BEFORE THE
NORTH CAROLINA UTILITIES COMMISSION

DOCKET NO. E-7, SUB 1213
DOCKET NO. E-7, SUB 1214
DOCKET NO. E-7, SUB 1187

DOCKET NO. E-7, SUB 1213

In the Matter of
Petition of Duke Energy Carolinas, LLC, for Approval of Prepaid Advantage Program

DOCKET NO. E-7, SUB 1214

In the Matter of
Application by Duke Energy Carolinas, LLC, for Adjustment of Rates and Charges Applicable to Electric Utility Service in North Carolina

DOCKET NO. E-7, SUB 1187

In the Matter of
Application of Duke Energy Carolinas, LLC, for an Accounting Order to Defer Incremental Storm Damage Expenses Incurred as a Result of Hurricanes Florence and Michael and Winter Storm Diego

POST-HEARING BRIEF
OF CIGFUR III

NOW COMES the Carolina Industrial Group for Fair Utility Rates III (CIGFUR III or CIGFUR), by and through the undersigned counsel, pursuant to the Commission's November 2, 2020 Order Granting Motion for Second Extension of Time to File Briefs and Proposed Orders, and respectfully submits this post-hearing brief in the above-captioned dockets.

BACKGROUND AND PROCEDURAL HISTORY

CIGFUR III is an association of large, high-load factor industrial customers, who take service from Duke Energy Carolinas, LLC (DEC or Company) and purchase

substantial amounts of electric power from DEC. In addition, CIGFUR III's members are major employers of and provide high-wage jobs in the counties where they have manufacturing plants within DEC's service territory. (Tr. vol. 14, 95.)

On August 29, 2019, the Company filed Notice of Intent to file a General Rate Case Application in these dockets.

On September 6, 2019, the Commission issued an Order Granting the Petition to Intervene previously filed by CIGFUR III in these dockets.

On September 20, 2019, the Company filed its General Rate Case Application pursuant to N.C. Gen. Stat. §§ 62-133 and 62-134 and Commission Rule R1-17 (Application). In support of the Application, the Company also filed direct testimony and exhibits requesting a non-fuel base rate increase of approximately $445.3 million. DEC further proposed to partially offset the increase in revenues by refunding $154.6 million in excess deferred income taxes (EDIT), resulting in a proposed net revenue increase of $290.8 million. Further, the Application requested that the Commission authorize a rate of return on equity (ROE) of 10.30% and approve a 53% equity component of the Company's capital structure.

On October 29, 2019, the Commission issued its Order Establishing General Rate Case, Suspending Rates, Scheduling Hearings and Requiring Public Notice.

On November 20, 2019, the Commission issued an order consolidating the general rate case proceeding in Docket No. E-7, 1214, and the proceeding to review DEC's request for approval of its Prepaid Advantage Program in Docket No. E-7, Sub 1213.

On February 14, 2020, the Company filed supplemental direct testimony and exhibits.

On February 18, 2020, CIGFUR III filed the Direct Testimony and Exhibits of Nicholas Phillips, Jr. CIGFUR witness Phillips' testimony focused on the following issues: cost allocation methodology and revenue distribution between the customer classes, industrial rate design, the Company's requested ROE and capital structure, the Company's request to defer Grid Improvement Plan (GIP) costs, and the proposed Rider EDIT-2.

On March 4, 2020, the Company filed its rebuttal testimony.

On March 25, 2020, DEC and the Public Staff – North Carolina Utilities Commission (Public Staff) filed an Agreement and Stipulation of Partial Settlement as to certain issues in these dockets.

The parties to this proceeding have conducted substantial discovery on the issues raised in the Application, as well as on the direct, supplemental,[1] and rebuttal testimony of the Company and the testimony of the intervenors.

On May 29, 2020, CIGFUR III and DEC entered into an Agreement and Stipulation of Settlement (CIGFUR Stipulation), resolving various disputed issues between the two parties as they relate to: (1) ROE; (2) capital structure; (3) Grid Improvement Plan (GIP); (4) Unprotected Excess Deferred Income Taxes (EDIT); (5) cost allocation; and (6) industrial rate design.

On July 31, 2020, DEC and the Public Staff filed a Second Agreement and Stipulation of Partial Settlement, which among other things, stipulated to an ROE of 9.6% and a capital structure consistent of 52% equity and 48% long-term debt.

[1] With the notable exception of the Second Supplemental Testimony of Public Staff witness Floyd, which was not filed in these dockets until September 8, 2020, and which CIGFUR III moved to strike on September 9, 2020. (Tr. vol. 14, 20-24.)

