fact can be found in the direct and rebuttal testimony and exhibits of DEP witness Fields and the testimony of Public Staff witness Williamson.

Summary of the Evidence

DEP witness Fields testified regarding the EM&V process, activities, and results presented in this proceeding. (Fields Direct at 17-18.) He explained that the EMF component of the Company's DSM/EE rider incorporates actual customer participation and evaluates load impacts determined through EM&V and applied pursuant to the Revised Mechanism. (Fields Direct at 19-20.) In this proceeding, the Company submitted, as exhibits to witness Fields's testimony, detailed completed EM&V reports or updates for the following programs:

- EnergyWise Home Demand Response Program; Summer 2021 (Fields Exhibit A)
- Neighborhood Energy Saver Program 2021 Evaluation Report (Fields Exhibit B)
- Small Business Energy Saver Program 2019-2020 Evaluation Report (Fields Exhibit C)
- EnergyWise Business 2020/2021 (Fields Exhibit D)
- Non-Profit Low Income Weatherization Pay for Performance Pilot Program Evaluation Report 2022 (Fields Exhibit F)
- Retail Lighting Program 2022 Evaluation Report (Fields Exhibit G)
- EnergyWise Home Demand Response Program; Winter 2021/2022 (Fields Exhibit H)
- Non-Residential Smart $aver® Prescriptive Program Evaluation (Fields Exhibit I)[6]

In his testimony, Public Staff witness Williamson testified that the Company has appropriately incorporated the findings of the EM&V studies and annual participation into its rider calculations consistent with Commission orders and the 2017 and 2020 Mechanisms. (Williamson Direct at 15.) Witness Williamson also noted that, with the exception of Fields Exhibit E, all EM&V reports that were filed as Fields exhibits should be considered complete as filed. (Williamson Direct at 15.)

<u>Discussion and Conclusions</u>

No party contested the EM&V information submitted by the Company except with regard to Exhibit E. The Commission therefore finds that the EM&V reports filed as Fields Exhibits A, B, C, D, F, G, H, and I are acceptable for purposes of this proceeding and should be considered complete for purposes of calculating program impacts. Further, the Commission concludes that DEP is

[6] As explained below, witness Fields also submitted an Exhibit E. The Public Staff and the Company maintain certain limited disagreements regarding that Exhibit, which are addressed below.

appropriately incorporating the results of Fields Exhibits A, B, C, D, F, G, H, and I into its DSM/EE rider calculations. Based upon the testimony and evidence cited above, the Commission finds the net energy and capacity savings derived from the EM&V to be reasonable and appropriate. Further, the Commission concludes that DEP is appropriately incorporating the results of EM&V into the DSM/EE rider calculations.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

[Reserved.][7]

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9-19

The evidence for these findings of fact can be found in the testimony and exhibits of DEP witness Miller and the testimony and exhibits of Public Staff witness Boswell.

Summary of the Evidence

In direct testimony, DEP witness Miller calculated a proposed North Carolina retail revenue requirement for NLR in the amount of $35,134,042 and a PPI/PRI in the amount of $15,865,808 for the EMF component of the total DSM/EE rider, as reflected in Miller Direct Exhibit 2 page 6. In addition, DEP witness Miller calculated a proposed North Carolina retail revenue requirement for NLR in the amount of $41,479,043 and a PPI/PRI in the amount of $15,482,020 for the forward-looking, or prospective component of the total DSM/EE rider, as reflected

[7] The Company and the Public Staff filed separate supplemental filings that address Witness Fields' Direct Exhibit E. The Company's supplemental filing addresses this issue as Finding of Fact No. 8. The Public Staff's supplemental filing addresses this issue as separate Findings of Fact Nos. 1-7. The Public Staff's findings of fact are not intended to replace Findings of Fact Nos. 1-7 contained herein, but are submitted in addition to those findings.

on Miller Direct Exhibit 2 page 3. DEP witness Miller testified that, for purposes of the EMF component of its DSM/EE rider, DEP's reasonable and prudent North Carolina retail test period costs and incentives, consisting of its amortized O&M costs, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, were $152,575,922. DEP witness Miller's testimony and exhibits also indicated that the amount of test period DSM/EE rider revenues and miscellaneous adjustments to take into consideration in determining the test period DSM/EE under- or over-recovery is $177,465,710. Therefore, the test period revenue requirement, as reduced by the test period revenues collected and miscellaneous adjustments, is $(24,889,788), which is the test period over-collection that is appropriate to use as the DSM/EE EMF revenue requirement in this proceeding. (Miller Direct at 7.)

