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March 25, 2020

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

**RE: Application of Duke Energy Carolinas, LLC for Adjustment of Rates and Charges Applicable to Electric Service in North Carolina, Request for an Accounting Order and to Consolidate Dockets
Docket No. E-7, Sub 1214**

Dear Clerk Campbell:

I enclose the Partial Settlement Agreement between Duke Energy Carolinas, LLC and the Public Staff – North Carolina Utilities Commission for filing in connection with the referenced matter.

If you have any questions, please let me know.

Sincerely,

Camal O. Robinson

Enclosures

cc: Parties of Record

OFFICIAL COPY

Mar 25 2020

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

In the Matter of:
DOCKET NO. E-7, SUB 1214
Application of Duke Energy Carolinas, LLC
For Adjustment of Rates and Charges
Applicable to Electric Service in North Carolina
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 1187
Petition 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

AGREEMENT AND
STIPULATION OF
PARTIAL SETTLEMENT

Duke Energy Carolinas, LLC ("DEC" or the "Company") and the Public Staff, North Carolina Utilities Commission (the "Public Staff"), collectively referred to herein as the "Stipulating Parties" through counsel and pursuant to N.C. Gen. Stat. § 62-69, respectfully submit the following Agreement and Stipulation of Partial Settlement ("Stipulation") for consideration by the North Carolina Utilities Commission ("Commission") in the above captioned dockets.

I. BACKGROUND

1. In 2018, the Company incurred significant storm expenditures from Hurricanes Florence and Michael and Winter Storm Diego (individually, the "Storm" and collectively, the "Storms"). Subsequently, the Company filed a Petition for an Accounting

Order to Defer Incremental Storm Damage Expenses Incurred as a Result of Hurricanes Florence and Michael and Winter Storm Diego, in Docket No. E-7, Sub 1187 (“Storm Deferral Docket”).

2. On November 6, 2019, Senate Bill 559, An Act to Permit Financing for Certain Storm Recovery Costs (“SB 559”), was signed into law.¹ SB 559 amended Article 8 of Chapter 62 of the North Carolina General Statutes to create a new financing tool that an electric public utility may use to recover storm recovery costs. SB 559 established a process by which an electric public utility in the State may petition the Commission for a financing order authorizing the issuance of storm recovery bonds; the imposition, collection, and periodic adjustments of a storm recovery charge; the creation of storm recovery property; and the sale, assignment, or transfer of storm recovery property. Before issuing a financing order, the Commission must find that the issuance of the storm recovery bonds and the imposition of storm recovery charges are expected to provide quantifiable benefits to customers as compared to the costs that would have been incurred absent the issuance of storm recovery bonds.

3. While SB 559 was pending before the General Assembly but not yet signed into law, on September 30, 2019, DEC filed an application (“Application”) with the Commission in Docket No. E-7, Sub 1214 requesting a general rate increase, pursuant to N.C. Gen. Stat. §§ 62-133 and -134 and Commission Rule R1-17, along with direct testimony and exhibits. The Application requests a non-fuel base rate increase of approximately 9.2 percent in retail revenues, or approximately \$445.3 million. DEC further proposes to partially offset the increase in revenues by refunding \$154.6 million

¹ S.L. 2019-244.

related to certain tax benefits resulting from the Federal Tax Cut and Jobs Act through a proposed rider. The net revenue increase with the rider is \$290.8 million, which represents an approximate overall 6.0% increase in annual revenues. The revenue increase is based upon a 10.30 percent return on equity (“ROE”) and a 53 percent equity component of the capital structure.

4. The Application also includes a request to consolidate the Storm Deferral Docket with the rate case. In the rate case, the Company seeks to amortize the incremental costs of the Storms over an eight-year period, including a return on the unrecovered balance, and with respect to the capital investments, a deferral of depreciation expense and a return on the investment. In his testimony, Company witness Stephen G. De May, North Carolina President, stated that if SB 559 was passed into law, the Company would pursue securitization if it provided a savings to its customers and would cease the recovery of the remaining storm costs in current rates, and instead begin recovering the remaining unrecovered storm costs as provided for in a securitization financing order.²

5. On October 29, 2019, the Commission issued an order establishing a general rate case, suspending rates, scheduling hearings and requiring public notice of the Company’s Application. On November 20, 2019, the Commission issued an order consolidating the general rate proceeding in Docket No. E-7, Sub 1214, with DEC’s request for approval of its Prepaid Advantage Program in Docket No. E-7, Sub 1213.