On August 6, 2020, DEC and CIGFUR III entered into an Amendment to the CIGFUR Stipulation, agreeing to the ROE and equity ratio set forth in the Second Stipulation.

GRID IMPROVEMENT PLAN (GIP)

DEC's request for deferral treatment of GIP spending is supported by a majority of intervenors representing diverse—and oftentimes competing—interests and should be allowed.

Subject to the conditions set forth in the CIGFUR Stipulation and without taking a position on the individual programs comprising the GIP, CIGFUR agreed for purposes of settlement to support the Company's request for deferred asset treatment of costs associated with the incremental grid investments (1) not recovered in this case; and (2) incurred over a three-year period for cost recovery consideration in future general rate cases. "Because the three-year GIP plan contains estimates, CIGFUR III's support for the GIP deferral will be subject to a reservation of its rights to review and object to the reasonableness of specific project costs in future rate cases." CIGFUR Stipulation, § III.A. The GIP "is proposed as a means to address certain trends, which the Companies have labeled 'megatrends,' as they attempt to deal with the changing needs of the electrical grid for their customers, and adapting the grid to provide customers with safer and more reliable power." (Tr. vol. 6, 130.)

It should be noted that the Company has entered into settlement agreements related to the GIP with various intervening parties who collectively constitute "a very diverse group of stakeholders[,]" representing low-income customers (NCJC *et. al*), commercial/industrial customers (CIGFUR, the Commercial Group, and Harris Teeter), environmental groups and renewable energy advocates (NCJC *et. al*, Vote Solar, and

NCSEA), and the general using and consuming public (the Public Staff), respectively. (Tr. vol. 4, 129.)

All customer classes are driving the need for GIP programs. Likewise, all customer classes are expected to benefit to from the GIP, and such anticipated benefits are not limited to reliability improvements.

The Commission heard a significant amount of testimony related to the expected benefits to ratepayers of GIP programs. It should be noted at the outset that some of the positions advanced in such testimony—namely, that most or all of the GIP benefits will be limited to reliability improvements, and that such reliability improvements will mostly or only benefit one class of customers at the expense of another—are factually erroneous and misleading. To the contrary, DEC witness Oliver testified at length about the varying types of expected benefits to ratepayers resulting from the GIP; likewise, he testified in detail about the ways in which such benefits—which go well beyond anticipated reliability improvements—are expected to flow to all customer classes, especially residential customers.

CIGFUR contends that the Commission should give great weight to the testimony of witness Oliver, particularly regarding the below exchange, which occurred on cross-examination of witness Oliver by counsel for CUCA and during which witness Oliver explains that GIP benefits are not limited to reliability improvements.

> Q. Would you agree that one of the primary purposes, if not the primary purpose, behind the proposed GIP investments is to make Duke's grid functioning more reliable, that is, stated another way, to reduce a current level of outage times?
>
> A. No, I would not agree with that. When we built this plan, we built it to address the seven megatrends. The megatrends are pretty much undisputed in this case. You know, I'll list a few of those megatrends. First one would be growth and threats to grid infrastructure, particularly from

> cyberattacks. The cyberattacks that we're seeing are more numerous, and frankly more complex.
>
> Another megatrend is growth in distributed energy resources and electric vehicles. This program is specifically designed to help us embrace that technology when it comes to private distributed energy resources and not just embrace it, leverage it to its fullest extent.
>
> Another megatrend that we're – that the program is designed for would be environmental commitments that are being made by our customers to their shareholders and to their own customers about how they want to be sustainable and operate in sustainable territories.
>
> Also, state and local commitments to things like carbon reduction. That's a megatrend that's certainly not going away, and we at the Company, at Duke Energy, have our own carbon reduction rule. So no, the primary purpose of this program is not reliability improvements. Is it a benefit that comes along with some of those investments? It absolutely is, and I'm excited about that. I think our customers will value that. But that's not the – that was not the purpose of the [GIP].

(Id. at 140-42.)

On further cross-examination by counsel for CUCA, witness Oliver reiterated that the benefits of the GIP program "are broad in nature," and that it "is not a plan specifically about improving reliability." (Id. at 147, 148) Witness Oliver testified that, nevertheless, the GIP suite of programs will improve reliability metrics in a way that benefits all customer classes, with emphasis on the residential class. For example, witness Oliver pointed to increased efficiency for resolving storm outages, saying "[i]t is something to see when you can get a large neighborhood back in power after a long time without it, particularly during, say, the hot months that are hurricane season and the cold months that are ice storms" (emphasis added) (Id.) Given that many industrial/commercial customers have their own back-up generation resources, this is just one such example of a reliability improvement uniquely well-suited to benefit residential customers.

