

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-22, SUB 562

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:)	
)	
)	
Application of Virginia Electric and Power)	Post-Hearing Brief of the Carolina Industrial Group for Fair Utility Rates I
Company, d/b/a Dominion Energy North)	
Carolina, for Adjustment of Rates and)	
Charges Applicable to Electric Service in)	
North Carolina)	

NOW COMES THE CAROLINA INDUSTRIAL GROUP FOR FAIR UTILITY RATES

I (“CIGFUR I”) and hereby respectfully submits the following brief in the above-captioned proceeding.

I. CIGFUR I SUPPORTS ITS AGREEMENT AND STIPULATION OF PARTIAL SETTLEMENT WITH VIRGINIA ELECTRIC AND POWER COMPANY, D/B/A DOMINION ENERGY NORTH CAROLINA (“DENC” OR THE “COMPANY”) (“DENC/CIGFUR STIPULATION”), WHICH REASONABLY AND FAIRLY RESOLVES THE MAJORITY OF CONTESTED ISSUES BETWEEN THESE PARTIES.

A. The stipulated cost of equity is reasonable resolution that fairly balances the interests of the Company’s shareholders and ratepayers.

On March 29, 2019, the Company filed an application (Application) in this docket for a general rate increase, pursuant to N.C. Gen. Stat. §§ 62-133 and 62-134 and Commission Rule R1-17. The filing was based upon a cost of equity or rate of return on equity (“ROE”) of 10.75%.

On August 23, 2019, CIGFUR filed the testimony of Nicholas Phillips, Jr., which, with regard to cost of equity, recommended that the Commission not authorize an ROE in excess of

the national average, which he stated to be 9.57% as reported by Regulatory Research Associates, an affiliate of SNL Financial. Phillips: Vol. 6, 429:6-7.¹

On September 17, 2019, the Company and the Public Staff – North Carolina Utilities Commission (“PSNCUC”) entered into and filed their Agreement and Stipulation of Partial Settlement (“DENC/PSNCUC Stipulation”) and stipulated to an ROE of 9.75%. On September 23, 2019, prior to the start of the evidentiary hearing, the Company and CIGFUR I entered into and filed the DENC/CIGFUR Stipulation, which also included a stipulated ROE of 9.75%.

In the Company’s last general rate case, the North Carolina Utilities Commission (“NCUC” or “Commission”) authorized an ROE of 9.9%. Order Approving Rate Increase and Cost Deferrals and Revising PJM Regulatory Conditions, Docket No. E-22, Sub 532 at p. 12 (December 22, 2016). . . In the present matter, Company witness Robert Hevert initially recommended a range of 10 percent to 11 percent, with a specific ROE recommendation of 10.75 percent. *See e.g.* Hevert: Vol. 4, 120:23 – 121:1.

Despite an earlier cost of equity recommendation of 10.75%, in Company witness Hevert’s stipulation support testimony, he acknowledged “since January 2016 the average authorized ROE for vertically integrated electric utilities was 9.74 percent, only one basis point from the Stipulated ROE. More recently, the median ROE authorized in 2019 has been 9.73 percent, just two basis points from the Stipulated ROE.” Hevert: Vol. 4, 116: 16-19. Mr. Hevert concluded:

[T]he Stipulated ROE is supported by returns authorized in other jurisdictions, including those whose regulatory climates are comparable to North Carolina. That finding is important, given the Company's need to compete for capital with other electric utilities. Second, although it is toward the lower end, 9.75 percent generally falls within the range of my model results. Together, those observations

¹ References in this brief to the hearing transcript are to the witness (if not otherwise apparent), volume, page(s), and line(s), i.e., Witness: Vol. __, page: line-line, or, page: line – page: line.

support my conclusion that the Stipulated ROE, in the context of the overall Stipulation, is a reasonable outcome.

Hevert: Vol. 4, 118: 9-15. While Commission is not bound by authorized ROE determinations set in other jurisdictions in determining the Company's authorized ROE in this case; "it is appropriate to note such past determinations as a check or as corroboration of the Commission's decision regarding the cost of equity demonstrated by the evidence in the present proceeding." Order Approving Rate Increase and Cost Deferrals and Revising PJM Regulatory Conditions, Docket No. E-22, Sub 532 at p. 13 (December 22, 2016).

