STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. G-5, SUB 632
DOCKET NO. G-5, SUB 634

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. G-5, SUB 632	)	
	)	
In the Matter of	)	
Application of Public Service Company	)	
of North Carolina, Inc. for General Rate	)	
Increase	)	
	)	
DOCKET NO. G-5, SUB 634	)	
In the Matter of	)	RESPONSE OF PUBLIC SERVICE
Application for Approval of Conservation	)	COMPANY OF NORTH
Programs of Public Service Company of	)	CAROLINA, INC.
North Carolina, Inc. d/b/a Dominion	)	
Energy North Carolina	)	
	)	
DOCKET NO. E-7, Sub 1155	)	
	)	
Application of Duke Energy Carolinas,	)	
LLC for Approval of Residential New	)	
Construction Program (not consolidated)	)	

Pursuant to the Order Consolidating Application for Rate Increase With Application to Modify and Implement Conservation Programs and Requiring Filing by Public Service Company of North Carolina, Inc., issued by the North Carolina Utilities Commission ("Commission") in Docket Nos. G-5, Sub 632, and G-5, Sub 634, on May 18, 2021 ("May 18 Order"), Public Service Company of North Carolina, Inc. ("PSNC" or "the Company"), through counsel, respectfully submits the following response:

BACKGROUND

1. On October 15, 2020, the Commission granted PSNC's petition to intervene in Docket No. E-7, Sub 1155, which concerns the application of Duke Energy Carolinas, LLC ("DEC") for approval of its proposed Residential New Construction ("RNC") Program, as revised on September 21, 2020 ("DEC RNC Program"). On January 19, 2021, PSNC and Piedmont Natural Gas Company, Inc. ("Piedmont"), filed joint comments in Docket No. E-7, Sub 1155 ("Joint Comments"), stating their objections to the DEC RNC Program and a similar program of Duke Energy Progress, LLC ("DEP") previously approved by the Commission ("DEP RNC Program"). (Together, the programs are referred to as the "Duke RNC Programs"). Specifically, the Joint Comments expressed concerns that an offering in the DEC RNC Program, called "HERO-Plus," incentivizes fuel-switching and, accordingly, requested that the Commission reject DEC's RNC Program in its current form and require DEC to eliminate the HERO-Plus anti-competitive provisions, which unreasonably incentivize homebuilder selection of electric space and water heating over natural gas space and water heating. Additionally, the Joint Comments requested that the Commission conform the DEP RNC Program to the program finally approved by the Commission for DEC in Docket No. E-7, Sub 1155.

2. On April 1, 2021, PSNC filed a general rate case application in Docket No. G-5, Sub 632 ("Rate Case Application"). The Rate Case Application seeks, among other things, approval for deferred accounting treatment and a tariff rider that would allow the Company to adjust its rates annually to recover costs associated with implementing the Company's approved conservation programs.

3. On April 1, 2021, PSNC also filed, in Docket No. G-5, Sub 634, an Application for Approval to Modify Existing Conservation Programs and Implement New Conservation Programs ("Conservation Program Application"). The Conservation Program Application seeks Commission approval to expand PSNC's existing Energy Efficiency Rebate Program and High Efficiency Discount Rate Program and to implement the following three new conservation programs: the Residential New Construction Program, the Residential Home Energy Report Program, and the Residential Low Income Program.

4. On May 4, 2021, the Public Staff filed a motion to consolidate the Conservation Program Application in Docket No. G-5, Sub 634, with the Rate Case Application in Docket No. G-5, Sub 632 ("Motion to Consolidate"). PSNC had no objection to consolidation of the two dockets.

5. In granting the Motion to Consolidate, the May 18 Order stated in Ordering Paragraph 2, "That on or before June 18, 2021, PSNC shall make a filing in Docket No. E-7, Sub 1155 and the present dockets stating whether, due to its application for approval of its RNC Program, PSNC no longer objects to the Duke RNC Programs." PSNC hereby submits this response to that directive.

RESPONSE

6. As noted above, PSNC and Piedmont filed Joint Comments stating their objections to the proposed DEC RNC Program and a similar program operated by DEP. In Docket. No. G-9, Sub 786, Piedmont is proposing an RNC program similar to PSNC's and in its general rate case filing in Docket No G-9, Sub 781, is seeking approval of a rider mechanism similar to PSNC's proposed tariff rider. Like PSNC, Piedmont was ordered to

make a filing stating whether it continued to object to the Duke RNC Programs. Piedmont filed comments on May 5, 2021, stating that its objections to the Duke RNC Programs continue.

7. PSNC's application for approval of its RNC program does not in any way change its objections to the Duke RNC Programs. The Joint Comments fully explained PSNC's reasons for objecting to the design of the Duke RNC Programs and, specifically, the HERO-Plus offerings. The Joint Comments are attached as Exhibit A hereto and are incorporated herein by reference. PSNC continues to support the Joint Comments in their entirety.

8. PSNC carefully designed its proposed RNC program in light of its objections to the HERO-Plus offerings in the Duke RNC Programs. PSNC proposes its RNC program while continuing to object to the Duke RNC Programs because the structure and results of PSNC's RNC program and HERO-Plus have critical key differences.

9. The most significant difference between the PSNC's proposed program and the DEC RNC Programs is that PSNC's proposed program does not pay incentives on a per-therm saved basis, while the HERO-Plus offerings in the Duke RNC Programs pay per-kWh incentives based on kWh savings from constructing a more energy efficient home. The Joint Comments explain in detail why basing an incentive on a per-kWh saved metric favors the selection of electricity over natural gas. By not paying an incentive on a per therm saved basis, PSNC's RNC program does not incentivize fuel choice.

10. Rather than paying incentives on a per therm saved basis, PSNC's proposed RNC program merely includes incentives for the installation of higher efficiency natural gas equipment. In PSNC's view, these incentives would not be the determining factor in a

builder or customer's decision to utilize natural gas versus electricity, as the incentive would only help offset the higher cost of more efficient equipment. This approach is similar to the Equipment-Only Measure included in the Duke RNC Programs, to which PSNC did not object. In contrast, the HERO-Plus offerings in the Duke RNC Programs provide much higher incentives for all-electric homes, even if minimum efficiency equipment is installed, as compared to similar homes with natural gas equipment. The HERO-Plus incentives proposed under the DEC RNC Program very well could be the determining factor in the choice of fuel and, as pointed out in the Joint Comments, field reports and other information included in DEC's revised program filing on September 21, 2020, indicate this offering in the DEP RNC Program has, in fact, had that effect.

CONCLUSION

Wherefore, PSNC respectfully requests that the Commission consider this response to the May 18 Order.

Respectfully submitted, this the 18th day of June, 2021.

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CERTIFICATE OF SERVICE

I certify that I have served a true and exact copy of the foregoing document on all parties to these dockets in accordance with Commission Rule R1-39, by United States mail, first class postage prepaid; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 18th day of June, 2021.

BURNS, DAY & PRESNELL, P.A.