Witness Oliver further testified that while DEC performs relatively well on reliability metrics like SAIDI and SAIFI, it should be noted that such metrics are normalized to exclude major events such as ice storms, hurricanes, and other extreme weather events. (Id. at 144.) Targeting improvements to the Company's storm response, DEC included self-optimizing grid (SOG) technology as part of its suite of GIP programs. Witness Oliver provided a real life example of the reliability benefits that stand to be gained by the residential class from implementation of the SOG technology: in early 2020, DEC was able to deploy newly-installed SOG technology in the Charlotte area after severe storms and tornadoes caused severe damage to DEC's system. Because of the SOG technology, 3,000 DEC customers—the vast majority, if not all, of whom we can assume were residential customers or small commercial customers without their own back-up generation resources—were without power for about five minutes instead of the estimated 24 hours they would have been out had the SOG technology not been available. (Id. at 144-45.) In addition to reducing power outage times caused by severe weather events, witness Oliver also testified that GIP programs will reduce storm costs overall, an ancillary effect expected to benefit all customer classes. (Id. at 149.)

In addition, witness Oliver testified that the benefits of increased enablement and improved leveraging of DERs on DEC's system, another expected benefit of the GIP, will flow almost entirely to the residential class. Witness Oliver's testimony in response to questions from Commissioner Clodfelter was particularly informative on this topic:

> Q. . . . Staying now with the capacity benefits from the program, on – in your rebuttal testimony, you say that the self-optimizing grid component is going to allow for the deferral of capacity. And I wasn't really clear whether that is generating capacity you were talking about again or bulk systems, transmission capacity, or capacity at the distribution level. What really are we deferring? What are we going to be deferring?

A. Yeah. So we valued – in the self-optimizing grid CBA, we valued hosting capacity. Hosting capacity is – and we value that, I think the number is about 340 megawatts of additional hosting capacity as we go through and build that system. And typically hosting capacity would be used for, in this case, private DER, like rooftop solar for both residential.

. . .

Q. . . . I want you to talk to me a little bit too about the cost-benefit analysis for the self-optimizing grid. One of the components in that predicts a $53.4 million additional enablement of distributed generation benefits beginning in year 2028 and then growing thereafter. I want to – describe what those benefits are. How is that going to be realized? And how are you able to quantify that?

A. Yeah. So our engineers that put together the cost-benefit analyses take a look at the projected growth in private DER, which typically is rooftop solar, and the value that brings to the system and the value that the hosting capacity being able to host that brings to the system. . . . Another – and I don't believe we valued it this way, but the other important piece of that is ability for growth in electric vehicles, particularly at the fleet level, which we believe is going to be something very important that's going to happen much sooner than we expect.

So it's based on projections of private DER growth and the ability for us to effectively host and leverage that growth.

Q. Well, if I understand you, that's predominantly rooftop solar, it's not utility-scale solar; is that correct?

A. That is correct. Utility-scale solar is handled differently. Utility-scale solar, third-party-owned solar has its own set of rules, it's own set of requirements. Typically third-party-owned solar providers pay their [own] interconnection charges. The system has produced, in North Carolina, some pretty solid effects for us. We are number two in the nation for utility-scale solar, yet have among the lowest rates also in the nation. . .

(emphasis added) (Tr. vol. 6, at 27-28, 30-32.)

Later, testifying in response to additional questioning by Commissioner McKissick, witness Oliver reiterated that the residential class is driving a lot of the need for other GIP programs besides the SOG suite of programs, including IVVC.

Q. Okay. Now, of course, we're looking at a three-year window right now, in terms of what's being proposed, but I assume there must be a

longer-term strategic plan for the grid improvement-type programs that would . . . look out . . . perhaps 5 years, 10 years that gives a more holistic approach to how you plan to fully implement programmatic enhancements that would fit within the definition and confines of grid improvements.

Now, is that available to be shared? . . . [A] more holistic – what I call systematic approach in terms of an implementation strategy?

A. Yes, sir. I think that's – that's very important, and I'll give you two examples of that. So the IVVC program that we're implementing in DEC affects about 60 percent of the circuits in DEC. DEC has about 2,000 circuits to serve the 2.3 million customers. And the way we put that project together, that program together, was to take the most cost-effective circuits for IVVC and put them in a package. There is benefit in doing the rest of the circuits. There certainly is. And that might be an opportunity to look at, from a system perspective. But this, you want to do it all at this point --

Q. Right.

A. -- this particular package that made sense for this three-year plan and have an opportunity for our stakeholders to weigh in on what they thought we should go next. Self-optimizing grid is another example. We selected the circuits generally are in the more suburban areas where there's a lot of homes that can be potentially enabled with electric vehicles and rooftop solar. It doesn't mean that doesn't happen in other parts of the state, it certainly would, but we wanted to take this particular three-year program and target it where we thought would get the most benefit the fastest and wanted to be ready.