Accordingly, because credible, competent, material, and substantial evidence demonstrates that the stipulated ROE of 9.75 percent is just, reasonable, and appropriate, CIGFUR I recommends that the revenues approved in this proceeding should provide the Company, through sound management, the opportunity to earn an ROE of 9.75%. CIGFUR further supports the stipulated ratemaking capital structure consisting of 52% equity and 48% long-term debt, as well as the embedded cost of debt agreed of 4.442 %, which are appropriate and reasonable, and which, based on the specific circumstances of this proceeding, result in an appropriate and reasonable weighted overall rate of return of 7.20%.

B. Specific to this proceeding, the Company's Summer-Winter Peak and Average methodology is appropriate for use in allocating the Company's per books cost of service to the North Carolina jurisdiction and between the customer classes, and the Commission should accept provision III.C. of the DENC/CIGFUR I Stipulation, which is reasonable.

In the Company's Application, it proposed to use the Summer-Winter Peak and Average ("SWPA") methodology to allocate production and transmission fixed costs jurisdictionally and between the customer classes. Haynes, Vol. 4: 371:6-17. CIGFUR I witness Phillips noted in this pre-filed testimony that:

The SWPA method is inconsistent with both DENC's method of planning for future capacity requirements, and the increase in the portion of its generating mix represented by natural gas, as outlined in its 2018 IRP. Additionally, the SWPA method over-allocates cost to large, high load factor, customers without a symmetrical fuel cost allocation. In contrast, the summer/winter coincident peak cost of service study is consistent with system planning and cost causation principles, and corrects the over-allocation of costs to large, energy intensive industrial customers . . .”

Phillips, Vol. 6: 425:1-10. However, Mr. Phillips advised that Commission that because “DENC's proposed method of distributing the requested increase to classes moves rates closer to cost in a meaningful manner, it should be implemented as proposed.” *Id.*, 416:11-13.

In reaching the DENC/CIGFUR I Stipulation the Company and CIGFUR agreed that:

. . . in its next general rate case, in addition to filing a class cost of service study based on the SWPA method weighted using the system load factor, the Company shall also 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 and consider such results for the sole purpose of apportionment of the change in revenue to the customer classes.

DENC/CIGFUR I Stipulation ¶ III.C. Previously, the Commission has stated:

The cost of service methodology is a crucial component in establishing an electric utility's general rates. The methodology employed should be the one that best determines the cost causation responsibility of the jurisdiction and various customer classes within the jurisdiction based on the unique characteristics of each class' peak demands and overall energy consumption.

Order Granting General Rate Increase, Docket No. E-22, Sub 479 at p. 23 (December 21, 2012).

Because the DENC/CIGFUR I Stipulation reasonably balances the stipulating parties' interests in the “crucial component” of the cost of service methodology, CIGFUR I respectfully urges the Commission to approve the DENC/CIGFUR I Stipulation, which will allow for more careful consideration of this important issue in the Company's next general rate case.

C. The Commission should also accept the provision III.E. of the DENC/CIGFUR I Stipulation, which is reasonable.

In the Company's last general rate case, NCUC Docket No. E-22, Sub 532, the Commission held that an RTP rate, if offered, could provide high load factor customers significant benefits and ordered DENC to propose a pilot or experimental RTP rate offering no later than July 1, 2017. *Dominion North Carolina Power*, Docket No. E-22, Sub 532, Order Approving Rate Increase and Cost Deferrals and Revising PJM Regulatory Conditions at 131 (December 22, 2016). While the Company complied with the Commission's order and the Commission approved such rates by order issued on December 6, 2017, to date, no customer have taken service under the Company's North Carolina RTP tariffs. The DENC/CIGFUR I Stipulation provides an opportunity to make progress toward developing RTP rates that will help to realize the significant benefits to high load factor customers identified in the 2016 base rate case. In pertinent part, the DENC/CIGFUR I Stipulation states:

The Stipulating Parties agree that, considering that: (1) the Commission directed the Company in its final order in DENC's previous rate case, Docket No. E-22, Sub 532, to file a pilot or experimental RTP rate; (2) the Company did file such rates on August 4, 2017 in that same docket; (3) the Commission approved such rates by order issued on December 6, 2017; and (4) no customers have taken service under such rates, the Company agrees to work with CIGFUR to consider whether certain provisions within such rates should be modified. If there is mutual agreement between CIGFUR and the Company to such modifications, and CIGFUR indicates that at least one of its member customers is willing to take service under such rates, the Company agrees to re-filing such rates with the Commission for approval with the modifications agreed upon between the Stipulating Parties within sixty (60) days of such agreement.

DENC/CIGFUR I Stipulation ¶ III.E.

In summary, CIGFUR I believes that for the reasons detailed above, the DENC/CIGFUR I Stipulation is in the public interest because it reasonably balances customer interests in mitigating rate impacts with investor interests in providing for reasonable recovery of

investments, thereby providing the necessary level of revenue requirement to allow the Company to maintain its financial strength and credit quality and continue to provide high quality electric utility service to its customers. Consistent with this sincerely held belief, CIGFUR I urges the Commission to accept and approve the DENC/CIGFUR I Stipulation and further respectfully requests, to the extent practicable, expedited consideration, and, to the extent legally permissible, leniency in reviewing any new industrial RTP rate(s) proposed by the Company arising out of the DENC/CIGFUR I Stipulation.

II. CIGFUR I OPPOSES THE TOTAL BASE REVENUE INCREASES ASSIGNED TO THE LARGE GENERAL SERVICE (“LGS”) AND 6VP CUSTOMER CLASSES AND THE PROVISION OF THE DENC/PSNCUC STIPULATION DRIVING THE EXCESSIVE ALLOCATION OF COSTS TO THESE CLASSES.

In negotiating the DENC/CIGFUR I Stipulation, the Company and CIGFUR I failed to achieve a compromise on the total base revenue increases the Company proposes to assign to the LGS and 6VP customer classes or the Company’s proposed rates of return (“ROR”) for the customer classes. There are multiple components that contribute to setting rates that are just and reasonable; among these components are the revenue requirement and cost allocation and rate design. Achieving a reasonable and just revenue requirement and properly allocating costs based upon the principles of cost-causation are each important in their own right. Because it is the totality of these components that result in overall rates that are just and reasonable, each component should be carefully considered in its own right. CIGFUR I commends the Company and PSNCUC for their efforts in working together to reduce the overall revenue requirement to the benefit of all customer classes and supports the DENC/PSNCUC Stipulation with one important exception: CIGFUR I urges the Commission to reject the provision of DENC/PSNCUC Settlement that states “[t]he parties agree that all classes should share in the total base rate revenue increase.”

The customer class revenue allocations proposed by the Company in compliance with this provision unreasonably and inequitably allocate excess cost to the Company's customers taking service under rate schedules LGS and 6VP and will force these classes to bear costs caused by other rate classes.

A. Background: CIGFUR I members are important to the regional economy of the Company's service territory and are extremely sensitive to increases in energy costs.

Regarding the condition of DENC's industrial base, Company witness Paul Haynes acknowledged the "importance of the industrial class in terms of the economic vitality of our communities in North Carolina" and "of the employment that they bring to those communities."

Haynes: Vol. 5, 37:20-23. He further testified that:

[S]ince the 2016 Rate Case, I am aware that the Company's service territory has had a large, high load factor industrial customer whose load once exceeded 12 MW and whose employment at one time exceeded 250 employees move almost all of its manufacturing operations to a sister facility in another service area. It remains an active account but has minimal usage. This customer had approached the Company prior to leaving and expressed a concern about the cost of electricity to run its operations at the facility.

Haynes: Vol. 4, 482:9-15. Mr. Haynes continued:

In a competitive environment, when at times even facilities within the same corporation are competing against each other to become more efficient and lower their cost, electricity usage and its pricing is a critical component to production decisions. I am aware of the decline in industrial customers and usage since the 1990s in our North Carolina service territory.

Id., 482:21-483:3.