DEP witness Miller also calculated DEP's estimate of its North Carolina retail DSM/EE program rate period amounts, consisting of its amortized O&M costs, depreciation, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, as $167,163,820. The $167,163,820 revenue requirement includes: (1) $28,393,238 for anticipated rate period program expenses; (2) amortizations and carrying costs associated with deferred prior period costs totaling $81,809,519; (3) NLR for the rate period totaling $41,479,043 for vintage years 2019 through 2024; and (4) PPI/PRI totaling $15,482,020 associated with vintage years 2015 through 2024. (Miller Direct at 9.)

On August 28, 2023, DEP witness Miller filed corrected supplemental direct testimony and exhibits updating the EM&V results for the non-residential prescriptive program and rebuttal testimony and exhibits updating the EM&V results for the non-residential custom program. Witness Miller calculated a proposed North Carolina retail revenue requirement for NLR in the amount of $35,133,404 and a PPI/PRI in the amount of $15,865,823 for the EMF component of the total DSM/EE rider, as reflected in Supplemental Direct Miller Exhibit 2 page 6. Witness Miller calculated a proposed North Carolina retail revenue requirement for NLR of $41,478,824 and a PPI/PRI of $14,393,799 for the forward-looking, or prospective component of the total DSM/EE rider, as reflected on Supplemental Direct Miller Exhibit 2 page 3. Witness Miller testified as part of Supplemental Direct Exhibit 2 page 6, that, for purposes of the EMF component of its DSM/EE rider, DEP's reasonable and prudent North Carolina retail test period costs and incentives, consisting of its amortized O&M costs, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, were $152,575,299. Witness Miller's exhibits also indicated that the amount of test period DSM/EE rider revenues and miscellaneous adjustments to take into consideration in determining the test period DSM/EE under- or over-recovery is $177,466,487. (Miller Supplemental Direct Exhibit 2 page 7.) Therefore, the test period revenue requirement, as reduced by the test period revenues collected and miscellaneous adjustments, is $(24,891,188), which is the test period over-collection that is appropriate to use as the DSM/EE EMF revenue requirement in this proceeding. (Miller Supplemental Direct Exhibit 2 pages 4 and 5.)

Witness Miller also calculated DEP's estimate of its North Carolina retail DSM/EE program rate period amounts, consisting of its amortized O&M costs, depreciation, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, as $166,075,379. (Miller Supplemental Direct Exhibit 2 page 3.) The $166,075,379 revenue requirement includes: (1) $28,393,238 for anticipated rate period program expenses; (2) amortizations and carrying costs associated with deferred prior period costs totaling $81,809,519; (3) NLR for the rate period totaling $41,478,824 for vintage years 2019 through 2024; and (4) PPI/PRI totaling $14,393,799 associated with vintage years 2015 through 2024. (Miller Supplemental Direct Exhibit 2 page 3.)

Witness Miller revised the regulatory fee applied to noncompetitive jurisdictional revenues from 0.14% to 0.1475%, as approved in the Commission's June 30, 2023 *Order Increasing Regulatory Fee Effective July 1, 2023* issued in Docket No. M-100, Sub 142. (Miller Supplemental Direct at 3.)

On September 7, 2023, DEP witness Miller filed rebuttal testimony proposing a North Carolina retail revenue requirement for NLR in the amount of $35,124,511 and a PPI/PRI in the amount of $15,880,505 for the EMF component of the total DSM/EE rider, as reflected in Miller Rebuttal Exhibit 2 page 6. Witness Miller calculated a North Carolina retail revenue requirement for NLR of $41,478,824 and a PPI/PRI of $14,393,799 for the forward-looking, or prospective component of the total DSM/EE rider, as reflected on Miller Rebuttal Exhibit 2 page 3. Witness Miller testified that, for purposes of the EMF component of its DSM/EE rider, DEP's reasonable and prudent North Carolina retail test period costs and incentives, consisting of its amortized O&M costs, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, were $152,581,088, as reflected on Miller Rebuttal Exhibit 2 page 6. Witness Miller's exhibits also indicated that the amount of test period DSM/EE rider revenues and miscellaneous adjustments to take into consideration in determining the test period DSM/EE under- or over-recovery is $177,465,614, as reflected on Miller Rebuttal Exhibit 2 page 7. Therefore, the test period revenue requirement, as reduced by the test period revenues collected and miscellaneous adjustments, is $(24,884,526), which is the test period over-collection that is appropriate to use as the DSM/EE EMF revenue requirement in this proceeding. (Miller Rebuttal Exhibit 2 pages 4 and 5.)