(emphasis added) (Id. at 58-59.)

In addition to the evidence conclusively demonstrating that the residential class (1) are in part driving the need for some of the grid improvements contemplated by the GIP, and (2) will derive substantial quantitative and qualitative benefits—improved reliability and otherwise—from the GIP, CIGFUR contends that if anything, the projected benefits flowing to the residential class as a result of the GIP are understated by the methodologies used in the underlying cost-benefit analyses and evaluation by the Public Staff in its investigation. First, it is undisputed that loss production—the metric used to valuate projected benefits to the industrial class—is objective and easily quantifiable,

whereas analogous valuations for the residential class are entirely subjective and impossible to quantify in a fair, consistent manner (it's infinitely easier, after all, to calculate and multiply the unit cost of widgets than when talking about human life, quality of life, career success, the list is infinite and variable for each person…). Second, all of the cost-benefit analyses and data upon which the Company and the Public Staff, respectively, used to reach their conclusions about projected benefits flowing to each customer class through implementation of the GIP were conducted prior to the beginning of the COVID-19 pandemic and subsequent shock wave and ripple effects the pandemic has sent through the way in which America lives, socializes, and works. (Tr. vol. 9, 63, 72.) DEC witness Hager's testimony on this point in response to questions by CIGFUR's counsel should be sufficiently compelling as to call into question the existing practices with valuing avoided customer interruptions for the residential class by assigning them a blanket, nominal value across the board:

> Q. So that said, Ms. Hager, the interruption cost estimates for the Residential class included as part of the GIP analyses were pre-COVID, correct?
>
> A. (Hager) Yes. That would be correct.
>
> Q. And so those estimates don't reflect the fact that a significant portion of the workforce has worked from home in 2020; is that right?
>
> A. That's correct, and I think that illustrates the changing nature of benefits realized by customers.
>
> Q. I believe Mr. Jenkins asked you about the impossibility of valuing interruption cost for that residential customer who is on a 24-hour ventilator; is that right?
>
> A. Yes.
>
> Q. But in today's COVID-19 era, there's also a lot more common and perhaps extreme examples. Just take one, for example, that all of us here

today should be able to relate to, what about an expert witness testifying from home in this virtual proceeding? What value do you think that residential customer in that situation would place on avoiding a power outage?

A. It would be very high.

Q. So that's just one example, but what a significant portion of today's workforce continuing to work from home and perhaps continuing to work from home even beyond COVID-19, is it fair to say that a significant amount of commerce and business is being conducted from home?

A. You know, anecdotally, I think that's certainly true. I don't have any documents . . . I don't have any data to back that up, . . . but I think that's certainly a whole different paradigm than it was a year ago.

Q. And so I think you've sort of made my point and jumped to my conclusion here before I had a chance to do so, so thank you for that. But it's correct, is it not, that no studies have been conducted yet to reevaluate the customer interruption cost in today's COVID-19 era with a significant portion of the workforce working from home?

A. That is true. I'm not even sure when those estimates were made. I heard some discussion of it in talking with Mr. Oliver, but they are very much broad estimates and they were pre-pandemic.

(Tr. vol. 13, 126-28.)

For all these reasons, CIGFUR takes the position that the testimony of DEC witness Oliver and DEC witness Hager should be given significantly more weight than that of Public Staff witness Thomas on these issues. CIGFUR contends that witness Thomas' position severely underestimates the anticipated benefits expected to flow to the residential class from the GIP on one hand, and simultaneously overstates the anticipated benefits of the GIP to the industrial class on the other. (Tr. vol. 6, 136-37.)

It would be premature to decide cost allocation methodologies for GIP spending that has not yet occurred. The Commission should decide issues related to GIP cost allocation at the time when the Company seeks to recover its deferred GIP costs.

In response to the suggestion advanced by Public Staff witness Thomas—who is not the Public Staff's cost allocation or rate design witness—insinuating that the as yet undecided cost allocation methodology for the as yet unspent costs related to GIP implementation will be inequitable, CIGFUR fervently disagrees. In addition, CIGFUR contends that it would be premature and erroneous for any decisions regarding cost allocation of GIP spend to be made as part of this rate case; instead, such decisions should be made after the GIP has been implemented, and actual GIP spending is then known, at the time DEC files a general rate case seeking cost recovery of its deferred GIP costs.[2], assuming the Commission allows deferral of same. It should also be noted that witness Thomas, despite injecting into the instant rate case himself the misplaced idea that GIP costs should be based on wholly subjective benefit valuations, clarified that "at this time, I'm not recommending any changes to the allocation methodologies of those costs for GIP." (Tr. vol. 7, 65.)