By: _____

Daniel C. Higgins
P.O. Box 10867
Raleigh, North Carolina 27605

Exhibit A

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1155

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Energy Carolinas, LLC for Approval of Residential New Construction Program	JOINT COMMENTS OF PIEDMONT NATURAL GAS COMPANY, INCORPORATED, AND PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED

Pursuant to the Order Holding in Abeyance Decision on Motion to Withdraw Program and Requiring Filing of Proposed Modified Program ("Abeyance Order") issued by the North Carolina Utilities Commission ("Commission") in this docket on June 23, 2020, and subsequent Orders extending the time for parties to file comments, Piedmont Natural Gas Company, Incorporated ("Piedmont"), and Public Service Company of North Carolina, Incorporated, doing business as Dominion Energy North Carolina ("PSNC") (Piedmont and PSNC collectively, the "LDCs") through counsel, respectfully submit these comments concerning the revised proposed Residential New Construction Program ("Revised RNC Program" or "Program") filed by Duke Energy Carolinas, LLC ("DEC") on September 21, 2020. As discussed below, the LDCs have significant continuing concerns that the Revised RNC Program incentivizes fuel-switching and, accordingly, they request that the Commission reject the Revised RNC Program in its current form and require DEC to eliminate anti-competitive provisions that unreasonably incentivize homebuilder selection of electric space and water heating over natural gas space and water heating. In addition, the LDCs request that the Commission conform the Residential New

Construction Program of Duke Energy Progress, LLC ("DEP") to the program finally approved by the Commission for DEC in this docket.

I. BACKGROUND

On September 21, 2017, DEC filed an application under Commission Rule R8-68 in this docket requesting approval of a proposed energy efficiency ("EE") program called the Residential New Construction Program and requesting recovery pursuant to Rule R8-69 and G.S. § 62-133.9 of all incurred costs and incentives associated with the RNC Program through DEC's Demand Side Management ("DSM") and EE rider ("DSM/EE Rider"). DEC's application stated that: (1) the RNC Program's purpose was to provide incentives to residential builders to encourage the use of energy efficient building practices and equipment/appliances for new home construction; (2) eligibility would be based on High Efficiency Residential Option ("HERO") construction standards[1] and requirements for energy efficient appliances; and (3) the proposal was intended to mirror proposed modifications to the DEP Residential New Construction Program ("DEP RNC Program") filed with the Commission in Docket No. E-2, Sub 1021, on September 20, 2017.[2]

Like the DEP RNC Program, DEC's proposed RNC Program offered several incentives to homebuilders for "Whole House Measures," further denominated as "HERO" and "HERO-Plus" offerings, as well as "Equipment-Only Measures." The HERO Whole House Measure would give the homebuilder a lump sum incentive payment of up to $750 for a dwelling that meets a certain efficiency standard. The HERO-Plus Whole House

[1] As explained by DEC panelist Robert Evans at the informational hearing in this matter held January 27, 2020, under the North Carolina Conservation Energy Code, HERO standards are about 15-20% more energy efficient than the North Carolina Building Code baseline. (Transcript ("Tr.") p. 23, lines 1-7).

[2] The DEP RNC Program was originally approved by the Commission in Docket No. E-2, Sub 1021, on October 24, 2012. However, the limit on eligible participants was not removed and the annual per kWh savings incentive did not become effective until December 31, 2015. *See* Abeyance Order at 7, n.7.

Measure would pay a homebuilder a per-kWh incentive on a sliding scale based on the kWh "saved" by constructing a more energy efficient home as compared to a home built to the North Carolina Building Code ("Code") minimum standards. A Home Energy Rating System ("HERS") rating is obtained for each home to qualify for an incentive; better ratings indicate higher home efficiency. Likewise, more efficient electric appliances also save kWh. The proposed "Equipment-Only Measures" would pay a homebuilder up to $300 for an air conditioner or heat pump rated equal to or greater than 15 SEER (Seasonal Energy Efficiency Ratio).

On June 7, 2019, DEC filed a motion requesting that the Commission allow DEC to withdraw its application in this docket. DEC's decision to withdraw the application followed discussions with the LDCs aimed at resolving the LDCs' concerns regarding potential unintended anti-competitive consequences of the RNC Program's design.

After receiving a number of consumer statements of position and letters, the Commission issued an order on November 25, 2019, scheduling a hearing for January 27, 2020, for the purpose of receiving information from DEC on three topics: (1) the natural gas providers' concerns; (2) DEC's efforts to resolve those concerns; and (3) how the DEP RNC Program had been successfully implemented without the concerns of natural gas providers in DEP's service territory being a barrier. On January 22, 2020, the LDCs filed a letter in this docket stating that they would have representatives at the hearing who would be available to answer questions from the Commission.

The informational hearing was held on January 27, 2020, as scheduled. At the hearing representatives of DEC and DEP and representatives of the LDCs answered questions on the topics identified by the Commission. On June 23, 2020, the Commission

issued the Abeyance Order, which concluded that: (1) DEC filed its proposed RNC Program in good faith as a cost-effective EE program and did not design the RNC Program with the intent to encourage fuel switching or promote unfair competition; (2) there is a significant difference in the financial resources available to the electric utilities for funding EE programs compared to those available to the LDCs for such purposes; (3) concerns about losses in the LDCs' new residential construction market share merit further consideration and analysis; and (4) the Commission's challenge is to balance the benefits of an electric EE program, which is supported by statutory mandate and has proven successful in DEP's service area, with the need to prevent unfair or destructive competition between electric and natural gas utilities.

The Abeyance Order directed DEC to engage the LDCs and Public Staff in further discussions in an attempt to reach agreement on acceptable modifications to the RNC Program that are reasonably fuel choice neutral and, within 90 days, to file a modified RNC Program that DEC finds appropriate for achieving EE savings and addressing the LDCs' fuel choice concerns. The Abeyance Order also directed DEC to provide certain additional information with that filing. Finally, the Abeyance Order allowed the LDCs and Public Staff to file comments on any proposed modifications to the proposed RNC Program within 30 days after DEC's filing. DEC filed its Revised RNC Program on September 21, 2020.

On October 15, 2020, the Public Staff filed a motion requesting that the Commission extend the time to file comments to November 20, 2020. The Commission granted the Public Staff's request on October 20, 2020. That extension of the time for filing comments was sought in order to allow the LDCs and DEC to pursue efforts to reach some agreement addressing how the anti-competitive consequences of the proposed RNC

Program could be mitigated. Three additional extensions of time were granted, but the parties' discussions did not lead to an agreement addressing the LDCs' concerns. Pursuant to the Commission's Order Granting Fourth Extension of Time to File Comments, the LDCs hereby file their comments regarding the proposed Revised RNC Program.

II. THE REVISED RNC PROGRAM

DEC's Revised RNC Program, filed on September 21, 2020, included changes to the proposed program, the results of cost-effectiveness test modeling for the Revised RNC Program (Attachment B), updates to the calculations and data regarding estimated participation (Attachment A) and program costs (Attachments C through F), and a revised DSM/EE Rider (Attachment G). The filing also included a new Attachment H with information submitted in response to directives in the Abeyance Order.

