Kathleen H. Richard
Senior Counsel

NCRH 20 / P.O. Box 1551
Raleigh, NC 27602

o: 919.546.6776

kathleen.richard@duke-energy.com

September 20, 2023

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 Supplemental Response in Support of Public Staff's Motion for Procedural Relief and Request for Further Relief
Docket Nos. E-2, Sub 931; E-7, Sub 1032 and E-100, Sub 179

Dear Ms. Dunston:

Enclosed for filing in the above-referenced docket is Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's (together as the "Companies") Supplemental Response in Support of Public Staff's Motion for Procedural Relief and Request for Further Relief ("Supplemental Response"). Upon further discussions with responding parties to the Companies' September 14, 2023 Response in Support of Public Staff's Motion for Procedural Relief and Request for Further Relief, the Supplemental Response reflects the addition of or updates to certain parties' stated positions in paragraph 19 as a result of those discussions. Additionally, the Companies have incorporated updated language in paragraphs 15 and 17 clarifying the implications of not performing the requested one-time reconciliation of Vintage 2025. Moreover, the Companies have updated paragraph 12 as a result of further discussions with certain parties.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Kathleen H. Richard

Enclosure

cc: Parties of Record

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-2, SUB 931
DOCKET NO. E-7, SUB 1032
DOCKET NO. E-100, SUB 179

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

Docket No. E-2 Sub 931 In the Matter of Application by Carolina Power & Light Company, d/b/a Progress Energy Carolinas, Inc., for Approval of Demand-Side Management and Energy Efficiency Cost Recovery Rider Pursuant to G.S. 62-133.9 and Commission Rule R8-69 Docket No. E-7, Sub 1032 In the Matter of Petition by Duke Energy Carolinas, LLC, for Approval of Modifications to Residential Service Load Control Rider Docket No. E-100, Sub 179 In the Matter of Duke Energy Progress, LLC, and Duke Energy Carolinas, LLC, 2022 Biennial Integrated Resource Plans and Carbon Plan	)	SUPPLEMENTAL RESPONSE IN SUPPORT OF PUBLIC STAFF'S MOTION FOR PROCEDURAL RELIEF AND REQUEST FOR FURTHER RELIEF

NOW COME Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (together the "Companies") by and through counsel, and respectfully request that the North Carolina Utilities Commission (the "Commission") approve the Public Staff's September 7, 2023 Motion for Procedural Relief in these dockets (the "Motion") as well as the Companies' request for further relief for reasons explained more fully below. In support of this request for further relief, the Companies show the following:

1. On October 20, 2020, the Commission issued an order approving the Companies' current versions of demand-side management ("DSM") and energy efficiency ("EE") cost recovery mechanisms ("Mechanism(s)") in Docket Nos. E-2, Sub 931, and E-7, Sub 1032.

2. Pursuant to Sections 1 and 2 of Session Law 2021-165 ("HB 951"), the Commission was directed to take all reasonable steps to achieve a seventy percent reduction in emissions of carbon dioxide emitted in the State from electric generating facilities owned or operated by electric public utilities from 2005 levels by the year 2030 and carbon neutrality by the year 2050. To achieve that goal, the General Assembly directed the Commission to "[d]evelop a plan, no later than December 31, 2022 . . . which may, at a minimum, consider power generation, transmission and distribution, grid modernization, storage, energy efficiency measures, demand-side management, and the latest technological breakthroughs[.]"[1] HB 951 also provided that "[e]xisting law shall apply with respect to energy efficiency measures and demand-side management."[2]

3. On May 16, 2022, and in accordance with HB 951, the Companies filed its proposed Carbon Plan in Docket No. E-100, Sub 179 ("2022 Carbon Plan"), which included an aggressive goal – the Companies achieving a minimum annual reduction of 1% of eligible load from energy efficiency savings. The goal was intended to "shrink the challenge" of transitioning the Companies' supply-side resources to a less carbon-intensive but still highly reliable portfolio of new generating facilities and other resources to serve customers' future energy needs.

4. In the 2022 Carbon Plan, the Companies requested Commission support of the Companies' proposed near-term plan to "shrink the challenge" by advancing available

[1] HB 951 Section 1(1).
[2] Id. Section 1(2)a.

tools to reduce demand and modify load through enhanced and new Grid Edge[3] and customer programs. Specifically, the Companies identified and requested approval of several potential enablers that would be necessary to achieve the long-term energy efficiency savings included in the 2022 Carbon Plan. The identified enablers included: 1) updating the inputs underlying the determination of utility system benefits in the Companies' Mechanisms; 2) using an as-found baseline for EE measures; 3) expanding the pools of low-income customers; 4) obtaining approval of the Companies' proposed tariff on-bill programs; and 5) developing guidelines for expedited regulatory approval of DSM/EE programs and rate designs.[4] The Companies note that the Commission has recently approved the Companies' proposed tariff on-bill programs.[5] Thus, the Companies will refer to the remaining four enablers collectively as the EE Enablers.

5. During the 2022 Carbon Plan proceeding, the Companies emphasized that, because of the complexity, scope, and goals of energy transition contemplated in the Carbon Plan, and the vital role that EE would play in assisting customers with that transition, there was value in the Commission acknowledging and affirming in its 2022 Carbon Plan order that these EE Enablers should be adopted in the appropriate forums so that the Companies' critical work to "shrink the challenge" could begin as soon as possible. The Public Staff – North Carolina Utilities Commission ("Public Staff"), however, generally opposed

[3] Grid Edge refers to technologies, programs and investments that advance a decentralized, distributed, and two-way grid. The "edge" refers to the edge of the electricity network, or grid, where the Companies' electricity reaches customers' homes and businesses

[4] *Order Adopting Initial Carbon Plan and Providing Direction for Future Planning*, Docket No. E-100, Sub 179, issued Dec. 30, 2022 ("2022 Carbon Plan Order"), at 109-10. The Commission directed that a separate stakeholder process be held to adopt new flexibility and rapid prototyping guidelines to ensure regulatory approval of new customer programs, pilots and rate designs in a timely manner for non-DSM/EE programs and rate designs.

[5] *Order Approving Pilot Programs with Modifications*, Docket No. E-2, Sub 1307, issued August 23, 2023 and *Order Approving Residential Tariffed On-Bill Program with Modifications*, Docket Nos. E-2, Sub 1309 & E-7, Sub 1279, issued August 23, 2023.

Commission approval of the enablers in the Carbon Plan docket and indicated that, if they were to be accepted, the EE enablers should be considered in the context of a full review of the Companies' respective DSM/EE Cost Recovery Mechanisms (collectively, "Mechanism(s)").[6]

6. On December 30, 2022, the Commission ordered that "Duke shall initiate a docket to review the DEC and DEP DSM/EE cost recovery mechanisms to consider the [EE Enablers] Duke proposes. . ." [7] and that such review shall commence within 120 days of the issuance of the 2022 Carbon Plan order.[8]

7. On April 17, 2023, the Companies met with the Public Staff to discuss the Companies' proposed redlined modifications reflecting the addition of the EE Enablers to the Mechanism. The Companies had sent the proposed modifications to the Public Staff in advance of the meeting. At this time, the Companies responded to questions from the Public Staff who provided feedback on the Companies' proposed modifications to the Mechanism.

8. On April 27, 2023, in accordance with the timeframe outlined in the 2022 Carbon Plan Order, the Companies filed a letter in Docket No. E-100, Sub 179 and the existing Mechanism dockets initiating the Commission-directed review of the Mechanisms, specifically referencing the incorporation of the proposed EE Enablers into the Mechanism. Additionally, in accordance with the 2022 Carbon Plan Order, the Companies committed to conduct a stakeholder process and to schedule the first stakeholder meeting no later than

[6] 2022 Carbon Plan Order at 109.
[7] 2022 Carbon Plan Order, Ordering Paragraph 31.
[8] 2022 Carbon Plan Order at 110.

the end of June 2023 so that the Companies could meet their stated goal of having EE Enablers approved and effective by January 1, 2024.

9. On May 11, 2023, the Public Staff filed a letter in response to the Companies' initiation of the docket. Included in the Public Staff's letter was its assertion that the Commission did not conclude in its 2022 Carbon Plan Order that these Proposed Enablers should be implemented in the Mechanism. The Public Staff indicated that the 2022 Carbon Plan Order instead directed that the EE Enablers should be considered as part of a full Mechanism review.

10. On June 29, 2023, the Companies hosted the first stakeholder meeting to receive stakeholder feedback on the proposed EE Enablers. Consistent with the Public Staff's position stated in its May 11, 2023 letter that a full Mechanism review was appropriate, the Companies also expressly sought input on any additional items in the Mechanism that intervenors would like to address and review. The Companies emphasized, however, the need to prioritize reviewing the EE Enablers within the context of the full Mechanism review process to achieve HB 951 goals and proposed filing any modifications the Mechanism by October 2023. The Public Staff reiterated its position that a full Mechanism review was necessary in addition to consideration of the EE Enablers, but did not, at that time, identify or discuss any general or specific modifications to the Mechanisms to be considered. Additionally, during the meeting, the Public Staff and other stakeholders requested to schedule a follow-up meeting in mid-September to provide input into potential recommended changes to the Companies' Mechanism with specific focus on the EE Enablers discussed during the meeting.

11. On June 30, 2023, the Companies sent a meeting invitation to the stakeholders for September 15, 2023 with the purpose of the meeting to receive stakeholder feedback on the Mechanism and EE Enablers as discussed during the June 27, 2023 stakeholder meeting. However, shortly after sending the meeting invitation, the Companies requested to move the September 15 meeting to September 8, 2023 to accommodate for other regulatory proceedings and calendars. In response to the request to move the meeting up a week, the Public Staff and other stakeholders requested that the September 15 meeting remain on the calendars to accommodate the DEC rate case hearing and, at the time, the uncertain timeframe of the hearing. Specifically, the Public Staff requested the meeting remain on September 15 to increase the ability of stakeholders to participate and prepare for the September 15 meeting. Other stakeholders agreed with the Public Staff's request. At no point did the Public Staff or stakeholders raise concerns about the timeline to provide feedback on or before September 15.

12. On July 18, 2023, the Companies sent a communication to stakeholders requesting feedback or any other proposed modification to the Mechanism by September 8 that would allow the Companies to collect and organize any received feedback in advance of the September 15, 2023 stakeholder meeting.

13. On August 18, 2023, the Public Staff met with the Companies to raise concerns about providing detailed feedback on the Mechanism by the September 15, 2023 stakeholder meeting and discussed their intention to file the Motion to accommodate the additional time needed for review and feedback.

14. On September 7, 2023, the Public Staff filed the Motion requesting the Commission issue a scheduling order in the Mechanism dockets with the following requests for relief:

- File initial comments concerning the EE Enablers and the full Mechanism review on or before January 26, 2024, with reply comments to be due by March 29, 2024; and
- That parties to the Mechanism review address in their initial comments – at a minimum – the following issues, in addition to any other issues of interest to parties or regarding which the Commission requests comment:
  a. The appropriateness of continuing to allow the Companies to collect net lost revenues in light of HB 951 and the Carbon Plan Order;
  b. What actions, if any, justify a utility incentive, as well as whether there should be limits imposed upon utility incentives, whether there should be a required savings threshold that must be met before incentives are earned, what metrics should be utilized in awarding incentives, whether the Mechanisms should contain both incentives and penalties like Performance Incentive Mechanisms, and the efficacy of incentive mechanisms in other jurisdictions;
  c. How savings and benefits should be calculated and valued, including whether non-energy benefits should be included in particular cost-effectiveness tests, whether carbon reduction benefits should be separately accounted for, and the extent to which differential value to the system should be reflected, if at all, when quantifying anticipated costs and benefits of EE/DSM measures, among other issues;
  d. Definitional changes, including how to define "low income" customers, different program types, cost effectiveness, and measure baselines;

e. Whether the same cost-effectiveness measures should be applied to all programs;

f. Financial reporting requirements;

g. How to most effectively encourage industrial and commercial participation in EE/DSM programs, given that the right of industrial and large commercial customers to opt-out of ratepayer-funded EE/DSM measures is codified at G.S. 62- 133.9(f) and whether to change the threshold for a "large commercial customer" under Rule R8-69 that can opt-out;

h. Current Evaluation, Measurement, and Verification practices;

i. Cost recovery issues such as the splitting of vintage years, whether vintage years should be considered complete after a certain period of time for purposes of cost recovery, amortization, deferral, allocations, and recovery of indirect costs (e.g., administrative, marketing, and education);

j. Composition and role of the Stakeholder Collaborative;

k. Identify mechanism changes that would prioritize persistent, cumulative savings measures and reduce reliance on the achievement of short-lived behavioral measures; and

l. Any other relevant issues.

15. Although the Public Staff provided this exhaustive list of issues comprising a full review of the Mechanism to the Companies only in the last two weeks, the Companies do not object to the proposed scope and filing deadlines in the Public Staff's Motion. The amount of time that has already elapsed, however, coupled with the amount of time

required to address these numerous, wide-ranging issues[9], could impede not only the Companies' efforts to "aim higher than the current 1% of eligible load forecast savings" as directed by the Commission in the 2022 Carbon Plan Order, but also the Companies' efforts to achieve the 1% eligible load energy savings.[10] The purpose of the Mechanism is to provide clarity and certainty for the Companies and the other parties with respect to the determination and proposal of cost-effective EE/DSM programs and cost recovery for DSM/EE efforts; these efforts, by necessity, take place in advance of implementation and approval of the programs. Without clarity and certainty on how, for example, the underlying system benefits resulting from an EE or DSM program will be determined, planning, proposing, offering, and expanding *cost-effective* EE or DSM programs for customers going forward is difficult. The cost-effectiveness of an EE or DSM program is determined by the calculation of the system benefits, and the Companies believe that the Mechanism should accurately reflect their systems as they undergo their transition to cleaner energy. Therefore, the Companies continue to believe that timely implementation of the Companies' proposed EE Enablers is critical to achieve the Companies' goals to shrink the challenge of the energy transition for customers and are consistent with the policy goals set forth in HB951.

16. To accommodate the Public Staff's proposed scope and breadth of review of the Mechanism with the stakeholder input that the Commission directed and to ensure that the EE Enablers and any other necessary and appropriate revisions to the Mechanism go into effect as soon as possible to help "shrink the challenge", the Companies propose that if the

[9] Although the Companies do not object to the Public Staff's sweeping scope of issues to be considered in the review of the Mechanism, they note that a potential rulemaking to address the definition of "large commercial customer" would impact not only the Companies, but Dominion Energy North Carolina as well.
[10] 2022 Carbon Plan Order at 106.

Commission is inclined to approve the Public Staff's Motion, it do so with the following amendment. The Companies believe that if the NCUC could issue an order on the proposed revisions by no later than the second quarter of 2024, they could then make those Commission-approved revisions effective for Vintage 2025. Thus, the Companies respectfully request the Commission grant further relief by approving a one-time, non-precedent setting reconciliation or "true-up" of Vintage 2025 to reflect all Commission-approved changes to the Mechanism resulting from the Mechanism review in these dockets. If the Companies' request is approved, this would mean that the current Mechanism would remain in effect through the end of next year, and the Companies would file DEC Vintage 2025 and DEP Vintage 2025 projections for recovery of program costs, net lost revenues, and utility incentives in the upcoming 2024 annual rider proceedings under the existing Mechanism, N.C. Gen. Stat. § 62-133.9, and R8-69(f)(1)(ii)(a)-(e). In the 2026 annual DSM/EE cost recovery proceedings under Commission Rule R8-69, the Companies would true up Vintage 2025's projections not only for actual participation, program costs and EM&V results through the Experience Modification Factor ("EMF") rider, as is typically done under Commission Rule R8-69(f)(1)(iii) – (viii), but also for <u>all</u> Commission-approved modifications to the Mechanism approved by the NCUC by the end of 2024.

17. The stakeholder process and the Public Staff's proposed extensive review period could progress into next year, as proposed by the Public Staff, but the revisions to the Mechanism could ultimately apply to Vintage 2025 through a one-time reconciliation without unnecessary delay. The one-time reconciliation directly supports the Companies' ability to implement new programs and program modifications that are necessary to

achieve the energy efficiency savings (1% of eligible retail load) and are critical to meeting the Companies' future carbon emission goals. To that end, the Companies' proposed enablers, among other things, reflect the enhanced cost-effectiveness for EE programs during the systems' transition to clean energy. The one-time reconciliation will allow the Companies' EE/DSM riders to appropriately reflect and capture the updated benefits to the utility systems of EE and avoids mismatch between higher program costs and system benefits that would result under the current reconciliation process.[11] Without this one-time Vintage 2025 reconciliation, EE or DSM new programs and program modifications that will enable the Companies to "shrink the challenge" and achieve its emission goals will not be effective until 2026 at the earliest. Effectively, approval of the Public Staff's Motion *without* approval of the Companies' request for one-time reconciliation will cause all parties to this docket and the Companies' customers to *lose a year* in implementing any approved modifications to the Mechanism that will ultimately impact implementation of EE or DSM programs that benefit customers and help achieve the Companies' carbon emission goals. To that end, not only do the Companies request the one-time Vintage 2025 reconciliation, but also respectfully request an order issuance by the end of Q2 2024, noting that resolution by that timeframe will allow the Companies to communicate estimated impacts of the modifications to eligible non-residential customers prior to their annual opt-out decision window.

18. Moreover, the Companies remain committed to continuing to host robust, meaningful, and timely stakeholder meetings that contemplates the Public Staff's requested

[11] The higher program costs would be captured in the current reconciliation process; however, the system benefits would not be recognized under the current reconciliation process resulting in a mismatch that does not benefit customers and negatively impacts cost recovery.

scope and timeline for the Mechanism review. To keep such review on track to completion, the Companies will host various stakeholder meetings to address the Mechanism review items identified in the Public Staff's Motion and any other stakeholder proposal. To that effect, the Companies have scheduled a stakeholder meeting for October 3, 2023 requesting stakeholders to identify broadly any perceived necessary revisions to the Mechanisms as well as specific feedback on the proposed modifications related to the four enablers identified by the Company in the June 29 meeting. The Companies will continue to host stakeholder feedback sessions through the proposed comment periods to help ensure all stakeholder feedback is received and contemplated in the Companies' position and responses.

19. The Companies reached out to the other parties in the Mechanism dockets and represent the parties' support of this response and request for further relief as follows:

a. The Southern Environmental Law Center ("SELC") supports the Companies' request that the Commission issue an order by the end of the second quarter of 2024. After further discussions with Duke, it is the SELC's understanding that, if granted, the requested one-time reconciliation would enable the Companies' to seek enhanced incentives or improved programs that will encourage customers to adopt more DSM and EE measures. Accordingly, the SELC supports the Companies' request for a one-time reconciliation of Vintage 2025. The Public Staff supports the Companies' request that the Commission issue an order by the end of the second quarter of 2024; the Public Staff objects to the Companies' request for a one-time reconciliation of Vintage 2025.

b. CIGFUR supports the Companies' request that the Commission issue an order by the end of the second quarter of 2024. After further consideration by CIGFUR, CIGFUR also supports a one-time, non-precedential reconciliation for the limited purpose of enabling implementation of changes to the EE/DSM Mechanism for Vintage Year 2025 in furtherance of policy goals established by HB 951 and consistent with Commission directives, so long as such reconciliation comports with the requirements set forth in G.S. 62-110.9(2)a. and 62-133.9(f). CIGFUR reserves its right to challenge any specific change(s) to the EE/DSM Mechanism that may be recommended by either the Companies or any other party to these dockets during the course of the Mechanism review proceeding.

c. The North Carolina Sustainable Energy Association ("NCSEA") supports the Companies' request that the Commission issue an order by the end of the second quarter of 2024; the NCSEA supports the Companies' request for a one-time reconciliation of Vintage 2025.

d. The Companies did not hear back from other counsel of record in the existing Mechanism dockets.

THEREFORE, the Companies respectfully requests:

a. The Commission approve the Public Staff's requests as stated in their Motion and Paragraph 10 herein;

b. The Commission approve the Companies' performance of a one-time, non-precedent setting reconciliation of Vintage 2025 to reflect all Commission-approved modifications to the Mechanism resulting from the Mechanism review in these dockets; and

c. The Commission issue an order on the proposed modifications to the Mechanism resulting from Mechanism review in these dockets by the end of Q2 2024.

Respectfully submitted this 20th day of September, 2023.

Kathleen H. Richard
Senior Counsel
Duke Energy Corporation
P. O. Box 1551/NC20
Raleigh, NC 27602
Tel: 919.546.6776
Kathleen.richard@duke-energy.com

CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC's Supplemental Response in Support of Public Staff's Motion for Procedural Relief and Request for Further Belief, in Docket Nos. E-2, Sub 931; E-7, Sub 1032 and E-100, Sub 179, 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 20th day of September, 2023.

Kathleen H. Richard
Senior Counsel
Duke Energy Corporation
P. O. Box 1551/NC20
Raleigh, NC 27602
Tel: 919.546.6776
Kathleen.richard@duke-energy.com