Witness Miller also calculated DEP's estimate of its North Carolina retail DSM/EE program rate period amounts, consisting of its amortized O&M costs, depreciation, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, as $166,075,379, as reflected on Miller Rebuttal Exhibit 2 page 3. The $166,075,379 revenue requirement includes: (1) $28,393,238 for anticipated rate period program expenses; (2) amortizations and carrying costs associated with deferred prior period costs totaling $81,809,519; (3) NLR for the rate period totaling $41,478,824 for vintage years 2019 through 2024; and (4) PPI/PRI totaling $14,393,799 associated with vintage years 2015 through 2024. (Miller Rebuttal Exhibit 2 page 3.)

According to the exhibits of DEP witness Miller, after assignment or allocation to customer classes in accordance with N.C.G.S. § 62-133.9, Commission Rule R8-69, and the Commission Orders in Docket No. E-2, Sub 931, the revenue requirements for each class, excluding NCRF, are as follows:

DSM/EE PROSPECTIVE COMPONENT:	
Residential	$115,633,430
General Service EE	45,976,477
General Service DSM	4,386,053
Lighting	79,419
Total	**$166,075,379**

DSM/EE EMF COMPONENT:	
Residential	$(8,130,707)
General Service EE	(15,909,290)
General Service DSM	(766,552)
Lighting	(77,976)
Total	**$(24,884,526)**

(Miller Rebuttal Exhibit 2 pages 1, 2, 4 and 5.)

Witness Miller's exhibits also set forth the North Carolina retail class level kWh sales that DEP believes are appropriate and reasonable for use in determining the DSM/EE and DSM/EE EMF billing factors in this proceeding. Witness Miller adjusted the kWh sales to exclude estimated sales to customers who have opted out of participation in DEP's DSM/EE programs. (Miller Direct at 14.) Based on her exhibits, the appropriate and reasonable North Carolina retail class level kilowatt-hour ("kWh") sales for use in determining the DSM/EE and DSM/EE EMF billing factors in this proceeding are:

Rate Class	kWh Sales
Residential	17,128,995,467
General Service EE	8,734,624,909
General Service DSM	8,660,219,034
Lighting EE	371,886,089
Lighting DSM	371,703,126

(Miller Rebuttal Exhibit 2 pages 1 and 2.)

Witness Miller testified that the proposed DSM/EE rates recover costs to be incurred from January 1, 2024, through December 31, 2024. The DSM/EE EMF is a true-up mechanism recognizing costs and recoveries for the test period of

January 1, 2022, through December 31, 2022. Witness Miller further showed in Miller Rebuttal Exhibit 1 that DEP proposed the following total DSM/EE billing factors, excluding the NCRF: 0.628 cents per kWh for the Residential class; 0.344 cents per kWh for the EE component of the General Service classes; 0.042 cents per kWh for the DSM component of the General Service classes; and 0.000 cents per kWh for the Lighting class. Witness Miller next testified that, including the NCRF, the appropriate DSM/EE billing factors are 0.629 cents per kWh for the Residential class; 0.345 cents per kWh for the EE component of the General Service classes; 0.042 cents per kWh for the DSM component of the General Service classes; and 0.000 cents per kWh for the Lighting class. (Miller Rebuttal at 3.)