While the Whole House Measures (HERO and HERO-Plus) and Equipment-Only Measures offerings were retained in the Revised RNC Program, the September 21 filing reflected several changes to the proposed HERO and HERO-Plus incentives. First, the maximum incentive available to builders of dwellings that meet or exceed the HERO standard was changed from up to $750 to up to $650.[3] Second, the maximum incentive for annual confirmed kWh savings for dwellings that meet or exceed the HERO-Plus standard was changed from up to $0.90/kWh to up to $0.75/kWh.[4] Finally, the Revised RNC

[3] Compare RNC Program R8-68 Filing Requirement (c)(2)(iv)(b), "Whole-House Measures," "HERO" (page 6 of pdf.) with Revised RNC Program R8-68 Filing Requirement, "Whole-House Measures," "HERO" (c)(2)(iv)(b) (page 6 of pdf.).

[4] Compare RNC Program R8-68 Filing Requirement (c)(2)(iv)(b), "Whole-House Measures," "HERO-Plus" (page 6 of pdf) with Revised RNC Program R8-68 Filing Requirement (c)(2)(iv)(b), "Whole-House Measures," "HERO-Plus" (page 7 of pdf).

Program detailed and added the following restrictions to the Whole-House Measures incentives:

a) The maximum amount of kWh savings per dwelling is 6,000. A minimum of 699 heated square footage is required for homes meeting HERO standards, but not achieving a HERS score, to be considered for the Whole-House Measures incentive payment.

b) Incentive payments for the Whole-House Measures will be made for dwellings achieving annual energy savings of 275 kWh or more.

c) A maximum incentive of $0.40/kWh will be paid for kWh savings attributed to space heating in homes fueled exclusively by electricity. A maximum incentive of $0.75/kWh will be paid for kWh savings in homes that consume natural gas for space heating with at least one unit.[5]

The LDCs appreciate DEC's attempt to address some of their concerns by reducing the level of some proposed incentives. However, as discussed below, the structure of the Revised RNC Program continues to offer incentives that create a substantial preference for the use of electricity over natural gas and, as such, will result in an anti-competitive impact on the LDCs.

III. COMMENTS

Although the Revised RNC Program is an improvement compared to the Program as originally proposed, information included in DEC's September 21 filing shows that the HERO-Plus incentive clearly favors the use of electricity over natural gas in new homes.

[5] *See* Revised RNC Program R8-68 Filing Requirement (c)(2)(iv)(b), "Whole-House Measures," notes (page 7 of pdf).

Moreover, the information in that filing supports the LDCs' belief that natural gas load has been lost due to DEP's existing RNC Program, which now features a similar "pay for kWh saved" model, and that the incentive program now proposed by DEC will likely result in homebuilders choosing electricity for space heating and water heating instead of natural gas. For this reason, the LDCs ask the Commission to reject the Revised RNC Program in its current form and require DEC to remove provisions that inappropriately incentivize homebuilder selection of electric space and water heating equipment. The LDCs also request that the Commission conform the DEP RNC Program to whatever incentive structure it approves for DEC in this docket.

A. DEC's RNC filing clearly incentivizes electric usage over natural gas.

In the Abeyance Order the Commission indicated it could support the RNC Program if "it does not result in an unfair competitive advantage for DEC over the LDCs during the phase of construction when homebuilders determine whether a new premises will be both gas and electric-ready and will rely on gas or electric heating and hot water appliances."[6] To facilitate that analysis, the Abeyance Order directed DEC to file "more specific information about how the per kWh incentive for a home will be calculated, including a sample calculation for a home with and without gas, and a clear explanation of how the up to $0.90/kWh savings incentive applies to various types of energy savings, such as heating savings, lighting savings, or whole-house savings."[7]

DEC provided this more specific information in Attachment H, Response to Directive 3, of its Revised RNC Program filing. DEC's response includes a sample

[6] Abeyance Order at 8.

[7] *Id*. at 9.

calculation of the HERO-Plus incentive for a 2,188 square foot three-bedroom home, for which the homebuilder would receive a total incentive of $895.50 if the home has a gas furnace and gas water heater, while the total incentive would be $1,366.50 if the home is all-electric.[8] Most of the difference between the two calculations is from the incentives for space heating – the incentive would be $29.25 for gas space heating and $402.00 for electric space heating.[9] The sample home calculation also indicates there would be no incentive for gas water heating as compared to $90 for electric water heating. These differences are significant and obvious inducements for a homebuilder to choose all-electric space and water heating.

It is important to note that to qualify for the HERO-Plus incentive a home must be HERS rated. HERS ratings are agnostic as to fuel choice and the energy efficiency of the installed equipment. As a result, while higher efficiency electric equipment certainly saves kWh when compared to less efficient electric equipment, the primary drivers for the per kWh savings incentive payments are the thermal envelope and air infiltration improvements that cause a home to have a better HERS rating. In fact, the incentive paid for the sample home in DEC's Attachment H is based on the minimum efficiency heat pump that is currently allowable under the Code (14 SEER). Presumably, the electric water heater used in that example is a typical tank-type heater, which is also the minimum efficiency currently allowable under the Code. Yet, the all-electric incentive payment shown in that example would exceed the natural gas incentive payment by more than $470.

[8] *See* DEC Response to Commission Directive 3, Attachment H, p. 2 of 5 (page 20 of pdf).

[9] *Id*.

This illustrates the flaw in having incentives paid based on a per kWh metric. The incentive payments are "riding on the back" of a home's good HERS score, even with Code minimum equipment installed, to the obvious detriment of the LDCs. If the HERS rating is the primary driver for incentive payments, and if the HERS rating is agnostic as to fuel choice (which it is), then the incentive payments should also be agnostic as to fuel choice. Simply put, basing an incentive on a per-kWh saved metric unavoidably favors selection of electricity over natural gas, even though the kWh savings are not dependent on the installation of higher efficiency electric space and water heating equipment.

Furthermore, should the proposed incentives result in homebuilders choosing electricity over natural gas, it is not reasonable to think that the Revised RNC Program would lower peak electric demand. To the contrary, the Revised RNC Program would unavoidably build electric load and increase demand by incentivizing the installation of electric space and water heating equipment over natural gas equipment. This result is to the detriment of both electric and natural gas customers. Electric customers' rates will increase in order to cover the cost of the incentives paid, and natural gas customers' rates will be adversely impacted as potential gas customers are not brought onto the system, thereby negating the opportunity for LDCs to spread fixed costs over a higher number of customers.

DEC's calculation of the HERO-Plus incentive for the sample home with and without gas space and water heating reinforces the concerns that the LDCs expressed at the informational hearing. Basing an incentive on kWh savings by its very nature favors usage of electricity over natural gas. (Tr. p. 30, lines 4-12; p. 37, lines 7-13). The LDCs submit that the changes to the HERO-Plus incentive reflected in the Revised RNC Program will

not remove the significant competitive advantage for electricity that is built into the program. With specific regard to the standard established by the Commission in the Abeyance Order, the revised HERO-Plus incentive will still "result in an unfair competitive advantage for DEC."[10]

B. DEC's filing shows that in practice the DEP RNC Program has resulted in usage of electricity over natural gas in the new home market.