In CIGFUR I witness Nicholas Phillips, Jr.'s pre-filed testimony, he described the contribution of CIGFUR I's members to DENC's service territory and system:

CIGFUR I members constitute a significant portion of the industrial base of DENC's service area. Industrial energy users play an important role in preserving the balance of the electric marketplace and their presence in the system is beneficial to residential and commercial customers. When large industrial load is

lost, remaining customers must pay the fixed cost portion of revenues previously borne by the lost industrial load.

Phillips: Vol. 6, 413:5-10. Mr. Phillips also explained CIGFUR I's members' sensitivity to increases in electricity costs:

Electricity represents a significant portion of industrial energy users' operating costs. Especially in light of global competitive concerns- both externally for customers and internally for capital-market forces increasingly dictate production and siting decisions for large manufacturers, it is no surprise, then, that electricity-intensive industrial customers show dramatic responses to changes in electricity prices. A material change in the cost of electricity has the potential to impact employment, production and investment levels for large customers such as CIGFUR I members. A rate increase is a serious concern for CIGFUR I members and the Commission should consider the impact thereof thoroughly and carefully to ensure that any increase in DENC's industrial rates are cost-based and only the minimum amount necessary for the utility to provide adequate and reliable service.

Id., 413:4-15.

B. The guiding cost allocation principles supported by the Company, PSNCUC, and CIGFUR I and other evidence in this docket overwhelming justify a need to move the LGS and 6VP classes toward parity with the North Carolina jurisdictional return to the maximum extent possible.

The Company's overall goal is to fairly apportion the revenue requirement in a way that moves the classes towards parity with the jurisdictional rate of return ("ROR"), while taking into account other factors that impact customers and the jurisdiction. Ultimately, revenue apportionment and rate design should provide the means to recover just and reasonable utility system costs in a manner that is: (i) consistent with the ways costs are incurred; (ii) fair to the entire body of customers; (iii) fair to each customer class; (iv) fair to customers within an individual class; and (v) fair to the utility's shareholders.

Haynes: Vol. 4, 384:8-18. In Mr. Haynes' pre-filed direct testimony, he noted that as evidenced by Company witness Robert Miller's Schedule 4², following ratemaking adjustments but before allocating the requested revenue increase, the class cost of service study demonstrated that," six of the seven classes "have existing rates of returns/indices that are significantly different from

² Company Exhibit REM-1, Schedule 4, which is included with the Official Exhibits to Volume 5 of the transcript.

the rates of return of the overall North Carolina jurisdiction.” Haynes: Vol. 4, 385:12-14. As described by Mr. Haynes, three rate classes demonstrated RORs below the North Carolina jurisdictional average of 6.0758% (or an index of 1.00):

- The outdoor and street lighting class, which demonstrated a class ROR of 2.0963% and a class index of 0.35;
- The residential class, which demonstrated a class ROR of 5.2713% and a class index of 0.87; and
- Nucor Steel (“NS class”), which demonstrated a class ROR of 5.1061% and a class index of 0.84.

Id., 385:14-18; see also Company Exhibit REM-1, Schedule 4. Conversely, the LGS class, 6VP class, and small general service and public authority (“SGS”) class each demonstrated RORs above the jurisdictional average, as shown below:

- The LGS class demonstrated a class ROR of 8.3710% and a class index of 1.38;
- The 6VP class demonstrated a class ROR of 7.6492% and a class index of 1.26; and
- The SGS class demonstrated a class ROR of 7.6671% and a class index of 1.26.

Id., 385:18-23; *see also* Company Exhibit REM-1, Schedule 4.

Class RORs and indexes demonstrate whether a customer class is paying rates consistent with the actual cost of providing service to that class. The Company and the PSNCUC use similar measures to determine when a class is over- or underpaying. Company witness Haynes uses the customer class indexes to determine whether a customer class is within the “parity index range,” which he defines as an index ranging between 0.90 and 1.10. Haynes: Vol. 5, 35:17-24. A class parity index falling in this range is within +/- 10% of the jurisdictional rate of return, which is the measure of reasonableness advocated by PSNCUC witness Jack Floyd. Floyd: Vol. 6, 76:11-15. If a customer class has an index or a class ROR that is less than 10% of the jurisdictional average, then that customer class’ rates are not fully aligned with cost in than the

customer class is paying less than its actual cost of service. Conversely, if a customer class has an index or a class ROR that is more than 10% of the jurisdictional average or a parity index of more than 1.10, then that customer class' rates are not fully aligned with cost in that the customer class is paying more than its actual cost of service. Haynes: Vol. 5, 36:7-18.