The Commission should implement predetermined quantitative and qualitative criteria to evaluate the benefits and cost-effectiveness of GIP programs on an ongoing basis and should require transparent reporting related to same.

In addition to the conditions set forth in the CIGFUR Stipulation, DEC agreed to implement the GIP plan within the parameters agreed to by the Public Staff and DEC in the Second Stipulation. Such parameters include measures to increase accountability and transparency, such as a "measurement and verification process that [DEC] would

[2] Assuming the Commission approves DEC's request for deferral accounting treatment of GIP spending.

report on a biannual basis, that would be every six months. [DEC is] going to report on scope, schedule, budget, and expected benefits." (Tr. vol. 6, 16.) As part of such reporting, DEC also has agreed to review the cost-effectiveness of GIP programs on an ongoing basis, including to "reassess and determine should we stop or should we maybe transfer some money into other programs" if fewer actual benefits are recognized than were forecasted, or if actual costs exceed estimates. (Id.) While several of the Company's internal evaluation metrics were referenced in testimony throughout the hearings in these dockets, Company witness Oliver conceded that neither quantitative nor qualitative evaluation criteria have been conclusively agreed upon by the Public Staff and DEC as part of the required reporting elements associated with the GIP. (Id. at 17.)

For the reasons set forth herein, CIGFUR recommends that the Commission implement quantitative and qualitative evaluation criteria for the GIP, to be reported by DEC generally in new Company-specific dockets related to GIP implementation. CIGFUR recommends that the Commission consider instituting the following reporting requirements:

- Generally overall and specifically for each GIP program, the amount of anticipated vs. actual program costs and associated revenue requirement associated with each program, updated as plant is placed in service and therefore, cost projections become actual incurred costs. For each budgeted vs. actual cost deviation exceeding a variance threshold to be determined by the Commission or agreed upon by the parties, the Company should explain the reasons for such deviation(s).

- Generally overall and specifically for each GIP program, the revised cost-benefit analysis and conclusions reached when factoring in COVID-19, particularly with regard to how COVID-19 has caused drastically different habits and behaviors in the residential class of customers, including spending most or all time at home and/or working part-time, full-time, or exclusively from home.
- Generally overall and specifically for each GIP program, an itemization of the actual costs netted against actual benefits.
- Generally overall and specifically for each GIP program, the known and verifiable indirect benefits flowing to ratepayers, including but not necessarily limited to reliability improvements measured through customer interruptions (CI), customer minute interruptions (CMI), interruption cost estimates, System Average Interruption Duration Index (SAIDI), and System Average Interruption Frequency Index (SAIFI).
- Generally overall and specifically for each GIP program, the known and verifiable direct benefits flowing to ratepayers, including but not necessarily limited to amount of any electric bill savings; any operational benefits resulting in lower utility bills, such as a reduction in operating expenses associated with outages, storm costs, fuel, or other O&M cost savings which would float to customers; and/or capacity benefits that effectively decrease required reserve margins. (See Tr. vol. 7, 13.)
- Generally overall and specifically for each GIP program, the change in number of kilowatt hours used that reasonably can be attributed to the GIP.

- Generally overall and specifically for each GIP program, the growth in DERs that reasonably can be attributed to the GIP; as well as the Company's improved ability, reasonably attributable to the GIP, to leverage existing DERs to the advantage of DEC's system.
- Generally overall and specifically for each GIP program, the reduction to CO_2 emissions.
- For the IVVC program specifically, a netting of the costs and benefits of IVVC as compared to the existing DSDR program, and the amount and extent of resource or volt power systems advantages.
- For the self-optimizing grid, (1) amount of capacity deferred; (2) amount of hosting capacity and how such capacity is used for the benefit of specific customer class(es) (i.e. a residential customer's interconnection of rooftop solar panels to the distribution system, etc.); (3) amount of additional enablement of distributed generation and resulting benefits, and which customer class(es) and type(s) received what amount and proportional share of such benefits; and (4) reliability improvements and restoration efficiency associated with extreme weather events.
- For the lateral device program, an updated cost-benefit analysis.
- Whether and how the DER dispatch tool has successfully managed DERs, including whether it successfully obviates the need for large block load shed.
- Whether and to what extent GIP program(s) have enabled the Company to support fleet electrification.

- Whether, since the filing of the last report, there has been a change in current events or circumstances that materially affects the GIP or any components thereof, including any new legislative or executive policies that may be enacted, and an assessment regarding whether such changes reasonably necessitate reevaluation of any aspect(s) of the GIP or its component programs.
- Whether, since the filing of the last report, the Company has met with stakeholders or otherwise involved stakeholders in any plans the Company may have to extend the GIP beyond the initial time-limited duration of 3 years. In addition, the Company should endeavor to provide summaries of such feedback, and what steps DEC has taken to incorporate same.[3]

The provisions of the CIGFUR stipulation pertaining to the GIP are just and reasonable, in the public interest, and should be approved in their entirety.

As previously mentioned, CIGFUR supports the approval of DEC's requested GIP deferral with certain conditions detailed therein, including a reservation of its right to review and object to the reasonableness of specific GIP costs in a future rate case. (See CIGFUR Stipulation, § III.) Such provisions are consistent with those between the Company and the Public Staff and other intervenors, are reasonable and appropriate, and should be approved in their entirety. Although there was some contention by Public Staff witness Thomas that the CIGFUR settlement attempted to predetermine the cost allocation for GIP spending, that concern is misplaced and simply not reflected in the plain

[3] On cross-examination by counsel for CUCA, DEC witness Oliver testified that while the GIP program is limited in duration to three years, investment in the grid will be needed beyond the three-year plan contemplated by the GIP. (Tr. vol. 4, 130.) However, witness Oliver confirmed that the Company does not at this time have any known or definite plans to seek Commission approval of future grid-related programs. Moreover, witness Oliver testified that the Company would first "need to work with [the Stipulating Parties] in a similar way that we did for [the GIP program]" before proposing any additional or expanded grid investment for Commission review and approval. (Id. at 129.)

language of the CIGFUR Stipulation instead. Rather, the CIGFUR Stipulation merely contemplates that the Company will agree to propose allocation of GIP spending in a manner that is consistent with both the instant rate case as well as the cost allocation methodology approved by the Commission in DEC's last rate case, Docket No. E-7, Sub 1146. Such proposal would be subject to a full review by the Public Staff and other intervening parties in DEC's next general rate case, with the ultimate decision remaining in the Commission's sole discretion. (See, e.g., Tr. vol. 22, p. 139.) For these reasons, the provisions of the CIGFUR Stipulation relating to the GIP should be approved in its entirety.

COST ALLOCATION ISSUES

Cost Causation Principles

Rates should be set based upon cost of service, without subsidies or unreasonable discrimination, in order to send appropriate price signals. Establishing class rates and structures based on actual cost of service is critical to the effective implementation of demand-side management programs. If ratepayers do not receive the proper price signals through rates, they cannot be expected to act as a rational consumer of electric service. For example, if a customer class is being subsidized by another customer class, the subsidized class receives an artificially deflated price signal. Artificially deflated price signals fail to appropriately incentivize effective demand-side management measures, making the ratepayers whose price signals are inaccurate less likely to engage in same than if their rates properly reflected the actual cost of service.

Allocation of Generation and Transmission Costs

It should be emphasized at the outset that cost causation is the primary driver and basis for choosing an appropriate cost causation methodology. DEC witness Hager testified in support of the SCP methodology for allocation among jurisdictions and among customer classes. She explained that a coincident peak allocator assigns the fixed demand-related costs to the jurisdictions and customer classes in proportion to their respective contribution to the system's maximum hourly demand during the test period. (Tr. vol. 12, 191.) Witness Hager explained that the SCP in the test year is within the range of previous SCP occurrences, and it is therefore appropriate to assign fixed demand-related costs to the Company's jurisdictions and customer classes based upon the SCP. (Id. at 192-93.)

As discussed and supported in DEC's integrated resource plans, the Company transitioned to winter capacity planning in 2016. (Id. at 210.) As a result, the Commission previously has noted that "This change will require more attention in the Company's next general rate case… The Commission concludes that DEC should file annual cost of service studies based on Winter Coincident Peak as well as the SCP and SWPA methodologies. In its next general rate case, the Company shall prepare cost of service studies based on each of these methodologies." Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction, Docket No. E-7, Sub 1146, pp. 83-84 (June 22, 2018).

Because DEC has transitioned from a summer peaking to a winter peaking utility over the last several years, future consideration should be given to transitioning from SCP methodology to Winter Coincident Peak (WCP) methodology, which would more

appropriately reflect the Company's actual planning peak in accordance with accepted cost causation principles. While historically DEC based its projected need for resources on the need to meet summer afternoon peak demand projections, the significant growth of solar energy generation has helped DEC meet summer afternoon peak demands on the system. By contrast, solar energy generation does little to accommodate demand on cold winter mornings. The result of these developments is that DEC has experienced a dominant winter peak in 2014, 2015, and 2018 (test year). (Tr. vol. 12, p. 237.) In addition, DEC now uses the winter peak for system planning, including calculation of reserve margin, and determining its need for additional generation facilities. DEC is forecasted to remain winter-peaking through 2026, which marks the end of the planning horizon. (Id.)

The CIGFUR Stipulation provides that DEC and CIGFUR agree to meet prior to the Company's next general rate case to discuss potential cost of service methodologies that the Company may recommend for the purpose of allocating generation and transmission costs. (CIGFUR Stipulation, § V.A.) In addition, the parties agreed that in its next rate case, DEC should file the results of a class cost of service study with production and transmission costs allocated on the basis of the Summer/Winter Coincident Peak Method in its next rate case. That is not to say, necessarily, that such method will be the method advanced by the Company in its next general rate case, bur rather, that it will be one cost allocation method among many that the Company has agreed to investigate prior to its next rate case. (See Tr. vol. 12, 82-83.) And it most definitely does not mean that such method is in any way preordained or binding on any of the other parties or the Commission.

It should also be emphasized that as part of the Second Stipulation between the Public Staff and the Company, the Company has agreed to evaluate no less than six cost allocation methodologies. (See id. at 83.) These settlement provisions are not in any way an outlier or out of the normal course of business, or otherwise inconsistent with past precedent, particularly given that the Company routinely files multiple cost-of-service studies as part of its rate case application. For example, in the instant case, the Company filed SCP, WCP, and SWPA, but only recommends one methodology; in this case, it was the SCP. (See Tr. vol. 13, 83; Tr. vol. 19, 78-79.)

For all these reasons, the CIGFUR Stipulation is just and reasonable, in the public interest, and should be accepted in its entirety.

Allocation of Distribution Costs

The minimum system method has long been used in the cost of service study to ascertain those costs that are customer-related, and then used to design and set rates. The Company has filed minimum system study results in every case for decades and the Commission has a long-standing precedent of approving same. Moreover, at the Commission's directive, the Public Staff studied and published a 78-page report on the minimum system methodology on March 28, 2019, in which it concluded that "[w]hile not precise, MSM is a logical methodology for classifying costs of a distribution system as demand- or customer-related." (Ex. vol. 13, 325-403.)

The evidence presented in these proceedings that the minimum system method employed by the Company is flawed is unpersuasive, and the Commission should accept it as appropriate for cost allocation in this proceeding. Moreover, the Commission should accept the provisions in the CIGFUR Stipulation related to the minimum system method.

As agreed pursuant to the CIGFUR Stipulation, the Company will propose to allocate distribution expenses using the minimum system method. (CIGFUR Stipulation, § V.D.) In the event the Commission orders a different approach for allocating distribution expenses, the Company may, but is not obligated to, propose the minimum system method. (See id.) By approving the CIGFUR Stipulation, the Commission would in no way be bound to continue using the minimum system method in the future. However, it should be noted that DEC has used the minimum system method for decades and has strongly advocated for its continued use any time it has been challenged. As with other provisions of the CIGFUR Stipulation already addressed herein, no provision of the CIGFUR Stipulation binds the Commission to specific cost allocation methodologies or rate design decisions in future rate cases.

For all these reasons, the CIGFUR Stipulation is just and reasonable, in the public interest, consistent with overwhelming past precedent, and should be accepted in its entirety.

RATE DESIGN

Rate design provides cost-effective energy efficiency and conservation measures. Demand response rates, including innovative interruptible rates, are especially appropriate in times of rising costs, increasing demand, and diminishing excess capacity. The rate design provisions contained within the CIGFUR Stipulation serve the public interest in that they will allow for collaborative, constructive conversations between CIGFUR and the Company in furtherance of the goal to design rates that:

a. More accurately reflect fuel costs by time of day and season and charge customers for the actual cost of fuel in a more precise manner than an annual average uniform charge on all energy;

b. Promote demand-response mechanisms that offer lower rates for metered decreases in demand when reductions in demand are in the economic and operating interests of the Company and, thus, the financial interests of ratepayers;

c. Allow for trade-offs between reliability and economic considerations that industrial, high-load factor ratepayers can weigh through interruptible rates, benefitting both the Company and all classes of ratepayers;

d. Include real-time pricing with attendant options and risk variations; and

e. Reflect that some industrial, high-load factor ratepayers have independent back-up and/or cogeneration resources.

In the CIGFUR Stipulation, the Company agreed to explore several items related to rate design issues, whether through a comprehensive rate design study or otherwise. (See CIGFUR Stipulation, § V.E.) None of the rate design provisions contained within the CIGFUR Stipulation bind the Commission to rule or not rule in any way in future rate cases and does not even require the Company to propose a certain rate unless, through the comprehensive rate design process, it finds such a rate would be appropriate and it is about to reach agreement with CIGFUR regarding the terms of such rate. (See e.g. Tr. vol. 22, 138-39.) For all these reasons, the CIGFUR Stipulation is just and reasonable, in the public interest, and should be accepted in its entirety.

EXCESS DEFERRED INCOME TAX (EDIT)

The CIGFUR Stipulation further provides pertinent part that unprotected EDIT should be returned to customers on a uniform cents-per-kilowatt-hour (cents/kWh) basis. (See CIGFUR Stipulation, § IV.) Subsequently, the Company and the Public Staff entered into the Second Stipulation, providing in pertinent part that unprotected EDIT should be returned to customers on a levelized basis. (See Second Stipulation, § III.A. 2, 3; Tr. vol. 4, 69.) Despite the Public Staff's consternation to the contrary during the hearings, CIGFUR contends there is nothing inconsistent between the provisions governing the return of unprotected EDIT in the CIGFUR Stipulation and Second Stipulation, respectively. Moreover, CIGFUR contends that these two methods for refunding unprotected EDIT are not mutually exclusive; rather, they may both be used concurrently and simultaneously with respect to the EDIT Rider. (See Tr. vol. 12, 278; see also Tr. vol. 22, 145-46; Pirro Second Settlement Exhibit 9, Ex. vol. 13, 528.)[4]

CIGFUR contends that by approving the uniform cents-per-kilowatt hour refund of EDIT to customers, as agreed to in the CIGFUR stipulation, the different customer classes are moved closer to parity with the actual costs to serve each class. Moreover, the EDIT

[4] Pirro Direct Exhibit 9 provides the derivation of the Company's original proposed EDIT Rider through which the Company proposes to refund amounts owed to customers due to reductions in corporate federal and state income tax rates. As a result of the Company's First partial Settlement with the Public Staff, the Company has agreed to return protected federal EDIT to customers through base rates instead of the EDIT Rider. In addition, as described in the Second Partial Settlement, the Company and the Public Staff have agreed that all unprotected federal EDIT should be returned to customers over a five-year amortization period and that North Carolina EDIT and deferred revenues related to the provisional overcollection of federal income taxes should be returned to customers over a two-year amortization period. Under the CIGFUR Settlement, the Company has agreed to refund unprotected EDIT and deferred revenues on a uniform cents per kilowatt-hour basis. Pirro Second Settlement Exhibit 9 recalculates the proposed EDIT Rider rate credits to reflect these provisions of the First Partial Settlement, Second Partial Settlement, and CIGFUR Settlement.

(Tr. vol. 12, 278.)

Rider presents an unique opportunity to bring the parties closer to parity without necessitating a higher bill for the residential class, given that the EDIT Rider involves a bill credit. In other words, flowing back EDIT as a credit to customers on a uniform per/kWh basis allows for more accurate price signals to be sent to each respective class, without violating principles of gradualism or raising concern regarding rate shock to the residential class.

In addition, refunding the EDIT on a levelized, cents/kWh basis aligns with principles of "gradualism" while also moving overall rates closer to a more cost-justified rate parity and price signals. Moreover, the Company has in the past refunded unprotected EDIT to customers, as recently as Docket No. E-7, Sub 1146, on a uniform cents/kWh basis. No party has presented a compelling reason to depart from past precedent, and any argument that the CIGFUR Stipulation and Second Stipulation between the Public Staff and the Company are inconsistent with respect to EDIT treatment is misplaced. Given the fact that the CIGFUR Stipulation was filed in these dockets months before the Second Stipulation, such an argument presumes that both the Public Staff and the Company would knowingly and voluntarily agree to enter into a settlement that would undermine or otherwise contradict an existing and no less binding and enforceable settlement agreement. Such an argument is simply misplaced.

CONCLUSION

For the foregoing reasons, CIGFUR respectfully recommends that the Commission accept and approve the CIGFUR Stipulation in its entirety.

Respectfully submitted, this the 4th day of November, 2020.

CIGFUR III

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CERTIFICATE OF SERVICE

The undersigned attorney for CIGFUR III hereby certifies that she caused the foregoing *Post-Hearing Brief of CIGFUR III* to be served upon the parties of record in this proceeding by electronic mail.

This the 4th day of November, 2020.

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