As noted in the Abeyance Order, DEP's RNC Program was modified to add the kWh whole-house incentives effective in December 2015 and DEP began making these incentive payments to builders at the end of 2016.[11] The Abeyance Order concluded "that the concerns expressed by the LDCs' field personnel about losses in the LDCs' new residential construction market share are worthy of further consideration and analysis."[12] To facilitate that analysis, the Commission directed DEC to include in its filing "the data and analysis which formed the basis for DEC's statement that approximately 66% of participating new homes that receive the DEP [RNC] Program's whole-house incentive choose gas heat, and that approximately 50% of the new homes that participate in the kWh savings incentive choose gas heat" as well as "data and analysis from the LDCs which shows the effect, if any, DEP [RNC] Program's per kWh incentive may have had on past new construction fuel choice decisions."[13] In response to that directive, DEC provided information in Attachment H, Responses to Directives 4 and 6, of its Revised RNC Program filing.

[10] Abeyance Order at 8.
[11] *See* Abeyance Order at 7, n. 7.
[12] Abeyance Order at 7.
[13] *Id*. at 9.

This information supports the LDCs' belief that the HERO-Plus incentive in the modified DEP RNC Program has influenced fuel choice in the new home construction market and has given DEP an unfair competitive advantage over the LDCs. From the LDCs' perspective, DEP's RNC Program transformed from being fuel-neutral to being anti-competitive and harmful, as the change to paying incentives on a per-kWh-saved basis wrongfully tipped the competitive balance strongly in DEP's favor.

First, the data submitted by DEC in Response to Directive 4 show that, especially after 2017 when the HERO-Plus per-kWh-saved incentive model had time to take root, the percentage of homes with gas heat that received the HERO-Plus incentive was substantially lower than the percentage of gas-heated homes that received the HERO incentive.[14] For example, in 2019, 50.3% of the homes that received the HERO-Plus incentive in DEP's service area were heated with gas, compared to 78.5% of homes that received the HERO incentive.[15] This result clearly demonstrates that the availability of the HERO-Plus incentive significantly influenced homebuilders to choose electricity over natural gas in new homes in DEP's service area.

Second, DEC's Response to Directive 6 listed residential developments and subdivisions in which the LDCs believe they experienced natural gas sales losses due to DEP RNC Program incentives.[16] These generally reflect the anecdotal field reports that the LDC panel referred to at the informational hearing. (Tr. p. 39, lines 2-6; p. 39, line 17- p. 40, line 4; p.47, line 17 – p. 48, line 13). While not included in its September 21 filing, DEC subsequently provided the LDCs with additional information relating to the

[14] *See* DEC Response to Commission Directive 4, Attachment H, p. 3 of 5 (page 21 of pdf).
[15] *Id*. Compare "Space Heating Fuels in WHI Homes HERO Plus (W/HERS)" with "Space Heating Fuels in WHI Homes HERO (Non-HERS)."
[16] *See* DEC Response to Commission Directive 6, Attachment H, pp. 4 and 5 of 5 (pages 22-23 of pdf.).

application of DEC's proposed Revised RNC Program to six houses in two of the subdivisions in Piedmont's territory listed in DEC's Attachment H, page 4 (the Kaylie's Cove and Channel Watch developments), which received RNC incentive payments from DEP in 2019 and went all-electric. The supplemental information relating to those six houses is set forth in LDC Exhibit 1 attached to these comments and it clearly demonstrates how the availability of a larger incentive would reasonably have influenced these homebuilders' decision to choose electric space and water heating.

As discussed above, in its Response to Directive 3 DEC provided "a sample calculation for a home with and without gas reflecting how incentive applies to various types of energy savings." (DEC Attachment H, Item 3). This "Sample Home" has 2,188 square feet and under DEC's Revised RNC Program would qualify for an incentive of $1,366.50 if equipped with all electric space and water heating, and $895.50 if space and water heating was fueled with natural gas.

The six homes shown in LDC Exhibit 1 are of similar size as the Sample Home, but the information DEC provided to the LDCs and set forth in LDC Exhibit 1 shows the average electric incentive that would be paid for these six homes under the proposed Revised RNC Program would be approximately $3,370 per home, compared to $1,366.50 for the Sample Home, a difference of $2,003.50. Additionally, under DEC's proposed Revised RNC Program, the incentive paid for choosing all-electric space and water heating appliances for the six homes shown in LDC Exhibit 1 would still average $883.05 more per home than if those homebuilders chose gas space and water heating.

The all-electric Sample Home is described as saving 2,291 kWh/year. Information provided by DEC indicates the average kWh saved per home in 2020 (through November)

was 3,249, an increase of 958 kWh saved, which would make future electric incentives higher than what was shown for the Sample Home. And finally, information provided by DEC indicates the average square footage of homes in 2020 (also through November) was 2,637 square feet, compared to 2,188 square feet in the Sample Home. All other things being equal, a larger home will receive a higher incentive than a comparable smaller home. This information leads to the conclusion that future average actual electric incentives will likely be significantly higher than what was shown for the Sample Home, as the Sample Home does not appear to be representative of actual experience.

As described by the LDC representatives at the informational hearing, and supported by the information included in DEC's Revised RNC Program filing, addition of the HERO-Plus incentive to DEP's RNC Program promoted fuel-switching and has tilted the playing field to the point that the LDCs are subject to unfair and/or destructive competition with DEP, which they are in no position to counter. Given that DEP's RNC Program was a subject of Commission inquiry at the informational hearing, and that DEP has proposed modifications to its RNC program in Docket No. E-2, Sub 1021, the LDCs submit that the Commission should evaluate both companies' RNC programs and revise them as necessary to ensure consistency and to avoid anti-competitive incentive arrangements.

C. The Commission should require DEC to abide by settlements reached with the LDCs in 2008 prohibiting the type of unfair competition that would result from the operation of the Revised RNC Program.

In 2008 the LDCs each executed settlement agreements with DEC and DEP prohibiting the use of EE programs to create competitive advantage. The settlement

agreement between DEC and PSNC[17] provides in Section 3(c) that DEC "will promote on an equal basis and offer equivalent incentive payments for heat pumps and air-conditioning." (Agreement, ¶ 3, p. 3). The settlement agreement between Piedmont and DEC[18] provides in pertinent part as follows:

> The energy efficiency programs included in Duke Energy Carolinas' Energy Efficiency Plan: (a) are not intended to displace or replace natural gas appliances with competing electric appliances; (b) are not designed to encourage fuel-switching; and (c) require demonstrated electric energy savings in each application utilizing cost effectiveness testing.

(Agreement ¶ 4, p. 3).

Under these settlement agreements, DEC is prohibited from paying higher incentives to builders to install electric space heating. This was effectively acknowledged by Mr. Duff at the informational hearing when he stated that "given the Legacy Settlement and Agreement we felt it was the appropriate thing to withdraw the Application." (Tr. p. 19, lines 19-21). *See also* Tr. p. 22, lines 4-7. The Commission found those Settlement Agreements to be in the public interest, and approved them.[19]

The LDCs submit that the effect of DEC's Revised RNC Program will encourage builders to switch from constructing homes utilizing natural gas space and water heating to all-electric homes. For this reason, approval of DEC's proposed RNC Program, as currently revised, would be inconsistent with the settlement agreements DEC entered into with the LDCs in 2008.

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[17] The Agreement and Joint Stipulation on Settlement, filed on June 24, 2008, in Docket E-7, Sub 831, is attached as LDC Exhibit 2 to these Comments.

[18] The Settlement Agreement filed on June 26, 2008, in Docket E-7, Sub 831, is attached as LDC Exhibit 3.

[19] *In the Matter of Application of Duke Energy Carolinas, LLC for Approval of Save-a-Watt Approach, Energy Efficiency Rider, and Portfolio of Energy Efficiency Programs*, Docket E-7, Sub 831, Order Resolving Certain Issues, Findings 51 and 52, pp. 11, 36, February 26, 2009.

D. If the RNC Programs are allowed to continue, the Commission should modify them to prevent unfair and destructive competition between electric and natural gas utilities.

If the Commission determines that it is appropriate and in the public interest to allow DEC to implement a residential new construction program, and to allow DEP to continue to operate its program, then the LDCs request that those programs be modified so that they are fuel neutral and do not promote unfair and destructive competition. The LDCs submit that the structure used in the DEP RNC Program when it was introduced in 2012, which used HERS ratings as the basis for incentives paid to builders for energy-efficient construction that were not tied to a per-kWh saved metric, is a reasonable approach that can encourage energy efficiency while being agnostic as to fuel choice. This is especially appropriate since the vast majority of energy savings resulting from these programs are a product of the constructed building envelope, not the efficiency of electric equipment a homebuilder chooses to install. Simply put, these programs focus on incenting more energy efficient construction, not the installation of more energy efficient equipment. Should DEC and DEP wish to incent installation of higher efficiency equipment, they could easily add a provision to their programs like the one included in the DEP RNC Program as first implemented in 2012, where an incentive was paid to offset the cost of the higher efficiency equipment.

In the cover letter to DEP's December 2015 filing to modify its RNC Program, DEP stated that it was changing the program in response to recent evaluation, measurement and verification study findings. On January 26, 2016, DEP filed its Evaluation, Measurement and Verification Report for 2013 and 2014 in Docket E-2, Sub 1021, which stated the following on page 27:

> As the [RNC] program matures, it needs to better align incentives with kilowatt-hour savings. Participant builders indicated that they have adopted more efficient building practices as a result of participation in the RNC program and the prior Home Advantage program. **These participant builders indicated that they would continue to build highly efficient homes even under the hypothetical removal of the RNC program incentives.** Additionally, these program builders indicated that they may consider changes to their purchase of energy-efficient equipment, such as high-performance windows, but this change would not happen immediately. **Since the RNC program has effectively operated as a market transformation program, the incremental costs for builders to design to program levels will decrease over time. Therefore, as the program matures, the RNC program should continue to better align incentives with kWh savings.**

(Emphasis added).

The LDCs cannot reconcile DEP's statements in 2016 with either DEC's proposed Revised RNC Program or DEP's proposal to mirror DEC's proposed RNC Program. If DEP's RNC Program was so effective in 2013 and 2014 that it "operated as a market transformation program," to the point that it would no longer be necessary to incent builders to build more energy efficient homes, how does Duke Energy justify paying a higher incentive for all-electric homes compared to gas homes?

DEP's stated goal in that filing was to "better align incentives with kWh savings." Even assuming for the sake of argument that basing RNC incentives on a kWh-saved metric allows Duke Energy to better align incentives with kWh savings, is the value to Duke Energy of basing incentives on saved kWh rather than a tiered structure based on the HERS score (the approach used in DEP's RNC Program as filed in 2012), sufficient to warrant destroying the competitive balance between the LDCs and Duke Energy, i.e., does any such value justify the adverse impact on the LDCs?

In the proposed Revised RNC Program filed September 21, 2020, in section (c)(2)(vi) of the Rule R8-68 filing requirements, DEC represents that "[t]he Program does

not provide any inducement or incentive affecting participant's decision to install or adopt natural gas or electric service." However, as shown in DEC's Attachment H to that filing (and in LDC Exhibit 1 to these Comments), under the Revised RNC Program a significantly higher incentive is offered for an electric home compared to a natural gas home. If the program actually offers a higher incentive for choosing electric heating rather than gas, can it credibly be said that the program does not offer "any inducement or incentive," especially when, as the LDCs contend, the existing DEP RNC Program and the proposed Revised DEC RNC Program have influenced and will influence fuel choice to the detriment of the LDCs?

Surely a reasonable incentive for both the DEC and DEP programs could be established within the original construct of the DEP RNC Program which would enable DEP and DEC to achieve their goals. This approach would incent high efficiency construction without subjecting the LDCs to unfair or destructive competition. Simply put, there are two approaches available here, the model of the original DEP RNC Program and the DEC's Revised RNC Program now proposed in this docket. The former approach is agnostic as to fuel choice and doesn't materially harm the LDCs. The latter approach imposes significant competitive harm and disadvantage on the LDCs.

CONCLUSION

The LDCs support the goal of encouraging energy efficiency, but in a manner that does not promote unfair or destructive competition between electric and natural gas utilities, a goal the Commission recognized in the Abeyance Order. The LDCs believe that both the DEC and DEP residential new construction programs can be made fuel-neutral and still achieve substantial energy efficiency gains.

Based on the foregoing, the LDCs request that the Commission consider these comments in reviewing DEC's proposed Revised RNC Program and in revisiting the DEP RNC Program, and that both programs be modified as necessary to make them competitively neutral, consistent with the Settlement Agreements previously entered into with the LDCs.

Respectfully submitted, this the 19th day of January, 2021.

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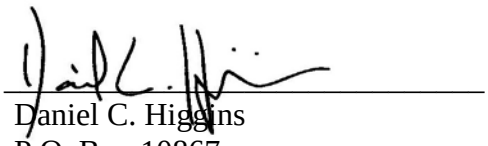
BURNS, DAY & PRESNELL, P.A.

By: 
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LDC Exhibit 1

LDC Exhibit 1

AVERAGE DIFFERENCE OF PROPOSED ELECTRIC vs GAS INCENTIVES
UNDER REVISED DEC RNC PROGRAM FOR SIX ACTUAL HOMES

Community	Address	Proposed Electric Incentive	Proposed Gas Incentive
Kaylie's Cove	XXXX Claremont Court	$2,680.94	$2,051.63
Kaylie's Cove	YYYY Brown Pelican Lane	$3,418.51	$2,668.65
Kaylie's Cove	ZZZZ Brown Pelican Lane	$4,202.27	$2,915.33
Channel Watch	AAA Helmsman Drive	$2,897.24	$2,226.45
Channel Watch	BBB Helmsman Drive	$3,206.25	$2,490.83
Channel Watch	CCC Latitude Lane	$3,814.73	$2,568.90
		$20,219.94	$14,921.79

$20,219.94 - 14,921.79 = $5,298.15 ÷ 6 = $883.03 average higher electric incentive difference per home

LDC Exhibit 2

LDC Exhibit 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, Sub 831

In re: Application of Duke Energy Carolinas, LLC For Approval of Save-a-Watt Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs	)	**REQUEST FOR ACCEPTANCE AND APPROVAL OF AGREEMENT AND STIPULATION OF SETTLEMENT AND MOTION FOR PROCEDURAL ORDER IN EVENT PROPOSED AGREEMENT AND STIPULATION OF SETTLEMENT NOT ACCEPTED BY COMMISSION**

Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"), and Public Service Company of North Carolina, Inc. ("PSNC"), collectively referred to as "Stipulating Parties," have reached an Agreement and Stipulation in Settlement ("Stipulation") resolving all issued raised in this case. The Stipulation is filed this date by the Parties to this action for consideration by the Commission.

On behalf of the Stipulating Parties, Duke Energy Carolinas hereby moves the Commission to accept and approve the Stipulation in its entirety. In the event the Commission does not accept and approve the Stipulation in its entirety, the Stipulating Parties request that the Commission issue a new procedural schedule and permit all parties to file testimony. The Stipulating Parties request that the procedural schedule set forth dates for the filing of testimony, both direct and rebuttal. In support of this motion, the Stipulating Parties provide the following information:

1. On May 7, 2007, Duke Energy Carolinas filed an Application requesting approval of (1) a new regulatory approach to energy efficiency programs, (2) an energy efficiency rider to implement the energy efficiency plan, and (3) a portfolio of energy efficiency programs. The Application was filed consistent with N.C. Gen. Stat. § 62-

2(3a) and in compliance with ordering paragraphs 3 and 4 of the Commission's March 21, 2007 Order Granting Certificate of Public Convenience and Necessity with Conditions in Docket No. E-7, Sub 790. PSNC is a party of record in this proceeding. The other parties of record in the above-captioned proceeding that are not parties to this Settlement Agreement are: North Carolina Utilities Commission Public Staff, Attorney General Roy Cooper; Carolina Industrial Groups for Fair Utility Rates; Wal-Mart Stores East, LP; Piedmont Natural Gas Company, Inc.; Carolina Utility Customers Association, Inc.; Environmental Defense; Southern Alliance for Clean Energy; Southern Environmental Law Center; Air Products and Chemicals, Inc.; North Carolina Wasted Awareness and Reduction Network, Inc.; Virginia Electric and Power Company d/b/a Dominion North Carolina Power; Progress Energy Carolinas, Inc.; North Carolina Sustainable Energy Association, Inc.; the City of Durham; and North Carolina Municipal Power Agency Number 1 (collectively the "Non-Settling Intervenors").

2. Duke Energy Carolinas has filed direct testimony in accordance with the schedule established by the Commission in this proceeding.

3. Following extensive discussions concerning the issues in this proceeding, Duke Energy Carolinas and PSNC have determined that their interests would best be served by stipulating to a settlement of all of the issues between the Stipulating Parties. The agreement detailing the terms and conditions of the settlement is filed herewith. Company Witness Schultz will present testimony to the Commission to provide the basis and rationale for the settlement.

4. Currently, the hearing in this matter is scheduled to begin July 28, 2008. The Stipulating Parties jointly move the Commission to commence the hearing as

scheduled on July 28, 2008, to permit Duke Energy Carolinas, the Non-Settling Intervenors, and any public witnesses an opportunity to testify. The Stipulating Parties propose that they be allowed to publish a summary of the proposed settlement and present evidence in support of the settlement during the hearing so that the Commission can consider the merits of the proposed settlement.

5. The Stipulating Parties move that the Commission approve the Settlement Agreement as being in the public interest.

WHEREFORE, having fully set forth their Request for Acceptance and Approval of Agreement and Stipulation of Settlement and Motion for Procedural Order in Event Proposed Agreement and Stipulation of Settlement not Accepted by Commission, the Stipulating Parties request that the Commission issue an order approving the Stipulating Parties' settlement as just, fair, and reasonable.

Respectfully submitted, this 24th day of June, 2008.

Catherine E. Heigel, Assistant General Counsel
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ceheigel@dukeenergy.com

COUNSEL FOR DUKE ENERGY
CAROLINAS, LLC

CERTIFICATE OF SERVICE

I certify that a copy of the Agreement and Stipulation of Partial Settlement and Request for Acceptance and Approval of Stipulation and Motion for Procedural Order in Docket No. E-7, Sub 831 has been served by electronic mail (e-mail), hand delivery, or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to parties of record.

This the 24th day of June, 2008.

Catherine E. Heigel, Assistant General Counsel
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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, Sub 831

In re: Application of Duke Energy Carolinas, LLC For Approval of Save-a-Watt Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs	))))))	**AGREEMENT AND JOINT STIPULATION OF SETTLEMENT**

This Agreement and Joint Stipulation of Settlement (the "Settlement Agreement") is made by and between Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"), and Public Service Company of North Carolina, Inc. ("PSNC"), collectively referred to herein as the Stipulating Parties.

RECITALS

WHEREAS, on May 7, 2007, Duke Energy Carolinas filed an Application for Approval of Save-a-Watt Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs with the North Carolina Utilities Commission (the "Commission"). On February 29, 2008, the Commission issued an order scheduling the matter for evidentiary hearing beginning on Tuesday, June 10, 2008. On June 22, 2007, PSNC filed a petition to intervene which was granted by the Commission. PSNC also filed comments on July 13, 2007, and August 21, 2007. Following a motion by the Public Staff to continue the hearing, on May 9, 2008, the Commission issued an order rescheduling the hearing to July 28, 2008;

WHEREAS, the Stipulating Parties are parties of record in the above-captioned docket. The other parties of record in the above-captioned proceeding that are not parties to this Settlement Agreement are: North Carolina Utilities Commission Public Staff,

Attorney General Roy Cooper; Carolina Industrial Groups for Fair Utility Rates; Wal-Mart Stores East, LP; Piedmont Natural Gas Company, Inc.; Carolina Utility Customers Association, Inc.; Environmental Defense; Southern Alliance for Clean Energy; Southern Environmental Law Center; Air Products and Chemicals, Inc.; North Carolina Waste Awareness and Reduction Network, Inc.; Virginia Electric and Power Company d/b/a Dominion North Carolina Power; Progress Energy Carolinas, Inc.; North Carolina Sustainable Energy Association, Inc.; the City of Durham; and North Carolina Municipal Power Agency Number 1.

WHEREAS, after the filing of Duke Energy Carolinas' direct testimony and exhibits and subsequent discovery by PSNC, the Stipulating Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests;

NOW THEREFORE, following those discussions, the Stipulating Parties have each determined that their interests and the public interest would best be served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

AGREEMENT

1. The Stipulating Parties agree to support this settlement in any evidence and proposed orders they submit to the Commission in this proceeding. To the extent that the pre-filed testimony of Duke Energy Carolinas previously submitted in this docket is inconsistent with the terms of this Settlement Agreement, Duke Energy Carolinas agrees to submit further testimony revising its previous position to make it clear that the Company supports this settlement.

2. In order to clarify the intent and design of Duke Energy Carolinas' proposed energy efficiency programs described in the testimony of Company Witness Theodore Schultz and as a compromise to positions advanced by Duke Energy Carolinas and PSNC, the Stipulating Parties hereto agree to the proposal set out immediately below. This proposal is hereby adopted, accepted, and acknowledged as the agreement of the Stipulating Parties. The Stipulating Parties agree that:

I. Residential and Nonresidential Smart $aver®

3. Duke Energy Carolinas agrees that: (a) the "flexibility" requested by the Company to shift funding among energy efficiency programs will be limited to reallocations among programs and their associated measures that have been filed and approved by the Commission in this docket (*i.e.*, the Company may not shift funds to any new program that has not been filed and approved by the Commission); (b) incentives offered by Duke Energy Carolinas will not exceed 50% of the installed cost difference between standard equipment and higher efficiency equipment for any program application, except for low income weatherization and residential lighting programs, or such other programs as may be ordered by the Commission at the request of parties other than Duke Energy Carolinas; and (c) Duke Energy Carolinas will promote on an equal basis and offer equivalent incentive payments for heat pumps and air-conditioning.

II. Residential Smart $aver®

4. Duke Energy Carolinas agrees that it will not offer incentives for appliances until: (a) ENERGY STAR® ratings or some other nationally recognized ratings are established for these applications; and (b) Commission approval of the

Company's programs applicable to such appliances has been obtained in conformity with Rule R8-68.

III. Nonresidential Smart $aver®

5. Duke Energy Carolinas agrees that energy efficiency measures for prescriptive or custom incentives must prove cost-effective under the Utility Cost Test. Cost-effectiveness will be measured based on the improvement in electric efficiency only. The Company further agrees that custom incentives will only apply when there is an improvement in electric efficiency. In cases where electric equipment does not currently exist within a customer's facility, Duke Energy Carolinas will compare the proposed efficiency measure against the efficiency of the current code or standard electric equipment that would have been installed. Finally, Duke Energy Carolinas agrees that custom incentive applications will not be originated by Duke Energy Carolinas; rather, custom incentives must originate with customers bringing new ideas to Duke Energy Carolinas for efficient electric applications after the customer has chosen the technology and fuel source.

IV. Measures under Nonresidential Smart $aver® Program

6. Duke Energy Carolinas commits to file the list of measures previously provided to PSNC that it proposes to offer as part of its Nonresidential Smart $aver® Program as either supplemental testimony or as part of its rebuttal case in this docket. The list filed will include the measures being offered and the incentive amounts associated with each measure. Duke Energy Carolinas agrees that the incentive amounts contained in this list will not be increased without a further filing and approval by the Commission.

7. The Stipulating Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution by the Stipulating Parties to this Settlement Agreement of all issues currently pending in the above-captioned proceeding. The Stipulating Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

8. This written Settlement Agreement contains the complete agreement of the Stipulating Parties. The Stipulating Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then either Stipulating Party desiring to do so may withdraw from the Settlement Agreement without penalty, within five days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to the other party in that time period.

9. This Settlement Agreement shall be effective upon execution of the Stipulating Parties and shall be interpreted according to North Carolina law.

10. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities), subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

11. The above terms and conditions fully represent the agreement of the Stipulating Parties hereto. Therefore, each Stipulating Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Settlement Agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

The foregoing is agreed and stipulated to this 24th day of June, 2008.

(Signature Pages Follow)

Representing and binding Duke Energy Carolinas, LLC

By _____

Catherine E. Heigel
Assistant General Counsel
Duke Energy Carolinas, LLC
PO Box 1006 (Mail Code EC03T)
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Tel: 704.382.8123

Representing and binding Public Service Company of North Carolina, Inc.

By _____

Mary Lynne Grigg, Esq.
Womble Carlyle Sandridge & Rice, PLLC
150 Fayetteville Street Mall, Suite 2100
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LDC Exhibit 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, Sub 831

In re: Application of Duke Energy Carolinas, LLC For Approval of Save-a-Watt Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs	)	**AGREEMENT AND JOINT STIPULATION OF SETTLEMENT**

This Agreement and Joint Stipulation of Settlement (the "Settlement Agreement") is made by and between Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"), and Piedmont Natural Gas Company, Incorporated ("Piedmont"), collectively referred to herein as the Stipulating Parties.

RECITALS

WHEREAS, on May 7, 2007, Duke Energy Carolinas filed an Application for Approval of Save-a-Watt Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs with the North Carolina Utilities Commission (the "Commission"). On February 29, 2008, the Commission issued an order scheduling the matter for evidentiary hearing beginning on Tuesday, June 10, 2008. On May 24, 2007, Piedmont filed a petition to intervene which was granted by the Commission. Following a motion by the Public Staff to continue the hearing, on May 9, 2008, the Commission issued an order rescheduling the hearing to July 28, 2008;

WHEREAS, the Stipulating Parties are parties of record in the above-captioned docket. The other parties of record in the above-captioned proceeding that are not parties to this Settlement Agreement are: North Carolina Utilities Commission Public Staff, Attorney General Roy Cooper; Carolina Industrial Groups for Fair Utility Rates; Wal-

Mart Stores East, LP; Public Service Company of North Carolina, Inc.; Carolina Utility Customers Association, Inc.; Environmental Defense; Southern Alliance for Clean Energy; Southern Environmental Law Center; Air Products and Chemicals, Inc.; North Carolina Waste Awareness and Reduction Network, Inc.; Virginia Electric and Power Company d/b/a Dominion North Carolina Power; Progress Energy Carolinas, Inc.; North Carolina Sustainable Energy Association, Inc.; the City of Durham; and North Carolina Municipal Power Agency Number 1.

WHEREAS, after the filing of Duke Energy Carolinas' direct testimony and exhibits and subsequent discovery by Piedmont, the Stipulating Parties have engaged in discussions to determine if a settlement of the issues would be in their best interests;

NOW THEREFORE, following those discussions, the Stipulating Parties have each determined that their interests and the public interest would best be served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

AGREEMENT

1. The Stipulating Parties agree to support this settlement in any evidence and proposed orders they submit to the Commission in this proceeding. To the extent that the pre-filed testimony of Duke Energy Carolinas previously submitted in this docket is inconsistent with the terms of this Settlement Agreement, Duke Energy Carolinas agrees to submit further testimony revising its previous position to make it clear that the Company supports this settlement.

2. The Stipulating Parties acknowledge and support the terms of the Stipulation of Settlement between Duke Energy Carolinas and Public Service Company

of North Carolina, Inc. filed with the Commission on June 24, 2008 ("PSNC Settlement").

3. In order to clarify the intent and design of Duke Energy Carolinas' proposed energy efficiency programs described in the testimony of Company Witness Theodore Schultz and as a compromise to positions advanced by Duke Energy Carolinas and Piedmont, the Stipulating Parties hereto agree to the proposal set out immediately below. This proposal is hereby adopted, accepted, and acknowledged as the agreement of the Stipulating Parties. The Stipulating Parties agree that:

I. Program Design and Intent

4. The energy efficiency programs included in Duke Energy Carolinas' Energy Efficiency Plan: (a) are not intended to displace or replace natural gas appliances with competing electric appliances; (b) are not designed to encourage fuel-switching; and (c) require demonstrated electric energy savings in each application utilizing cost-effectiveness testing.

II. Residential Smart $aver® Air Conditioners and Heat Pumps Incentive Program

5. Duke Energy Carolinas' Residential Smart $aver® Air Conditioners and Heat Pumps Incentive Program as proposed in the Company's Energy Efficiency Plan will provide incentives to customers, builders, and heating contractors to promote the use of high-efficiency air conditioners and heat pumps with electronically commutated fan motors ("ECM"). The program is designed to increase the efficiency of HVAC systems in new homes and for replacements in existing homes. Owner-occupied residences, condominiums, and mobile homes served by Duke Energy Carolinas are eligible for both the air conditioner and heat pump components of this program.

6. Duke Energy Carolinas agrees to file a revised description of the Smart$aver for Residential Customers program as filed in the direct testimony and exhibits of Witness Theodore Schultz to specify that if a home is either currently heated by a natural gas furnace, or if natural gas is available at a new home, then a heat pump incentive is available if a heat pump is installed with ECM as part of a dual-fuel system that uses natural gas as the supplemental heat source. The Stipulating Parties agree that the Commission shall have continuing oversight of the operation of this provision and that Duke Energy Carolinas will file an update report to the Commission specifying the enrollment and effect of this measure as part of its annual energy efficiency rider proceedings.

III. Joint Program Development

7. Duke Energy Carolinas and Piedmont agree to work together in good faith for the benefit of consumers to design and implement joint energy efficiency programs that promote high-efficiency improvements to (i) new home or building construction, (ii) existing buildings or homes, (iii) energy audits, and (iv) home or building weatherization programs. All new programs jointly developed by Piedmont and the Company will be filed with the Commission for approval.

IV. Continuing Review

8. Piedmont does not object at this time to the programs and incentive levels set forth in the direct testimony of Company Witness Schultz, as clarified herein and in the PSNC Settlement. However, Piedmont reserves the right to assert objections to individual program filings made in this docket if Piedmont determines that any individual

program filing (i) poses an unreasonable risk to free and fair competition between natural gas and electricity, or (ii) promotes the inefficient consumption of energy.

8. The Stipulating Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution by the Stipulating Parties to this Settlement Agreement of all issues currently pending in the above-captioned proceeding. The Stipulating Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.

9. This written Settlement Agreement contains the complete agreement of the Stipulating Parties. The Stipulating Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then either Stipulating Party desiring to do so may withdraw from the Settlement Agreement without penalty, within five days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to the other party in that time period.

10. This Settlement Agreement shall be effective upon execution of the Stipulating Parties and shall be interpreted according to North Carolina law.

11. This Settlement Agreement shall bind and inure to the benefit of each of the signatories hereto and their representatives, predecessors, successors, assigns, agents, shareholders, officers, directors (in their individual and representative capacities),

subsidiaries, affiliates, parent corporations, if any, joint ventures, heirs, executors, administrators, trustees, and attorneys.

12. The above terms and conditions fully represent the agreement of the Stipulating Parties hereto. Therefore, each Stipulating Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the Settlement Agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

The foregoing is agreed and stipulated to this 25th day of June, 2008.

(Signature Pages Follow)

Representing and binding Duke Energy Carolinas, LLC

By _____

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Representing and binding Piedmont Natural Gas Company Incorporated

By_____

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Tel: 704.331.1079

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, Sub 831

In re: Application of Duke Energy Carolinas, LLC For Approval of Save-a-Watt Approach, Energy Efficiency Rider and Portfolio of Energy Efficiency Programs	)	**REQUEST FOR ACCEPTANCE AND APPROVAL OF AGREEMENT AND STIPULATION OF SETTLEMENT AND MOTION FOR PROCEDURAL ORDER IN EVENT PROPOSED AGREEMENT AND STIPULATION OF SETTLEMENT NOT ACCEPTED BY COMMISSION**

Duke Energy Carolinas, LLC ("Duke Energy Carolinas" or the "Company"), and Piedmont Natural Gas Company Incorporated ("Piedmont"), collectively referred to as "Stipulating Parties," have reached an Agreement and Stipulation in Settlement ("Stipulation") resolving all issued raised in this case. The Stipulation is filed this date by the Parties to this action for consideration by the Commission.

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1. On May 7, 2007, Duke Energy Carolinas filed an Application requesting approval of (1) a new regulatory approach to energy efficiency programs, (2) an energy efficiency rider to implement the energy efficiency plan, and (3) a portfolio of energy efficiency programs. The Application was filed consistent with N.C. Gen. Stat. § 62-

2(3a) and in compliance with ordering paragraphs 3 and 4 of the Commission's March 21, 2007 Order Granting Certificate of Public Convenience and Necessity with Conditions in Docket No. E-7, Sub 790. Piedmont is a party of record in this proceeding. The other parties of record in the above-captioned proceeding that are not parties to this Settlement Agreement are: North Carolina Utilities Commission Public Staff, Attorney General Roy Cooper; Carolina Industrial Groups for Fair Utility Rates; Wal-Mart Stores East, LP; Public Service Company of North Carolina, Inc.; Carolina Utility Customers Association, Inc.; Environmental Defense; Southern Alliance for Clean Energy; Southern Environmental Law Center; Air Products and Chemicals, Inc.; North Carolina Wasted Awareness and Reduction Network, Inc.; Virginia Electric and Power Company d/b/a Dominion North Carolina Power; Progress Energy Carolinas, Inc.; North Carolina Sustainable Energy Association, Inc.; the City of Durham; and North Carolina Municipal Power Agency Number 1 (collectively the "Non-Settling Intervenors").

2. Duke Energy Carolinas has filed direct testimony in accordance with the schedule established by the Commission in this proceeding.

3. Following extensive discussions concerning the issues in this proceeding, Duke Energy Carolinas and Piedmont have determined that their interests would best be served by stipulating to a settlement of all of the issues between the Stipulating Parties. The agreement detailing the terms and conditions of the settlement is filed herewith. Company Witness Schultz will present testimony to the Commission to provide the basis and rationale for the settlement.

4. Currently, the hearing in this matter is scheduled to begin July 28, 2008. The Stipulating Parties jointly move the Commission to commence the hearing as

scheduled on July 28, 2008, to permit Duke Energy Carolinas, the Non-Settling Intervenors, and any public witnesses an opportunity to testify. The Stipulating Parties propose that they be allowed to publish a summary of the proposed settlement and present evidence in support of the settlement during the hearing so that the Commission can consider the merits of the proposed settlement.

5. The Stipulating Parties move that the Commission approve the Settlement Agreement as being in the public interest.

WHEREFORE, having fully set forth their Request for Acceptance and Approval of Agreement and Stipulation of Settlement and Motion for Procedural Order in Event Proposed Agreement and Stipulation of Settlement not Accepted by Commission, the Stipulating Parties request that the Commission issue an order approving the Stipulating Parties' settlement as just, fair, and reasonable.

Respectfully submitted, this 26th day of June, 2008.

Robert W. Kaylor
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919.828.5250
rwkaylor@duke-energy.com

COUNSEL FOR DUKE ENERGY
CAROLINAS, LLC

CERTIFICATE OF SERVICE

I certify that a copy of the Agreement and Stipulation of Partial Settlement and Request for Acceptance and Approval of Stipulation and Motion for Procedural Order in Docket No. E-7, Sub 831 has been served by electronic mail (e-mail), hand delivery, or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to parties of record.

This the 26th day of June, 2008.

Robert W. Kaylor
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North Carolina State Bar No. 6237

CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing JOINT COMMENTS OF PIEDMONT NATURAL GAS COMPANY, INCORPORATED, AND PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INCORPORATED, upon all parties of record in this docket in accordance with Commission Rule R1-39, by United States mail, first class postage prepaid; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 19th day of January, 2021.

BURNS, DAY & PRESNELL, P.A.

By: _____

Daniel C. Higgins
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Attorneys for Public Service Company of North Carolina, Incorporated