6. On February 14, 2020, the Company filed supplemental direct testimony and exhibits. On February 18, 2020, the Public Staff, and the other intervenors in this proceeding, filed testimony. Among other things, Public Staff witness Michelle M.

² *De May Direct Testimony* at 10-11.

Boswell made an adjustment to remove all capital and O&M costs associated with the Storms in the present case because the Company indicated that it would seek securitization if authorized by the General Assembly. Witness Boswell also stated that based upon the Public Staff's review of the costs the Company has included in the present case, the Public Staff believes the costs associated with these Storms were prudently incurred.³

7. The Public Staff filed first supplemental testimony and exhibits on February 25, 2020, and corrections to certain testimony on February 24, February 29, and March 4, 2020.

8. On March 4, 2020, the Company filed its rebuttal testimony. Among other things, Company witness De May stated in his testimony that the Company looked forward to pursuing securitization at the appropriate time but believed the cost of the Storms should remain a part of the Company's request in this proceeding until the Commission reaches the same determination of the Company and the Public Staff that the costs were prudently incurred, and the Commission subsequently approves a financing petition.

9. On March 25, 2020, the Public Staff filed supplemental testimony and exhibits.

10. The parties to this proceeding have conducted substantial discovery on the issues raised in the Application, as well as on the direct, supplemental and rebuttal testimonies of the Company and the direct and supplemental testimonies of the Public Staff. Prior to the evidentiary hearing, the Stipulating Parties reached a partial settlement with respect to some of the revenue requirement issues presented by the Company's Application, including those arising from the supplemental and rebuttal testimonies and

³ *Boswell Direct Testimony* at 27-28.

exhibits. In addition, the Stipulating Parties have reached a settlement as it relates to the ratemaking treatment of the cost of the Storms. The Stipulating Parties agree and stipulate as follows:

II. UNRESOLVED ISSUES

The Stipulating Parties have not reached a compromise on the following issues (“Unresolved Issues”):

1. Coal ash costs - Cost recovery of the Company’s coal ash costs, recovery amortization period and return during the amortization period.
2. Deferred Non-Asset Retirement Obligation (“ARO”) Environmental Costs Amortization Period – Whether the Company’s proposed amortization period of five (5) years should be approved versus the Public Staff’s proposed amortization period of (10) ten years.
3. Adjustment for Hydro Station Sale: - Whether the Company’s proposed amortization period of seven (7) years of the loss on the sale should be approved versus Public Staff’s recommendation of a twenty (20) year amortization period.
4. Excess Deferred Income Taxes (“EDIT”) – The following components of the Company’s EDIT rider proposal remain contested both in length of amortization period and method of recovery: Unprotected federal EDIT, North Carolina EDIT and Deferred Revenue. The parties agree on the treatment of federal

protected EDIT as described below in the Resolved Issues.

5. Return on Equity (“ROE”) – Whether the Company’s proposed ROE of 10.3% should be adopted versus the Public Staff’s proposed ROE of 9.0%.

6. Capital Structure – Whether the Company’s proposed equity ratio of 53% should be adopted versus the Public Staff’s proposed equity ratio of 50%.

7. Cost of Debt- The appropriate debt cost that should be adopted for the Company.

8. Cost of Service Allocation Methodology – The methodology for allocating the Company’s production demand related costs.

9. Depreciation Rates – The depreciation rates appropriate for use in this case, including whether the Company’s proposal to shorten the lives of certain coal-fired generating facilities should be approved.

10. Grid Improvement Plan - Whether the Company’s request to defer certain categories of costs should be approved as appropriate costs under the Company’s proposed Grid Improvement Plan and whether those costs are eligible for deferral under the Commission’s deferral standards.

11. Clemson Combined Heat and Power facility- Whether it is appropriate for DEC to recover the costs of this facility from North Carolina customers.

12. Any other revenue requirement or non-revenue requirement issue other than those issues specifically addressed in this Stipulation or agreed upon in the testimony of the Stipulating Parties.