Public Staff witness Boswell recommended approval of the Company's proposed billing factors, as set forth in Revised Miller Exhibit 1. (Boswell Direct at 10.) She noted, however, that the finalization of the true-ups of NLR and PPI/PRI sometimes lag behind the true-up of program costs and A&G expenses subject to amortization. Thus, certain components of the revenue requirements related to prior years remain subject to prospective update adjustments and retrospective true-ups in the future. (Boswell Direct at 8.) In addition, witness Boswell stated that in accordance with the DEP NC 2022 DSM/EE rider proceeding (Docket No. E-2, Sub 1294), the Public Staff undertook a review of the DSM/EE advertising and promotion costs, including their relationship to incentives directly or indirectly provided to DSM/EE program participants, and believes them to be reasonable in the current proceeding. (Boswell Direct at 11.)

Discussion and Conclusions

Based on the foregoing, the Commission finds and concludes that DEP has complied with N.C.G.S. § 62-133.9, Commission Rule R8-69, and previous Commission orders regarding calculating costs and utility incentives for the test and rate periods at issue in this proceeding. Therefore, the Commission concludes that for purposes of the DSM/EE EMF billing rates to be set in this proceeding, DEP's reasonable and prudent North Carolina retail test period costs and incentives, consisting of its amortized DSM/EE O&M costs, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI, are $152,581,088 (excluding the NCRF). The reasonable and appropriate amount of test period DSM/EE rider revenues and adjustments to take into consideration in determining the test year and prospective period DSM/EE under- or over-recovery is $177,465,614 (excluding the NCRF). Therefore, the aggregate DSM/EE over-recovery for purposes of this proceeding is ($24,884,526).

For purposes of the DSM/EE rider to be set in this proceeding, and subject to review in DEP's future DSM/EE rider proceedings, the Commission concludes that DEP's reasonable and appropriate estimate of its North Carolina retail DSM/EE program rate period amounts, consisting of its amortized O&M costs, capital costs, taxes, amortized incremental A&G costs, carrying charges, NLR, and PPI/PRI is $166,075,379 (excluding the NCRF), which is the appropriate amount to use to develop the DSM/EE revenue requirement.

For the revenue requirements per class, the Commission concludes that after assignment or allocation to customer classes in accordance with N.C.G.S.

§ 62-133.9, Commission Rule R8-69, and the relevant orders in Docket No. E-2, Sub 931, the revenue requirements for each class, excluding NCRF, are as follows:

DSM/EE PROSPECTIVE COMPONENT:	
Residential	$115,633,430
General Service EE	45,976,477
General Service DSM	4,386,053
Lighting	79,419
Total	**$166,075,379**

DSM/EE EMF COMPONENT:	
Residential	$(8,130,707)
General Service EE	(15,909,290)
General Service DSM	(766,552)
Lighting	(77,976)
Total	**$(24,884,526)**

Furthermore, the Commission finds that the appropriate and reasonable North Carolina retail class level kWh sales for use in determining the DSM/EE and DSM/EE EMF billing factors in this proceeding are as follows: Residential class – 17,128,995,467; General Service class EE – 8,734,624,909; General Service class DSM – 8,660,219,034; Lighting class DSM – 371,703,126; and Lighting class EE - 371,886,089.

Based on the testimony and exhibits of witnesses Miller and Fields, the testimony and exhibits of witness Boswell, and the entire record in this proceeding, the Commission finds and concludes that the DSM/EE billing factors as proposed by DEP are appropriate to be charged during the rate period for the Residential, General Service, and Lighting rate schedules as follows:

DSM/EE PROPOSED BILLING FACTORS (₵/kWh):		
	Excluding NCRF	Including NCRF
Residential	0.628	0.629

General Service EE	0.344	0.345
General Service DSM	0.042	0.042
Lighting	0.000	0.000

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 20

The evidence for this finding of fact can be found in the testimony of DEP witness Fields and Public Staff witness Williamson.

Company witness Fields described the Collaborative's activities. He reported that the Collaborative met for formal meetings in January, March, May, July, September, and November in 2022. (Fields Direct at 9.) Between meetings, interested stakeholders joined conference calls as needed to focus on certain agenda items or priorities that could not be fully explored during the formal meetings such as new program development, study results, and federal funding opportunities. (Fields Direct at 9.) Witness Fields stated that such meetings and calls will continue similarly through 2023. (Fields Direct at 9.)

