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DOCKET NO. E-100, SUB 128  
DOCKET NO. E-100, SUB 131

**FILED**

APR 27 2012

Clerk's Office  
N.C. Utilities Commission

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
2010 REPS Compliance Reports filed by	)	COMMENTS OF THE
Electric Membership Corporations and	)	PUBLIC STAFF
Municipal Electric Power Suppliers	)	

MM  
AG  
7 Comm.  
Watson  
Green  
Duffley  
Hovatt  
Sessions  
Kite  
Erickson  
Jones  
Hodge

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Robert P. Gruber, and submits the following comments pursuant to the Commission's order of February 9, 2012, in this docket. These comments address the 2010 Renewable Energy and Energy Efficiency Portfolio Standard (REPS) Compliance Reports filed in the fall of 2011 by EnergyUnited, Fayetteville Public Works Commission (Fayetteville), the Town of Fountain (Fountain), GreenCo Solutions, Inc. (GreenCo)<sup>1</sup>, Halifax EMC (Halifax), North Carolina Eastern Municipal Power Agency (NCEMPA)<sup>2</sup>, North Carolina Municipal Power Agency 1 (NCMPA1)<sup>3</sup>, the Town of Oak City (Oak City), Tennessee Valley Authority (TVA)<sup>4</sup>, and the Town of Winterville (Winterville).

The only renewable energy requirement for 2010 in G.S. 62-133.8 for these electric power suppliers is in G.S. 62-133.8(d). This section of the General Statutes requires all electric power suppliers to meet 0.02 percent of their 2009 retail sales with solar energy.

<sup>1</sup> GreenCo filed a consolidated 2010 REPS Compliance Report on behalf of Albemarle Electric Membership Corporation (EMC), Blue Ridge EMC, Broad River Electric Cooperative, Brunswick EMC, Cape Hatteras EMC, Craven-Carteret EMC, Central EMC, Edgecombe-Martin County EMC, Four County EMC, French Broad EMC, Haywood EMC, Jones-Onslow EMC, Lumbree River EMC, Mecklenburg Electric Cooperative, Pee Dee EMC, Piedmont EMC, Pitt & Greene EMC, Randolph EMC, Roanoke EMC, South River EMC, Surry-Yadkin EMC, Tideland EMC, Tri-County EMC, Union EMC, and Wake EMC.

<sup>2</sup> NCEMPA filed a consolidated 2010 REPS Compliance Report on behalf of Apex, Ayden, Belhaven, Benson, Clayton, Edenton, Elizabeth City, Farmville, Fremont, Greenville, Hamilton, Hertford, Hobgood, Hockerton, Kinston, LaGrange, Laurinburg, Louisburg, Lumberton, New Bern, Pikeville, Red Springs, Robersonville, Rocky Mount, Scotland Neck, Selma, Smithfield, Southport, Tarboro, Wake Forest, Washington, and Wilson. Wilson will meet the REPS compliance requirements of Pinetops, Macclesfield, and Walstonburg.

<sup>3</sup> NCMPA1 filed a consolidated 2010 REPS Compliance Report on behalf of Albemarle, Bostic, Cherryville, Cornelius, Drexel, Gastonia, Granite Falls, High Point, Huntersville, Landis, Lexington, Lincolnton, Maiden, Monroe, Morganton, Newton, Pineville, Shelby, and Statesville.

<sup>4</sup> TVA filed a consolidated 2010 REPS Compliance Report on behalf of Tri-State EMC, Mountain EMC, Blue Ridge Mountain EMC, and the Murphy Electric Power Board.

## **EnergyUnited**

EnergyUnited met its REPS requirement for 2010 using in-state and out-of-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4).

## **Fayetteville**

Fayetteville met its REPS requirement for 2010 using in-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4). Fayetteville claimed costs for energy purchases from the Southeastern Power Administration (SEPA) as incremental REPS costs. However, in ruling on Fayetteville's 2009 REPS Compliance Report on February 21, 2012, in Docket No. E-100, Sub 129 (page 2), the Commission determined that "the RECs associated with SEPA allocations have no REPS incremental cost." The Commission also made the same determination in its May 3, 2011 Order in Docket No. E-48, Sub 6, involving the North Carolina Eastern Municipal Power Agency (NCEMPA)."

In discussions with the Public Staff, Fayetteville has raised issues as to (1) whether electricity consumed by agencies of the City of Fayetteville and the Public Works Commission (City entities) should count as retail sales for REPS compliance purposes, and (2) whether electric service accounts of Fayetteville city agencies and the Public Works Commission (City accounts) should be included in the number of customer accounts reported in Fayetteville's compliance report. Fayetteville included all sales to City entities and all City accounts in its 2010 compliance report, but proposes to modify the report and exclude the City accounts and City entity sales.

This issue is important because it affects Fayetteville's cost cap and the number of RECs it must acquire each year. Fayetteville believes that electricity consumed by City entities should not count as retail sales because of the affiliated relationship between the City and the Public Works Commission.

The Public Staff disagrees in part with Fayetteville's position. The Public Staff agrees that usage by Fayetteville's electric operations should not count as sales (and correspondingly, accounts of Fayetteville's electric operations should not count as customer accounts). However, in the Public Staff's view, electricity used by City agencies and by the Public Works Commission's water and wastewater operations, should count as sales. This is consistent with the practice of the State's investor-owned utilities, which do not report their internal usage as retail sales, but do report sales to retail customers such as water and wastewater service providers and to departments within municipal governments.

## Fountain

Fountain initially filed a letter stating that it had mistakenly assumed that the Pitt-Greene Electric Membership Corporation would meet the town's REPS compliance requirements and that it would file the required information no later than December 31, 2011. On October 25, 2011, Fountain filed its 2010 REPS Compliance Report and 2011 REPS Compliance Plan. The town had 3,733 MWh of electricity sales in 2009 and 3,822 MWh of electricity sales in 2010. For compliance in 2010, Fountain should have placed 0.75 solar RECs in its NC-RETS 2010 compliance subaccount but did not do so. For compliance in 2011, Fountain will have to place 0.76 solar RECs in its NC-RETS 2011 compliance subaccount. [BEGIN CONFIDENTIAL] [REDACTED]

[END CONFIDENTIAL]

## GreenCo

GreenCo met its REPS requirements for its members for 2010 using in-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4).

## Halifax

Halifax met its REPS requirement for 2010 using in-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4).

## NCEMPA

NCEMPA met its REPS requirement for 2010 using in-state and out-of-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4).

## NCMPA1

NCMPA1 met its REPS requirement for 2010 using in-state and out-of-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4).

## Oak City

Oak City met its REPS requirement for 2010 using in-state solar energy. It stayed under the cost caps as required in G.S. 62-133.8(h)(4). [BEGIN CONFIDENTIAL] [REDACTED]

[END CONFIDENTIAL]

## TVA

TVA met the REPS requirements for the North Carolina distributors of its electricity for 2010 using in-state solar energy. It stayed under the cost caps as

required in G.S. 62-133.8(h)(4). TVA has not charged these distributors for REPS compliance services.

### **Winterville**

Winterville met its REPS requirement for 2010 using in-state solar energy. Winterville claims to have exceeded the cost cap for 2010. However, the Public Staff believes that some of Winterville's incremental costs such as consultant's fees and startup costs for energy efficiency programs should be levelized over a period of years. This issue is currently under review by the Commission in Docket No. E-100, Sub 129. On March 16, 2012, the Public Staff filed comments in that docket in support of its position.

Winterville has implemented several energy efficiency (EE) programs that could provide energy efficiency certificates (EECs) in the future. In its 2010 REPS Compliance Report, Winterville stated that it created 21 EECs with its Home Energy Audit program. However, Winterville has not completed any of the audits. The Public Staff recommends that the Commission not accept these EECs until the audits are complete. Winterville's other EE programs should be treated as discussed below.

### **General Comments and Recommendations**

Many electric power suppliers have earned EECs but have not provided measurement and verification (M&V) information supporting their quantification of the energy saved through energy efficiency programs. The Public Staff can accept their quantification of their potential EECs as a temporary placeholder subject to reconsideration after they provide M&V data for the Commission's review.

Some of the electric power suppliers listed above used only in-state solar RECs to meet their 2010 REPS compliance requirement. The Public Staff recommends that these power suppliers consider purchasing out-of-state solar RECs as a potential method of lowering compliance costs.

The Public Staff recommends that the Commission approve the 2010 REPS Compliance Reports filed by EnergyUnited, Fayetteville, Fountain, GreenCo, Halifax, NCEMPA, NCMPA1, Oak City, TVA, and Winterville. The Public Staff further recommends that Fayetteville be allowed to amend its 2010 Compliance Report so as to exclude the usage of its electric operations from retail sales, and to exclude the accounts of its electric operations from its year-end number of customer accounts.

WHEREFORE, the Public Staff prays that the Commission take these comments and recommendations into consideration in reaching its decision in this proceeding.

Respectfully submitted this the 27<sup>th</sup> day of April, 2012.

PUBLIC STAFF  
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CERTIFICATE OF SERVICE

I certify that a copy of these Comments has been served on all parties of record or their attorneys, or both, by depositing a copy in the United States Mail, first class postage prepaid, properly addressed.

This the 27<sup>th</sup> day of April, 2012.

*Robert S. Gillam*

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