III. RESOLVED ISSUES

The Stipulating Parties have reached an agreement regarding the following revenue requirement issues (“Resolved Issues”). The actual amount of the agreed-upon adjustments may differ due to the effects of the Unresolved Issues. The revenue requirement effects of the agreed-upon issues are shown on Boswell Supplemental and Stipulation Exhibit 1. The revenue requirement impacts of this Stipulation provide sufficient support for the annual revenue required on the issues agreed to in this Stipulation. No Stipulating Party waives any right to assert a position in any future proceeding or docket before the Commission or in any court, as the adjustments agreed to in this Stipulation are strictly for purposes of compromise and are intended to show a rational basis for reaching the agreed-upon revenue requirement adjustments without either party conceding any specific adjustment. The Stipulating Parties agree that settlement on these issues will not be used as a rationale for future adjustments on contested issues brought before the Commission. The areas of agreement are as follows:

Storm Costs

1. DEC hereby accepts Public Staff’s adjustments to remove the capital and O&M costs associated with the Storms and to reflect a 10-year normalized level of storm expense for storms that would not otherwise be large enough for the Company to securitize.
2. DEC agrees to file a petition for a financing order under N.C. Gen. Stat. §

62-172 no later than 120 days from the issuance of an Order by the Commission in this rate case in which the Commission makes findings and conclusions regarding the costs of the Storms and this Stipulation, unless a party in the rate case appeals the Commission's order as it relates to costs of the Storms or the provisions of this Stipulation related to the costs of the Storms and securitization. If an appeal is filed, the 120-day limit shall be suspended until the Commission decision is affirmed, or if not affirmed, until the issuance of a Commission Order on remand following the decision on the appeal, unless the Company chooses before that time to pursue recovery under subsection (5), in which case the original 120-day limit shall be deemed to have applied. Should DEC fail to file a petition within the time period specified in this paragraph, the parties agree that in any subsequent ratemaking proceeding held to provide for recovery of the costs of the Storms, the parties reserve the right to assert their respective positions regarding the appropriate ratemaking treatment of the cost of the Storms.

3. The Stipulating Parties agree that to demonstrate quantifiable benefits to customers in accordance with N.C. Gen. Stat. § 62-172(b)(1)g., the Company must show that the net present value of the costs to customers using securitization is less than the net present value of the costs that would result under traditional storm cost recovery. For purposes of settlement for the cost of these Storms only, the Stipulating Parties agree that when conducting this comparison in the subsequent securitization docket for the Storms, the following assumptions shall be made:

- a. For traditional storm cost recovery, 12 months of amortization for each Storm was expensed prior to the new rates going into effect;
- b. For traditional storm cost recovery, no capital costs incurred due to the Storms during the 12-month period were included in the deferred balance;

- c. For traditional storm cost recovery, no carrying charges were accrued on the deferred balance during the 12-month period following the date(s) of the Storm(s);
 - d. For traditional cost recovery, the amortization period for the Storms is a minimum of 10 years; and
 - e. For securitization, the imposition of the Storm recovery charge begins nine months after the new rates go into effect
4. The Stipulating Parties agree that pursuant to N.C. Gen. Stat. § 62-172, the amortization of securitized costs of the Storms shall not begin until the date the storm recovery bonds are issued.
5. The Stipulating Parties agree that a storm cost recovery rider in this proceeding that will be initially set at \$0 should be established in the rate case. Should the Company not file a petition for a financing order or is unable to recover the costs of the Storms through N.C. Gen. Stat. § 62-172, the Company may request recovery of the costs of the Storms from the Commission by filing a petition requesting an adjustment to this rider. In such case, the Stipulating Parties reserve the right to argue their respective positions regarding the appropriate ratemaking treatment for recovering the costs of the Storms.
6. The Stipulating Parties agree to file a joint petition for rulemaking to establish the standards and procedures that will govern future financing petitions under N.C. Gen. Stat. § 62-172 upon the issuance of storm recovery bonds for the Storms.

Accounting Adjustments

7. The Company accepts the Public Staff's proposed adjustment to executive compensation to remove 50 percent of the benefits associated with the five Duke Energy executives with the highest amounts of compensation, in addition to the 50 percent of their

compensation removed in the Company's initial application.

8. The Stipulating Parties agree to amortize rate case expenses over a five-year period, but the unamortized balance will not be included in rate base.

9. The Stipulating Parties agree to remove aviation expenses associated with international flights, in addition to the 50 percent of the aviation expenses removed in the Company's initial application.

10. The Stipulating Parties agree that Company employee incentives should be adjusted to remove incentive pay related to earnings per share and total shareholder returns for the top levels of Company leadership.

11. The Stipulating Parties agree that certain sponsorships and donations expenses, including amounts paid to the U.S. Chamber of Commerce, should be excluded.

12. The Stipulating Parties agree that severance expenses should be amortized over a three-year period, but the unamortized balance will not be included in rate base.

13. The Company accepts the Public Staff's recommended adjustments to lobbying, Board of Directors, and retired hydro O&M expenses.

14. The Public Staff agrees to the Company's rebuttal position on credit card fees and advertising expenses.

15. The Company accepts the Public Staff's updated recommended adjustments to weather normalization, growth, and usage as reflected in Boswell Supplemental and Stipulation Exhibit 1.

16. The Stipulating Parties agree to remove the protected federal EDIT from the Company's proposed EDIT rider and return these amounts to customers through base rates.

IV. AGREEMENT IN SUPPORT OF SETTLEMENT; NON-WAIVER.

1. The Stipulating Parties shall act in good faith and use their best efforts to recommend to the Commission that this Stipulation be accepted and approved. The Stipulating Parties further agree that this Stipulation is in the public interest because it reflects a give-and take of contested issues and results in rates (with respect to the stipulated issues) that are just and reasonable. The Stipulating Parties agree that they will support the reasonableness of this Stipulation before the Commission, and in any appeal from the Commission's adoption and/or enforcement of this Stipulation.

2. Neither this Stipulation nor any of the terms shall be admissible in any court or Commission except insofar as such court or Commission is addressing litigation arising out of the implementation of the terms herein or the approval of this Stipulation. This Stipulation shall not be cited as precedent by any of the Parties regarding any issue in any other proceeding or docket before this Commission or in any court.

3. The provisions of this Stipulation do not reflect any position asserted by any of the Stipulating Parties but reflect instead the compromise and settlement among the Stipulating Parties as to all the issues covered hereby. No Party waives any right to assert any position in any future proceeding or docket before the Commission or in any court.

4. This Stipulation is a product of negotiation among the Stipulating Parties, and no provision of this Stipulation shall be strictly construed in favor of or against any Party.

V. RECEIPT OF TESTIMONY AND WAIVER OF CROSS-EXAMINATION

The pre-filed testimony and exhibits of the Stipulating Parties on Resolved Issues may be received in evidence without objection, and each Party waives all right to cross

examine any witness with respect to such pre-filed testimony and exhibits. If, however, questions are asked by any Commissioner, or if questions are asked or positions are taken by any person who is not a Party, then any Party may respond to such questions by presenting testimony or exhibits and cross-examining any witness with respect to such testimony and exhibits.

VI. STIPULATION BINDING ONLY IF ACCEPTED IN ITS ENTIRETY.

This Stipulation is the product of negotiation and compromise of a complex set of issues, and no portion of this Stipulation is or will be binding on any of the Stipulating Parties unless the entire Agreement and Stipulation is accepted by the Commission. If the Commission rejects any part of this Stipulation or approves this Stipulation subject to any change or condition or if the Commission's approval of this Stipulation is rejected or conditioned by a reviewing court, the Stipulating Parties agree to meet and discuss the applicable Commission or court order within five business days of its issuance and to attempt in good faith to determine if they are willing to modify the Stipulation consistent with the order. No Party shall withdraw from the Stipulation prior to complying with the foregoing sentence. If any Party withdraws from the Stipulation, each Party retains the right to seek additional procedures before the Commission, including cross-examination of witnesses, with respect to issues addressed by the Stipulation and shall be bound or prejudiced by the terms and conditions of the Stipulation.

VII. COUNTERPARTS.

This Stipulation may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument. Execution by facsimile signature shall be deemed to be, and shall have the same effect as, execution by original signature.

VIII. MERGER CLAUSE

This Stipulation supersedes all prior agreements and understandings between the Stipulating Parties and may not be changed or terminated orally, and no attempted change, termination or waiver of any of the provisions hereof shall be binding unless in writing and signed by the parties hereto.

The foregoing is agreed and stipulated this the 25th day of March 2020.

Duke Energy Carolinas, LLC

By: /s/ Stephen G. De May

Public Staff – North Carolina Utilities Commission

By: 

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Agreement and Stipulation of Partial Settlement, filed in Docket Nos. E-7, Sub 1214; E-7, Sub 1213; and E-7, Sub 1187, was served electronically or via U.S. mail, first-class postage prepaid, upon all parties of record.

This the 25th day of March, 2020.

/s/Mary Lynne Grigg

Mary Lynne Grigg

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