Per Mr. Haynes, the Company used the class cost of service study conducted by Mr. Miller and the resulting RORs and indices to guide the apportionment the non-fuel base rate revenue increase. Haynes: Vol. 4, 386:5-7. In Mr. Haynes' pre-filed direct testimony, he described four general and class-specific principles used by the Company to "equitably distribute" the initially sought base rate increase of approximately \$27 million³ in annual non-fuel revenue to North Carolina retail ratepayers:

1. All classes should share in the non-fuel base rate revenue increase in a manner that moves each class of customers closer to parity with the North Carolina jurisdictional ROR.
2. Generally, if a customer class has a ROR index less than 1.00, such class should receive a percentage increase that is greater than the overall jurisdiction percentage base rate increase. If a customer class has a ROR index greater than 1.00, such class should receive a percentage increase that is less than or equal to the overall jurisdiction percentage base rate increase.
3. For those classes outside of a reasonable return index range of 0.90 and 1.10 ("Parity Index Range"), an effort *must* be made to more reasonably align the rates customers pay with their responsibility for cost, even if the index achieved after apportionment still remains outside of the Parity Index Range. For purposes of apportioning the increase to the LGS, 6VP, and NS classes, which include the Company's large non-residential customers including the largest industrial customers, in addition to the class rates of return and resulting indices, consideration is also being given to the appropriate increase for these customer classes based upon certain non-cost factors that support a lesser increase for large industrial customers with high load factors within these classes.

Id., 386:8-387:8 (emphasis added).

³ McLeod: Vol. 4, 241:9-11.

PSNCUC witness Floyd also made recommendations as to the principles that should guide cost allocation with goals of equity, fairness, and minimizing rate shock to any individual class. Mr. Floyd recommended the following criteria:

- Limit any revenue increase assigned to any customer class such that each class is assigned an increase that is no more than two percentage points greater than the overall jurisdictional revenue percentage increase, thus avoiding rate shock;
- Maintain a $\pm 10\%$ “band of reasonableness” for RORs, relative to the overall jurisdictional ROR such that to the extent possible, the class ROR stays within this band of reasonableness following assignment of the proposed revenue changes;
- Move each customer class toward parity with the overall jurisdictional ROR; and
- Minimize subsidization of customer classes by other customer classes.

Floyd: Vol. 6, 76:3-19.

CIGFUR I witness Phillips recommended that fair and reasonable rates are low-cost to present and future customers, are based on the actual costs of providing service, do not result in interclass subsidization, and do not adversely impact business climate. Phillips: Vol. 6, 415:15-19. “The main objective of the Company’s revenue distribution is to apportion the revenue increase among the customer classes in a manner that brings each customer class closer to its cost of service, and closer to parity with the jurisdictional rate of return.” *Id.*, 425:14-16.

In Mr. Haynes’ pre-filed direct testimony, he also described other factors which deserve attention in determining how revenue should be apportioned to the LGS and 6VP classes:

[T]he Company has specifically considered . . . the quantity of our large industrial manufacturing customers’ electric usage in their industrial operations and the time of that usage. In general, these types of customers may operate during all hours of the day, including weekends, in multiple shifts. Industrial customers that utilize their facilities and manufacturing operations around the clock often use a lot of energy relative to their maximum demand for electricity. These customers’ loads typically vary less from one hour to the next over the course of the year than

do other classes of customers. In apportioning the revenue increase, I also consider factors such as factory utilization and the economic vitality of the Company's North Carolina service territory, as it relates to these industrial customers.

Haynes: Vol. 4, 387:16-388:5. Mr. Haynes further explained that the following factors distinguished the 6VP and LGS classes from other classes and justified giving them smaller than average increases:

1. Class RORs “well above the desired Parity Index Range;”
2. “The nature of the customer’ usage” – as is described immediately above; and
3. “[C]oncerns about the economic competitiveness of industrial customers and maintaining economic vitality of the Company’s North Carolina service territory.”

Id., 391:17-21.

Based upon the factors described in Mr. Haynes’ pre-filed direct testimony, the Company originally designed its rates in manner that CIGFUR I members believed fairly and equitably allocated costs amongst the customer classes and moved the LGS and 6VP classes toward parity with the overall North Carolina jurisdictional average. As demonstrated in Table 1 of Mr. Haynes’ pre-filed direct testimony, the original rate design submitted by the Company to the Commission moved the LGS class from a class index of 1.38, which was significantly above the parity index range, to an index of 1.13. *Id.*, 389:Table 1. While an index of 1.13 still indicated that that LGS class would have paid rates above the class’ true responsibility for cost, from CIGFUR I’s perspective a reduction of 25 index points and a class index that is only three index points away from the class parity range demonstrates a meaningful improvement in moving the LGS class toward cost-based rates and in reducing interclass subsidization. Even better, under the Company’s original rate design, the 6VP class moved from an index of 1.26 to an index of 1.03, which would have been well within the parity index range and would have demonstrated

rates that were more closely aligned with the 6VP class' responsibility for cost. *Id.* Finally, Mr. Haynes testified that in light of "the decline in industrial customers and usage since the 1990s in our North Carolina service territory," including the loss of one significant industrial customer since the Company's 2016 rate case, "[i]mprovements in the level of pricing and rate design for large high load factor customers in the LGS and 6VP classes have been made, and should continue in the establishment of rates in this proceeding." *Id.*, 482:9-483:6.

C. The DENC/PSNCUC Stipulation sacrifices the balance of cost-allocation principles advocated by the Company, the PSNCUC, and CIGFUR I in this proceeding by putting undue emphasis on a single-factor, resulting in costs allocated to the LGS and 6VP classes that are unreasonably, unjustly, and arbitrarily above cost.

On September 17, 2019, the Company and PSNCUC filed the DENC/PSNCUC Stipulation. With the one exception discussed herein, CIGFUR I fully supports the DENC/PSNCUC Stipulation which fairly balances the interests of ratepayers and the Company's shareholders. Mostly notably, if approved by the Commission, the DENC/PSNCUC Stipulation would reduce the Company's revised revenue request of approximately \$24 million by at least \$13,517,000. DENC/PSNCUC Stipulation at p. 4 (September 17, 2019). Clearly, this is a positive development for all ratepayers, and CIGFUR I fully appreciates that, under the stipulation, its members receive significantly lower increases when compared to the original filing. However, CIGFUR I expressly rejects the notion that its members should accept the burden of excessive costs and subsidize other ratepayer classes to support a reduced revenue requirement that benefits all of North Carolina retail. Such a notion is inequitable to the Company's industrial ratepayers, is contrary to prudent ratemaking, and is simply bad policy. CIGFUR I respectfully cautions the Commission to avoid setting such precedent to the detriment of North Carolina retail ratepayers.

At issue is the provision in the DENC/PSNCUC Stipulation governing the assignment of the revenue requirement amongst the customer classes. In whole, section VI.B. of the DENC/PSNCUC Stipulation states:

The Stipulating Parties agree on the following with regard to assignment of the revenue requirement and the accompanying rate schedules to be filed by the Company in compliance with the Commission's final order: i. To the extent possible, the Company shall assign the approved revenue requirement consistent with the principles regarding revenue apportionment described in the testimony of Public Staff witness Floyd. ii. The Parties agree that the Company shall implement the rate design proposed by Company witness Haynes in his direct testimony, filed contemporaneously with the Company's Application in this docket, as adjusted by this Stipulation. iii. In meeting the provisions of (1) and (2) in apportioning the approved revenue requirement to the customer classes, awareness and consideration shall be given to the rate of return indexes for the LGS and 6VP classes being above 1.20 and an appropriate rate of return index for the Schedule NS class. ***The parties agree that all classes should share in the total base rate revenue increase.***

DENC/PSNCUC Stipulation at pp. 9-10 (September 17, 2019) (emphasis added).

The practical implication of the final provision of section VI.B. of the DENC/PSNCUC Stipulation is that the costs assigned to the LGS and 6VP classes are significantly above-cost. In conjunction with the DENC/PSNCUC Stipulation, Company witness Miller filed a new cost of service study, Company Stipulation Exhibit REM-1, Stipulation Schedule 4⁴, which adjusts the class rate of returns both prior to following the revenue increase from those discussed earlier on in this brief. According to Company Stipulation Exhibit REM-1, Stipulation Schedule 4, after all ratemaking adjustments but prior to the additional of the Company's requested revenue increase, the average jurisdictional return is 6.6527%. Consistent with the initial cost of service study filed with the Company's Application, once again, three rate classes demonstrate RORs below the North Carolina jurisdictional average (or below an index of 1.00):

⁴ Company Stipulation Exhibit REM-1, Stipulation Schedule 4 is included with the Official Exhibits to Volume 5 of the transcript.

- The outdoor and street lighting class shows a class ROR of 3.6797% and a class index of 0.55;
 - The residential class shows a class ROR of 5.9231% and a class index of 0.89;
- and
- The NS class shows a class ROR of 5.5038% and a class index of 0.83.

Company Stipulation Exhibit REM-1, Stipulation Schedule 4. Once again, conversely, the LGS class, 6VP class, and SGS class demonstrate RORs above the jurisdictional average, as shown below:

- The LGS class demonstrates a class ROR of 8.8027% and a class index of 1.32;
 - The 6VP class demonstrates a class ROR of 8.0998% and a class index of 1.22;
- and
- The SGS class demonstrates a class ROR of 8.8027% and a class index of 1.23.

Company Stipulation Exhibit REM-1, Stipulation Schedule 4. However, whereas the cost allocation originally proposed by the Company in its Application made meaningful strides in moving the LGS and 6VP classes closer to the parity index, due to the constraint that all customer classes must share in the increase, the 6VP and LGS have been assigned excessive increases. The fact that the rates assigned to these classes are not fully aligned with cost is evidenced on the second page of Company Stipulation Exhibit REM-1, Stipulation Schedule 4.

Following a very minimal total revenue increase of \$14,473.00⁵, the LGS class will have a ROR of 8.9948%, which is in excess of the jurisdictional return, and an index of 1.25. These factors represent undisputed evidence of rates that are above-cost. Haynes: Vol. 5, 32:15-17 and 40:22-41:2. Further, the DENC/PSNCUC Stipulation expressly acknowledges the significance of a parity range index above 1.20. *See* NC/PSNCUC Stipulation at p. 10 (September 17, 2019).

⁵ Mr. Haynes testified that the minimal increases being assigned to the LGS and 6VP classes are supported by the value of the high-load ratepayers taking service under those rates. Haynes: Vol. 5, 33:1-7.

On cross-examination, Company witness Haynes acknowledged that an index above 1.20 is “well beyond . . . the parity index range and what [PSNCUC witness] Floyd terms as the band of reasonableness.” Haynes: Vol. 5, 32:6-9. He further testified that “in terms of the long term . . . [a parity index above 1.20] would not be something that you would want to have in place for the long term for your large, high-load factor industrial class.” *Id.*, 37:16-19. To justify this position, Mr. Haynes noted the loss of an industrial customer discussed *supra* herein as a cautionary tale and reason for keeping industrial rates cost-based and within the range of reasonableness. *Id.*, 37:24-38:15.

With regard to the 6VP class, following a minimal total revenue increase of \$12,965⁶, it will have a ROR of 8.3146%, which is in excess of the jurisdictional return, and an index of 1.15. Mr. Haynes also testified that the minimal amount of costs assigned to the 6VP class will nonetheless result in “rates above cost and beyond the range of reasonableness.” *Id.*, 40:22-41:2. As is noted *supra*, the 6VP class has been providing excess returns to DENC since at least the 2016 rate case. In that case, the Company, the PSNCUC, and CIGFUR I reached a stipulation that in part provided that “the 6VP class Rate of Return Index will be 1.15.” AGO McLeod Cross Exhibit 3 at p. 7. On cross, Mr. Haynes agreed that under the Company’ proposed cost of service study, the 6VP class has again received an index of 1.15. Haynes: Vol. 5, 46:11-14. Mr. Haynes also concurred that this result is contrary to the general principle that when a class has a high return that, due to the prohibition of causing rate shock to other classes, cannot be fully remedied in a single case, the goal should be to move the class closer to parity over a series of cases. *Id.*, 44:23-45:13.

⁶ Mr. Haynes testified that the minimal increases being assigned to the LGS and 6VP classes are supported by the value of the high-load ratepayers taking service under those rates. Haynes: Vol. 5, 33:1-7.

As was discussed earlier in this brief, in the Company's pre-stipulation filings it emphasized the importance fairly apportioning the revenue requirement with the purpose of moving customer classes towards parity with the jurisdictional rate of return, particularly with regard to the LGS and 6VP classes. Haynes: Vol. 4, 384:8-18. Company witness Haynes also noted that "[i]mprovements in the level of pricing and rate design for high load factor customers in the LGS and 6VP classes . . . should continue in the establishment of rates in the proceeding." *Id.*, 483:3-6. Despite acknowledging the importance of these considerations, in allocating the revenue increase post-DENC/PSNCUC Stipulation, the Company has thrown the majority of the guiding principles to the wayside in furtherance of the lone requirement that all customer share in the increase. If approved by the Commission, this decision will result in the LGS and 6VP classes "paying rates that would be above their responsibility for cost." Haynes: Vol. 5, 32:15-17.

Despite overarching agreement on the guiding principle of achieving cost-based rates and due to the relatively low revenue requirement resulting from the DENC/PSNCUC Stipulation, the requirement that "the parties agree that all classes should share in the total base rate revenue increase" unjustly stifles the Company's ability to assign the revenue requirement in a manner that meaningfully reduces the LGS and 6VP classes' subsidization of other rate classes. This stunting of progress is particularly arbitrary in light of the fact that these classes could conceivably be assigned conservative rate decreases, which would help to advance their progress toward parity with the overall jurisdictional rate of return, without sacrificing the other guiding principles of cost-allocation.

D. Absent the disputed provision in the DENC/PSNCUC Stipulation, DENC could allocate fewer costs to LGS and 6VP resulting in rates more reflective of the cost of serving the classes and making a more meaningful move toward parity.

On cross-examination, Mr. Haynes agreed that, absent the restriction that all classes must share in the increase, it would be possible to give the LGS and 6VP classes base revenue reductions while adhering to all other cost allocation principles advised in this proceeding by the Company and the PSNCUC. Haynes: Vol. 5, 46:22-47:22. Because it is possible to achieve these results, which are justified by the importance of the contributions of the LGS and 6VP classes to the regional economy and DENC system, without violating other critical cost allocation principles and while avoiding rate shock to other classes, CIGFUR I respectfully urges the Commission accept the DENC/PSNCUC Stipulation, striking only the provision that requires that all customer classes share in the increase. CIGFUR I further respectfully urges the Commission to order the Company to reduce the revenues assigned to the LGS and 6VP classes so as to move them closer to the parity range to the maximum extent practicable while still adhering the other cost allocation principles identified in the DENC/PSNCUC Stipulation.

III. CONCLUSION

WHEREFORE, CIGFUR I respectfully requests that the Commission grant the relief requested herein.

Respectfully submitted, this 6th day of November, 2019.

BAILEY & DIXON, LLP

By: /s/ Warren K. Hicks
Warren K. Hicks
whicks@bdixon.com
Attorneys for CIGFUR I
Post Office Box 1351
Raleigh, North Carolina 27602
(919) 828-0731

CERTIFICATE OF SERVICE

The undersigned attorney for CIGFUR I hereby certifies that she served the foregoing Post-Hearing Brief of the Carolina Industrial Group for Fair Utility Rates I upon the parties of record in this proceeding by electronic mail.

This 6th day of November, 2019.

BAILEY & DIXON, LLP

By: /s/ Warren K. Hicks
Warren K. Hicks