Witness Williamson explained that the Public Staff uses its involvement in the Collaborative to stay "informed regarding how the portfolio of programs is performing." (Williamson Direct at 12.) Witness Williamson noted that the Collaborative discusses program performance, recently completed EM&V and market potential study activities, and potential new program offerings. (Williamson Direct at 12).

With respect to opt-outs, witness Fields described how opt-outs by qualifying non-residential customers have impacted DEP's overall non-residential participation and the associated impacts. (Fields Direct at 20.) For Vintage 2022, DEP had 4,760 eligible customer accounts opt out of participating in DEP's non-residential portfolio of EE programs and 4,694 eligible customer accounts opt out of participating in DEP's non-residential portfolio of DSM programs. (Fields Direct at 20.) Additionally, witness Fields testified that during 2022, 60 opt-out eligible accounts opted in to the EE portion of the rider, and one opt-out eligible account opted in to the DSM portion of the rider. (Fields Direct at 20.) Witness Fields explained that the Company continues to evaluate and revise its non-residential programs to accommodate new technologies, eliminate product gaps, remove barriers to participation, and leverage their Large Account Management Team, to make its programs more attractive and to make sure customers are informed about product offerings. (Fields Direct at 20-21.) Witness Fields further testified that the forecasted decline in energy savings was a primary focus of the Collaborative's discussions in 2022. (Fields Direct at 8.) He attributed the decline primarily to the changing lighting standards and widespread adoption of LEDs. (Fields Direct at 8.) The Company has discussed a number of new programs with the Collaborative, several of which have been filed for Commission approval. (Fields Direct at 8.) Additionally, the Collaborative is involved in ongoing discussions about expanding program footprints and leveraging state and federal legislation to capture more opportunities. (Fields Direct at 8.)

Discussion and Conclusions

The Commission is encouraged by the Company's cost-effective DSM/EE portfolios and is encouraged that the Company continues to seek out DSM/EE savings for a broad range of customers—which is particularly important given the forecasted decline in DEP's DSM/EE savings. Therefore, the Commission directs the Collaborative to continue its ongoing work to examine the reasons for the forecasted decline. Likewise, the Collaborative shall continue to expeditiously explore options for preventing or correcting a decline in future DSM/EE savings.

IT IS, THEREFORE, ORDERED as follows:

1. That the appropriate DSM/EE EMF billing factors, excluding NCRF, are: (0.047) cents per kWh for the Residential class; (0.182) cents per kWh for the EE component of the General Service classes; (0.009) cents per kWh for the DSM component of the General Service classes; and (0.021) cents per kWh for the Lighting class. The factors do not change with the NCRF included;

2. That the appropriate forward-looking DSM/EE rates to be charged by DEP during the rate period, excluding NCRF, are: 0.675 cents per kWh for the Residential class; 0.526 cents per kWh for the EE component of the General Service classes; 0.051 cents per kWh for the DSM component of the General Service classes; and 0.021 cents per kWh for the Lighting class;

3. The appropriate forward-looking DSM/EE rates to be charged by DEP during the rate period, including NCRF, are: 0.676 cents per kWh for the Residential class; 0.527 cents per kWh for the EE component of the General Service classes; 0.051 cents per kWh for the DSM component of the General Service classes; and 0.021 cents per kWh for the Lighting class;

4. That the appropriate total DSM/EE annual riders including the forward looking and the EMF rate (including NCRF) for the Residential, General Service, and Lighting rate classes are increments of 0.629 cents per kWh for the Residential class, 0.345 cents per kWh for the EE portion of the General Service

class, 0.042 cents per kWh for the DSM portion of the General Service class, and 0.000 cents per kWh for the Lighting class;

5. That DEP shall file appropriate rate schedules and riders with the Commission to implement these adjustments as soon as practicable. Such

rates are to be effective for service rendered on or after January 1, 2024;

6. That DEP shall work with the Public Staff to prepare a joint proposed Notice to Customers giving notice of rate changes ordered by the Commission herein, and DEP shall file such proposed notice for Commission approval as soon as practicable;

7. That DEP and Collaborative participants shall continue to work to better understand and identify potential means of addressing energy savings forecasts; and

8. That the combined DEC/DEP Collaborative shall continue to meet every other month.

ISSUED BY ORDER OF THE COMMISSION.

This the ___ day of __________, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk