

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 1283

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Energy Carolinas,)	
LLC for Approval of Renewable Energy)	
and Energy Efficiency Portfolio Standard)	ORDER APPROVING REPS AND
(REPS) Compliance Report and Cost)	REPS EMF RIDERS AND 2022
Recovery Rider Pursuant to North)	REPS COMPLIANCE REPORTS
Carolina General Statute § 62-133.8)	
and Commission Rule)	
R8-67		

BEFORE: Commissioner Daniel G. Clodfelter, Presiding; Chair Charlotte A. Mitchell; and Commissioners ToNola D. Brown-Bland, Kimberly W. Duffley, Jeffery A. Hughes, Floyd B. McKissick, Jr., and Karen Kemerait.

APPEARANCES:

For Duke Energy Carolinas, LLC:

Robert W. Kaylor, Esq., Law Office of Robert W. Kaylor, P.A. 353 East Six Forks Road, Suite 260 Raleigh, North Carolina 27609

For North Carolina Justice Center, North Carolina Housing Coalition, Southern Alliance for Clean Energy:

Munashe Magarira, Esq., Staff Attorney, Southern Environmental Law Center, 601 West Rosemary Street, Suite 220, Chapel Hill, North Carolina 27516

For the Carolina Industrial Group for Fair Utility Rates III:

Christina D. Cress, Esq., and Douglas D.C. Conant, Esq., Bailey & Dixon, LLP, 434 Fayetteville Street, Suite 2500, Raleigh, North Carolina 27601

For Carolina Utility Customers Association, Inc.:

Marcus W. Trathen, Esq., Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, Wells Fargo Capitol Center, 150 Fayetteville Street, Suite 1700, Raleigh, North Carolina 27601

For the Using and Consuming Public:

Nadia Luhr, Esq. and Anne Keyworth, Esq., Public Staff – North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300

BY THE COMMISSION: On February 28, 2023, Duke Energy Carolinas, LLC (DEC or the Company) filed its application seeking an adjustment to its North Carolina retail rates and charges pursuant to N.C. Gen. Stat. § 62-133.8(h) and Commission Rule R8-67, which require the Commission to conduct an annual proceeding for the purpose of determining whether a rider should be established to permit the recovery of the incremental costs incurred to comply with the requirements of the Renewable Energy and Energy Efficiency Portfolio Standard (REPS), N.C.G.S. § 62-133.8(b), (d), (e), and (f), and to true up any underrecovery or overrecovery of compliance costs. DEC's application was accompanied by the testimony and exhibits of Kimberly A. Presson, Renewable Compliance Manager, and Veronica I. Williams, Rates and Regulatory Strategy Manager. In its application and prefiled testimony, DEC sought approval of its proposed REPS Rider, which incorporated DEC's proposed adjustments to its North Carolina retail rates.

On March 16, 2023, the Commission issued an Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring Public Notice (Scheduling Order), in which the Commission set this matter for hearing; established deadlines for the submission of petitions to intervene, intervenor testimony, and DEC rebuttal testimony; required the provision of appropriate public notice; and mandated compliance with certain discovery guidelines.

The Carolina Industrial Group for Fair Utility Rates III and the Carolina Utility Customers Association, Inc. filed separate petitions to intervene in this docket, and the Commission granted those petitions. The intervention and participation by the Public Staff are recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On May 8, 2023, DEC filed the Revised Exhibit No. 4 of witness Williams to correct a column heading in the exhibit.

On May 9, 2023, the Public Staff filed the affidavits of R. Tyler Allison, Public Utility Regulatory Analyst in the Accounting Division of the Public Staff, and Scott J. Saillor, Utility Engineer in the Energy Division of the Public Staff.

On May 19, 2023, DEC and the Public Staff filed a joint motion to excuse all witnesses from the evidentiary hearing scheduled for May 30, 2023. On May 24, 2023, the Commission granted the motion. The Commission further accepted the expert witnesses' prefiled testimony, exhibits, and affidavits into the record; canceled the expert witness hearing; and required the parties file proposed orders on or before June 30, 2023.

On May 25, 2023, DEC filed the required affidavits of publication for the public notice in accordance with the Commission's Scheduling Order.

On June 30, 2023, DEC and the Public Staff filed a joint proposed order.

Based upon the foregoing, including the testimony, exhibits, and affidavits of the parties' witnesses; the records in NC-RETS; and the entire record in this proceeding; the Commission makes the following:

FINDINGS OF FACT

1. DEC is a duly organized limited liability company existing under the laws of the State of North Carolina; is engaged in the business of developing, generating, transmitting, distributing, and selling electric power to the public in North Carolina; and is subject to the jurisdiction of the North Carolina Utilities Commission as a public utility. DEC is lawfully before this Commission based upon its application filed pursuant to N.C.G.S. § 62-133.8 and Commission Rule R8-67.

2. For calendar year 2022, DEC must generally supply an amount of at least 12.5% of its previous year's North Carolina retail electric sales (Total Requirement) by a combination of renewable energy and energy reductions due to the implementation of energy efficiency measures. Also in 2022, DEC must supply by solar energy resources energy in the amount of at least 0.20% of the previous year's total electric power DEC sold to its North Carolina retail customers (referred to as the solar set-aside requirement).

3. Beginning in 2012, N.C.G.S. § 62-133.8(e) and (f) require DEC and the other electric suppliers of North Carolina, in the aggregate, to procure a certain portion of their renewable energy requirements from electricity generated from swine and poultry waste, with the poultry waste requirement being based on each electric power supplier's respective pro-rata share derived from the ratio of its North Carolina retail sales as compared to total statewide NC retail sales. In its March 4, 2022 Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief (March 2022 Delay Order) issued in Docket No. E-100, Sub 113, the Commission set the 2022 and 2023 poultry waste set-aside requirements at 700,000 MWhs and 900,000 MWhs, respectively. On December 20, 2022, the Commission issued two additional orders in Docket No. E-100, Sub 113. The first was the Order Ruling on Motion for Clarification and Request for Declaratory Ruling Regarding Cost Cap, Modifying Swine and Poultry Waste Set-Aside Requirements, and Providing Other Relief (December 2022 Delay Order) in which the Commission: (1) established that the statewide aggregate poultry waste set-aside requirement for calendar years 2022 and 2023 would remain unchanged from its March 2022 Delay Order, and (2) set the 2022 swine waste set-aside requirement at 0.05% of total NC retail sales for electric public utilities, and 0.00% for electric membership corporations and municipalities. The second was its Order Establishing 2022, 2023, and 2024 Poultry Waste Set-Aside Requirement Allocation (2022 Poultry Order), which reset each electric power supplier's load ratio share of the annual aggregate poultry waste set-aside requirement.

4. Pursuant to N.C.G.S. § 62-133.8(c)(2)(e), DEC has agreed to provide compliance services, including the procurement of renewable energy certificates (RECs), to the following electric power suppliers: Blue Ridge Electric Membership Corporation (EMC), the Town of Dallas, the Town of Forest City, the Town of Highlands, and Rutherford EMC (collectively, the Wholesale Customers).

5. DEC complied with the 2022 solar set-aside requirement for itself and the Wholesale Customers by submitting for retirement 121,406 RECs procured or generated from solar electric facilities and metered solar thermal energy facilities. DEC also complied with the 2022 poultry waste set-aside requirement for itself and the Wholesale Customers by submitting for retirement 176,426 poultry waste RECs and 69,000 Senate Bill 886 (SB 886) RECs (which count as 138,000 poultry waste RECs), for a total of 314,426 poultry waste RECs. The Company complied with the 2022 swine waste set-aside requirement that applied to electric public utilities only and did not apply to the Wholesale Customers by submitting for retirement 29,035 swine waste RECs. Finally, DEC submitted for retirement 7,056,961 general requirement RECs, representing the 2022 Total Requirement for DEC and the Wholesale Customers, net of the solar, swine waste, and poultry waste set-aside requirements detailed above.

6. DEC and the Wholesale Customers met their 2022 REPS obligations, except for those from which they had been relieved under the Commission's orders in Docket No. E-100, Sub 113.

7. DEC expects to be able to comply with its poultry waste set-aside requirement for 2023, with compliance beyond 2023 dependent on current poultry waste-to-energy suppliers delivering contracted quantities of RECs. DEC's compliance with the swine waste set-aside requirement in 2023 may be difficult as the swine waste obligation increases. Performance levels of currently producing suppliers, as well as the ability of three new facilities to come online and achieve contracted REC production in 2023, will determine the level of compliance DEC will be able to meet.

8. DEC's REC inventory available for future use properly includes RECs generated from net metering non-time-of-use demand (NMNTD) customers.

9. DEC has RECs in its inventory that its own hydroelectric (hydro) facilities generated that it cannot use to meet its REPS requirements because those hydro facilities are renewable energy facilities but not new renewable energy facilities. DEC exchanged a portion of these hydro RECs for an equal number of RECs in the inventory of the North Carolina Electric Membership Corporation (NCEMC) that are qualified to meet DEC's general compliance requirement. DEC executed contracts with NCEMC for the REC exchanges pursuant to the Commission's conclusion that the exchanges are reasonable and serve the public interest in its August 17, 2018 Order Approving REPS and REPS EMF Riders and 2017 REPS Compliance Report in Docket No. E-7, Sub 1162.

10. DEC's sale of RECs to another electric power supplier to enable that power supplier to meet its poultry-waste set-aside requirement was prudent, and DEC complied

with the reporting requirements related to REC sales as detailed in the Commission's May 13, 2014 Order Regarding Accounting Treatment for REC Sales issued in Docket No. E-100, Sub 113.

11. For purposes of DEC's annual rider pursuant to N.C.G.S. § 62-133.8(h), the test period for this proceeding is the calendar year 2022 (Test Period). The billing period for this proceeding is the 12-month period beginning September 1, 2023, and ending August 31, 2024 (Billing Period).

12. DEC's other incremental REPS compliance costs and its Solar Rebate Program costs are recoverable under N.C.G.S. § 62-133.8(h)(1)(a) and N.C.G.S. § 62-133.8(h)(1)(d), respectively, and will be approved for this proceeding.

13. The research activities funded by DEC during the Test Period are recoverable under N.C.G.S. § 62-133.8(h)(1)(b) and are within the statute's \$1 million annual limit.

14. N.C.G.S. § 62-133.8(h) authorizes an electric power supplier to recover the "incremental costs" of compliance with the REPS requirement through an annual REPS rider. The "incremental costs," as defined in N.C.G.S. § 62-133.8(h)(1), include the reasonable and prudent costs of compliance with REPS "that are in excess of the electric supplier's avoided costs other than those costs recovered pursuant to N.C. Gen. Stat. § 62-133.9." The term "avoided costs" includes both avoided energy costs and avoided capacity costs.

15. Under Commission Rule R8-67(e)(2), the total costs reasonably and prudently incurred during the Test Period to purchase unbundled RECs constitute incremental costs. The projected costs to purchase such RECs during the Billing Period constitute forecasted incremental costs.

16. DEC appropriately calculated its avoided costs and incremental REPS compliance costs for the Test Period and Billing Period, including those avoided and incremental costs specifically related both to DEC's Solar Photovoltaic Distributed Generation (Solar PVDG) Program, and its Mocksville, Monroe, and Woodleaf solar photovoltaic facilities (DEC Solar PV facilities), as required by the following Commission orders: (1) Order Granting Certificate of Public Convenience and Necessity with Conditions, issued December 31, 2008, and its Order on Reconsideration, issued May 8, 2009, in Docket No. E-7, Sub 856; (2) Order Transferring Certificate of Public Convenience and Necessity, issued May 16, 2016, in Docket No. E-7, Sub 1079; (3) Order Transferring Certificate of Public Convenience and Necessity, issued May 16, 2016, in Docket No. E-7, Sub 1098; and (4) Order Granting Certificate of Public Convenience and Necessity, issued June 16, 2016, in Docket No. E-7, Sub 1101. Collectively, these orders are referred to herein as the "DEC Solar PV Orders."

17. Total incremental REPS costs incurred during the Test Period for DEC NC retail and the Wholesale Customers combined are \$35,720,807 and are reasonable and

prudently incurred. Total incremental REPS costs estimated to be incurred for DEC NC retail and the Wholesale Customers combined during the Billing Period are \$36,331,693 and are reasonable and appropriate. The appropriate DEC NC retail portions of Test Period and Billing Period incremental REPS costs are \$32,980,855 and \$33,662,082, respectively.

18. For purposes of establishing the REPS experience modification factor (EMF) rider in this proceeding, DEC's incremental costs for DEC NC retail during the Test Period are \$32,980,855, and these costs were reasonably and prudently incurred. DEC's projected Billing Period incremental costs for purposes of determining the REPS rider for DEC NC retail are \$33,662,082. DEC's Test Period REPS expense over-collections by customer class (including interest) were \$(635,803) for residential and \$(728,187) for general service, with an under-collection for the industrial class of \$127,503. In addition, DEC credited to customers amounts received from REC suppliers during the Test Period related to contract amendments, penalties, and other conditions of the supply agreements. Contract-related receipts credited to each customer class are \$(44,565) for residential, \$(32,818) for general service, and \$(2,942) for industrial. DEC further credited to each customer class certain interest mitigation amounts included in REC sales proceeds as follows: \$(122,965) to residential, \$(90,554) to general service, and \$(8,117) to industrial. Total net Test Period (over)/under-collections by customer class, including offsetting credit totals for contract-related receipts and interest mitigation amounts in REC sales proceeds, are \$(803,333) for residential, \$(851,559) for general service, and \$116,444 for industrial. All amounts exclude the North Carolina regulatory fee (regulatory fee).

19. DEC's North Carolina retail prospective Billing Period costs for use in this proceeding are \$18,894,518, \$13,622,962, and \$1,144,602, for the residential, general service, and industrial classes, respectively, excluding the regulatory fee.

20. The appropriate monthly REPS EMF riders to be (credited)/charged to customer accounts during the upcoming Billing Period are \$(0.04) for residential accounts, \$(0.27) for general service accounts, and \$2.09 for industrial accounts, excluding the regulatory fee.

21. The appropriate prospective REPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$0.85 for residential accounts, \$4.27 for general service accounts, and \$20.58 for industrial accounts.

22. The combined REPS and REPS EMF rider charges per customer account, excluding the regulatory fee, to be collected each month during the Billing Period are \$0.81 for residential accounts, \$4.00 for general service accounts, and \$22.67 for industrial accounts. Including the regulatory fee, the combined monthly REPS and REPS EMF rider charges per customer account to be collected during the Billing Period are \$0.81 for residential accounts, \$4.01 for general service accounts, and \$22.70 for industrial accounts.

23. DEC's REPS incremental cost rider, including the regulatory fee, to be charged to each customer account for the 12-month Billing Period is within the annual cost cap established for each class in N.C.G.S. § 62-133.8(h)(4).

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

The evidence supporting these findings of fact appears in DEC's 2022 REPS Compliance Report, in the direct testimonies and exhibits of DEC witnesses Presson and Williams, and in the affidavits of Public Staff witnesses Allison and Sailor. These findings of fact are essentially informational, jurisdictional, and procedural in nature and are not contested.

N.C.G.S. § 62-133.8(b)(1) establishes a REPS requirement for all electric power suppliers in the State. The statute requires each electric public utility to provide a certain percentage of its NC retail sales from various renewable energy or energy efficiency resources, including by means of the following: (a) generating electric power at a new renewable energy facility; (b) using a renewable energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel; (c) reducing energy consumption through the implementation of energy efficiency measures; (d) purchasing electric power from a new renewable energy facility; (e) purchasing RECs from a new renewable energy facility; (f) using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of the REPS in any calendar year as a credit toward the requirements of the REPS in the following calendar year; or (g) electricity demand reduction. Each of these measures is subject to additional limitations and conditions. For 2022, DEC was required to meet a total REPS requirement of 12.5% of its previous year's North Carolina retail electric sales by a combination of these measures. The total 2022 REPS requirement for the Wholesale Customers was 10% of previous year NC retail sales as required by N.C.G.S. § 62-133.8(c)(1), to be met by the resources detailed in N.C.G.S. § 62-133.8(c)(2).

N.C.G.S. § 62-133.8(d) requires a certain percentage of the total electric power sold to retail electric customers in the State, or an equivalent amount of energy, to be supplied by a combination of new solar electric facilities and new metered solar thermal energy facilities. The percentage requirement for solar resources in 2022 is 0.20%.

N.C.G.S. § 62-133.8(e) and (f) require DEC and the other North Carolina electric power suppliers, in the aggregate, to procure a certain portion of their renewable energy requirements from electricity generated from swine and poultry waste. The swine waste energy requirement is based on a percentage of retail sales, similar to the solar energy requirement. The poultry waste energy requirement is based on each electric power supplier's respective pro-rata share derived from the ratio of its North Carolina retail sales as compared to total NC retail sales. Pursuant to the Commission's March 31, 2010 Order on Pro-Rata Allocation of Aggregate Swine and Poultry Waste Set-Aside Requirements and Motion for Clarification, issued in Docket No. E-100, Sub 113, DEC's share of the aggregate Statewide set-aside requirements for energy from swine and poultry waste is

based on the ratio of its NC retail kilowatt-hour sales for the previous year divided by the previous year's total NC retail kilowatt-hour sales. In its March 2022 Delay Order, the Commission established modified aggregate state-wide poultry waste set-aside requirements of 700,000 MWhs for 2022 and 900,000 MWhs for 2023. In its December 2022 Delay Order, the Commission confirmed the 2022 and 2023 poultry waste set-aside requirements established in its March 2022 Delay Order and modified the 2022 swine waste set-aside requirement to 0.05% of NC retail sales for DEC and other electric public utilities, and to 0.00% of NC retail sales for electric membership corporations and municipalities, including the Wholesale Customers. Presson Ex. 1 at 7-8. The Commission's 2022 Poultry Order reset and determined each electric power supplier's specific load ratio share of the annual aggregate poultry waste set-aside requirement for REPS compliance years 2022-2024, including those for DEC and the Wholesale Customers. Presson Ex. 1 at 7.

In its 2022 REPS Compliance Report, DEC stated that it provided REPS energy resources and compliance reporting services for Blue Ridge EMC, the Town of Dallas, the Town of Forest City, the Town of Highlands, and Rutherford EMC, as allowed by N.C.G.S. § 62-133.8(c)(2)(e). Presson Ex. 1 at 3.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5-7

The evidence supporting these findings of fact appears in DEC's 2022 REPS Compliance Report, which was admitted into evidence as Presson Ex. 1, in the direct testimony and exhibits of DEC witness Presson, and in the affidavit of Public Staff witness Saillor. In addition, the Commission takes judicial notice of the information contained in the North Carolina Renewable Energy Tracking System (NC-RETS). DEC's 2022 REPS Compliance Report provided the information required by Commission Rule R8-67(c) in the aggregate for DEC and the Wholesale Customers.

Witness Presson testified that the Total Requirement for compliance year 2022 for DEC and the Wholesale Customers is 7,521,828 RECs, based on combined 2021 NC retail sales of 60,701,231 MWhs. Presson Direct Test. at 8. On behalf of DEC and its Wholesale Customers, DEC submitted for retirement 7,383,828 RECs along with 69,000 SB 886 RECs, which count as 69,000 general requirement and 138,000 bonus poultry waste RECs, to meet its 2022 Total Requirement of 7,521,828 (7,383,828 + 138,000) RECs. Presson Ex. 1 at 7. Within this total, DEC submitted the following to meet the set-aside requirements: 121,406 solar RECs, 29,035 swine waste RECs, and 176,426 poultry waste RECs, along with 69,000 SB 886 RECs (which count as 138,000 poultry waste RECs) for the equivalent of 314,426 poultry waste RECs. Presson Direct Test. at 7-8.

Witness Presson's testimony stated that the Billing Period for this application spans two calendar years, with different requirements in each year. For compliance year 2023, DEC estimates that it will be required to submit for retirement 7,649,211 RECs to meet its Total Requirement. Within this total, DEC estimates that it will be required to retire approximately 123,457 solar RECs, 84,554 swine waste RECs, and 404,259 poultry

waste RECs to meet the requirements set out in N.C.G.S. §§ 62-133.8(d), (e), and (f), respectively. For compliance year 2024, DEC estimates that it will be required to submit for retirement 7,852,438 RECs to meet its Total Requirement. Within this total, DEC expects to be required to retire the following: 126,711 solar RECs, 123,235 swine waste RECs, and 404,259 poultry waste RECs, to meet the requirements set out in N.C.G.S. §§ 62-133.8(d), (e), and (f), respectively. Presson Direct Test. at 9.

Witness Presson testified that DEC met the 2022 solar set-aside requirement of 121,406 solar RECs and that DEC submitted these RECs for retirement by transferring them from the NC-RETS Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account and the Sub-Accounts of its Wholesale Customers. Presson Direct Test. at 13-14.

Witness Presson testified that DEC met the 2022 poultry waste set-aside requirement of 314,426 RECs. DEC submitted for retirement 176,426 poultry RECs and 69,000 SB 886 RECs (which count as 138,000 poultry waste RECs). Accordingly, the equivalent of 314,426 RECs were submitted for retirement by transferring them from the NC-RETS Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account and the Sub-Accounts of its Wholesale Customers. Presson Direct Test. at 15-16.

Witness Presson testified that DEC met its 2022 swine waste set-aside requirement of 29,035 swine waste RECs. DEC submitted these RECs for retirement by transferring them from the NC-RETS Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account. Presson Direct Test. at 18.

Witness Presson further testified that DEC met its 2022 general requirement of 7,056,961 RECs. DEC transferred the RECs from the NC-RETS Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account and the Sub-Accounts of its Wholesale Customers. Presson Direct Test. at 9-10.

Witness Presson testified that DEC expects to comply with its poultry waste set-aside requirement in 2023, but compliance beyond 2023 is dependent on the performance of current poultry waste-to-energy contracts. She stated that achievement of projected delivery requirements of those poultry waste-to-energy facilities currently operating and the ability of four new facilities to reach expected commercial operation dates in 2023 and 2024 will affect DEC's ability to meet future requirements of the poultry waste set-aside. Presson Direct Test. at 16. Witness Presson testified that DEC is taking various steps to secure poultry waste-to-energy resources to meet its future requirements, including: continuing direct negotiations for additional supplies of both in-state and out-of-state resources; securing contracts for additional poultry waste-to-energy resources; continuing the pursuit of poultry-derived directed biogas from facilities located in North Carolina and directing such biogas to combined cycle plants for combustion and electric generation; working diligently to understand the technological, permitting, and operational risks associated with various methods of producing qualifying poultry RECs to aid developers in overcoming those risks; when the risks associated with

producing poultry RECs cannot be overcome, working with developers via contract amendments to adjust for more realistic outcomes; exploring adding thermal capabilities to current poultry sites to bolster REC production; monitoring and evaluating out-of-state poultry REC opportunities when available; and funding a North Carolina biogas utilization study through RTI International with hopes for future growth of poultry-derived directed biogas project development. Presson Direct Test. at 16-17.

Witness Presson testified that the swine waste set-aside for 2023 and beyond may be difficult to meet as the swine waste obligation increases. She reported that existing swine waste-to-energy contracts have not reached contracted levels of production and that new contracts have failed to come online in the timeframe originally planned and have taken longer than expected to ramp up production. She further testified that three new swine waste-to-energy projects are under construction and scheduled to come online in 2023, and DEC's level of compliance with near-term requirements is dependent on all facilities including the new projects meeting full contract production levels. Presson Direct Test. at 18. Finally, witness Presson outlined the challenges associated with development of swine waste-to-energy projects and the actions DEC has taken to procure RECs from, or aid in the development of, such projects for purposes of meeting its swine waste set-aside requirement. DEC referred to its semi-annual progress report filed in Docket No. E-100, Sub 113A for additional details. Presson Direct Test. at 18-21.

Public Staff witness Saillor recommended that the Commission approve DEC's 2022 REPS Compliance Report. Saillor Affidavit at 3. Specifically, he stated that for 2022 compliance, DEC obtained a sufficient number of general requirement RECs, energy efficiency certificates (EECs), and RECs derived from other eligible sources so that the total equaled 12.5% of the 2021 North Carolina retail electricity sales for itself and 10% of 2021 North Carolina retail sales for the Wholesale Customers. Witness Saillor additionally stated that DEC needed to pursue retirement of sufficient solar RECs to match 0.20% of retail sales in 2021 for itself and the Wholesale Customers, sufficient poultry waste RECs to match their pro-rata share of 700,000 MWh, and sufficient swine waste RECs to match 0.05% of retail sales in 2021 for itself only as the swine waste requirement for the Wholesale Customers was delayed until the 2023 compliance year. Saillor Affidavit at 2.

No party disputed that DEC fully complied with the applicable REPS requirements or argued that DEC's 2022 REPS Compliance Report should not be approved.

Based on the evidence presented and the entire record herein, the Commission concludes that DEC and the five Wholesale Customers for which it is providing REPS compliance services have fully complied with the REPS requirements for 2022, as modified by the Commission's March 2022 Delay Order, December 2022 Delay Order, and 2022 Poultry Order, and that DEC's 2022 REPS Compliance Report should be approved. The Commission further concludes that the RECs and EECs in the related NC-RETS compliance sub-accounts should be permanently retired.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 8-9

The evidence supporting these findings of fact appears in the direct testimony and exhibits of DEC witness Presson.

Witness Presson explained that under the current Net Metering for Renewable Energy Facilities Rider offered by DEC (Rider NM), a customer receiving electric service under a schedule other than a time-of-use schedule with demand rates (NMNTD Customer) shall provide any RECs to DEC at no cost. She further stated that per the Commission's June 5, 2018 Order Approving Rider and Granting Waiver Request in Docket Nos. E-2, Sub 1106 and E-7, Sub 1113, for NMNTD Customers, DEC may use the PVWatts™ Solar Calculator developed by the National Renewable Energy Laboratory for estimating the generation from NMNTD customers' solar facilities as permitted by Commission Rule R8-67(g)(2). The RECs associated with these net metering facilities are currently in DEC's REC inventory and available for use in meeting future compliance requirements. Presson Direct Test. at 11-12.

Witness Presson testified that DEC has hydro RECs in its inventory that it cannot use for its own REPS compliance efforts because they were generated by hydro facilities owned by DEC placed in service before January 1, 2007 and with generating capacities of 10 MW or less. In its Order Accepting Registration of Renewable Energy Facilities, Docket No. E-7, Subs 886, 887, 888, 900, 903, and 904, issued July 31, 2009, and its Order Accepting Registration of Renewable Energy Facilities, Docket No. E-7, Subs 942, 943, 945, and 946, issued December 9, 2010, the Commission accepted the registration of these hydro facilities as renewable energy facilities but not as new renewable energy facilities. The Commission so concluded because these utility-owned facilities did not meet the delivery requirement of N.C.G.S. § 62-133.8(a)(5)(c), which requires the delivery of electric power to an electric power supplier, such as DEC, by an entity other than the electric power supplier itself to qualify as a new renewable energy facility. Presson Direct Test. at 22-23. Witness Presson further testified that in DEC's REPS cost recovery proceeding in Docket No. E-7, Sub 1162, DEC proposed exchanging a portion of these hydro RECs for RECs within the inventory of the NCEMC. The exchanges were at no cost to either party and resulted in DEC acquiring RECs it could use to help meet its general requirement and in NCEMC obtaining an equal number of RECs it could use to meet its REPS compliance requirements. In its August 17, 2018 Order Approving REPS and REPS EMF Riders and 2017 REPS Compliance Report, the Commission concluded that the proposed transfer was reasonable and served the public interest. Witness Presson stated that DEP executed contracts with NCEMC exchanging a portion of these hydro RECs for an equal number of general requirement RECs in NCEMC's inventory that DEC can use for REPS compliance. Presson Direct Test. at 23-24.

Based on the foregoing, the Commission concludes that the RECs generated by the net metering facilities as described above and the RECs acquired in exchange for DEC's own hydro RECs are properly included in DEC's inventory of RECs available for future REPS compliance.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence supporting this finding of fact appears in the direct testimonies and exhibits of DEC witnesses Presson and Williams.

Witness Presson testified that DEC sold poultry RECs to another electric power supplier in North Carolina during the Test Period to enable that power supplier to comply with its poultry waste set-aside requirement. She stated that the REC sale did not negatively affect the DEC's compliance portfolio and that the sale proceeds were credited back to DEC's NC retail customers and the Wholesale REPS Customers. Presson Direct Test. at 21-22. Presson Confidential Ex. 4 provides the transaction details as the Commission requires pursuant to its May 13, 2014 Order Regarding Accounting Treatment for REC Sales issued in Docket No. E-100, Sub 113. The Commission approved the components included in the per unit price for such REC sales and the calculations of the sales price components in its August 20, 2020 Order Approving REPS and REPS EMF Riders and 2019 REPS Rider Report. DEC employed the approved REC sales pricing method and reflected details of the total calculated sales proceeds in Presson Confidential Ex. 4. Witness Williams testified regarding an additional component of the REC sales proceeds detailed in Presson Confidential Ex. 4, which is the amount charged to the REC purchasers to mitigate the interest DEC pays to customers in the event DEC over-collected for the EMF Period, as REC sales proceeds contribute to any total over-collection. Witness Williams stated that DEC retained the amount required to offset interest incurred on the current EMF Period over-collection and credited the remainder of the proceeds for this component to customers in the rider calculations on Williams Ex. 4. Williams Direct Test. at 6-7. No party disputed the REC sales proceeds calculations or REPS rider cost recovery treatment of the proceeds.

Based on the foregoing, the Commission concludes that the sale of poultry RECs to another electric power supplier for purposes of that supplier complying with its share of the statewide aggregate poultry waste set-aside requirement was prudent, and DEC properly complied with the reporting, pricing, and cost recovery requirements prescribed by previous relevant Commission orders.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

The evidence supporting this finding of fact is procedural in nature, found in the testimony and exhibits of DEC witness Williams and the affidavits of Public Staff witnesses Saillor and Allison, and is not contested.

Commission Rule R8-67(e)(3) provides that the test period for REPS rider proceedings shall be the same as that used by the utility in its fuel charge adjustment proceedings, which is specified in Commission Rule R8-55(c) for DEC to be the 12 months ending December 31 of each year. DEC witness Williams testified that the Test Period or EMF period used for this proceeding was the twelve months beginning on January 1, 2022, and ending on December 31, 2022. Williams Direct Test. at 3. Commission Rule R8-67(e)(5) provides that "the REPS EMF rider will reflect the

difference between reasonable and prudently incurred incremental costs and the revenues that were actually realized during the test period under the REPS rider then in effect.” Witness Williams further stated that the rider includes the REPS EMF component to recover the difference between the compliance costs incurred and revenues realized during the Test Period. Williams Direct Test at 5. Witness Williams also testified that the Billing Period for the REPS rider requested in the DEP’s application is the twelve months beginning on September 1, 2023, and ending on August 31, 2024. Williams Direct at 3. Witness Williams stated that, in addition to an EMF component, the current proposed rider includes a component to recover the costs expected to be incurred for the Billing Period. Williams Direct Test. at 5. No party challenged the Test Period and the Billing Period DEC proposed.

Based on the foregoing, the Commission concludes that, consistent with Commission Rule R8-67(e)(3), the Test Period for this proceeding is the 12 months from January 1, 2022, through December 31, 2022.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12 -13

The evidence for these findings of fact is in the direct testimonies and exhibits of DEC witnesses Presson and Williams and the affidavit of Public Staff witness Allison.

Witness Presson sponsored Confidential Presson Exs. 2 and 3 to her testimony, wherein she identified the renewable energy and REC costs, as well as “Other Incremental,” “Solar Rebate Program,” and “Research” costs that DEC has incurred or expects to incur in association with REPS compliance. With respect to research costs, Confidential Williams Ex. 1 shows that the research costs are under the \$1 million per year cap established in N.C.G.S. § 62-133.8(h)(1)(b).

Consistent with the Commission’s orders in prior REPS proceedings, witness Presson provided testimony and exhibits on the results and status of various studies, the costs of which DEC is including for recovery as research in its incremental REPS cost for the 2022 Test Period. Presson Direct Test. at 30-39.

In her testimony, witness Presson described “Other Incremental” costs of REPS compliance as including labor costs associated with REPS compliance activities and non-labor costs associated with administration of REPS compliance. Among the non-labor costs associated with REPS compliance are DEC’s subscription to NC-RETS and accounting and tracking tools related to RECs, reduced by agreed-upon liquidated damages paid by sellers for failure to meet contractual milestones as well as amounts paid for administrative contractual amendments requested by sellers. Presson Direct Test. at 25-26.

Witness Presson also testified that, as required by N.C.G.S. § 62-155(f), DEC developed a Solar Rebate Program. She discussed the processes in place to pay rebates, and the resulting effect on the payments made each year. Presson Direct Test. at 26-27. She further testified that the incremental costs incurred to “provide incentives to

customers, including program costs, incurred pursuant to N.C. Gen. Stat. § 62-155(f)” are allowed to be recovered under N.C.G.S. § 62-133.8(h). Therefore, DEC has included for recovery in this filing costs incurred during the EMF period, and projected to be incurred in the Billing Period, related to the implementation of the Solar Rebate Program. These costs include the annual amortization of incentives paid to customers and program administration costs, which include labor, information technology, and marketing costs. Presson Direct Test. at 27-28. Other Incremental and Solar Rebate Program costs included for recovery in the REPS EMF and REPS riders in this proceeding were not contested by any party.

The Commission concludes based on the foregoing and the entire record herein that the research activities funded by DEC during the Test Period are renewable research costs recoverable under N.C.G.S. § 62-133.8(h)(1)(b), and that such research costs included in the Test Period are within the \$1 million annual limit provided in that statute. The Commission further concludes that DEC has complied with prior Commission orders requiring filing results of such research studies. In addition, the Commission finds that the research information DEC provided is helpful. Therefore, the Commission finds that DEC should continue to file this information with future REPS compliance reports and to provide procedures for third parties to access the results of studies that are subject to confidentiality agreements. For research projects sponsored by the Electric Power Research Institute, DEC should provide the overall program number and specific project number for each project, as well as an internet address or mailing address that will enable third parties to inquire about the terms and conditions for access to any portions of the study results that are proprietary. Finally, the Commission also concludes that the costs identified as Other Incremental and Solar Rebate Program costs are properly recoverable in the REPS EMF and REPS riders calculated in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-16

The evidence for these findings of fact is in DEC’s application and in the direct and supplemental testimonies and exhibits of DEC witnesses Presson and Williams and the affidavit of Public Staff witness Allison.

N.C.G.S. § 62-133.8(h)(4) requires the Commission to allow an electric power supplier to recover all its incremental costs incurred to comply with N.C.G.S. § 62-133.8 through an annual rider. N.C.G.S. § 62-133.8(h)(1) provides that “incremental costs” means all reasonable and prudent costs incurred by an electric power supplier to comply with the REPS requirements that are in excess of the electric power supplier’s avoided costs other than those costs recovered pursuant to N.C.G.S. § 62-133.9. The term “avoided costs” includes both avoided energy and avoided capacity costs. Commission Rule R8-67(e)(2) provides that the “cost of an unbundled renewable energy certificate to the extent that it is reasonable and prudently incurred is an incremental cost and has no avoided cost component.”

DEC witness Williams testified regarding the calculation of DEC’s various incremental costs of compliance with REPS requirements, based on detailed incurred and

projected costs provided by witness Presson. Williams Direct Test. at 5. Witness Williams also described in detail the methods DEC used to determine the appropriate avoided costs to apply to REPS compliance purchased power agreements and biogas costs and DEC's utility-owned solar generating facilities in order to calculate the incremental costs for recovery through the REPS rider. Williams Direct Test. at 5-6. She testified that DEC limited cost recovery in this proceeding for its Solar PV DG Program facilities and its DEC Solar PV facilities as required by the Commission in its DEC Solar PV Orders. Williams Direct Test. at 7-9.

DEC identified combined Test Period incremental REPS compliance costs incurred for DEC NC retail and the Wholesale Customers combined as \$33,433,890, and a total combined Test Period cost of \$32,980,855 subject to allocation to DEC NC retail and recovery through the REPS rider. DEC also identified the Solar Rebate Program costs allocable to DEC NC retail only as \$2,286,917. Williams Ex. 2 at 1.

DEC showed the combined estimated Billing Period incremental REPS compliance costs incurred for DEC NC retail and the Wholesale Customers combined as \$33,527,755, and a total combined estimated Billing Period cost of \$33,662,082 subject to allocation to DEC NC retail and recovery through the REPS rider. DEC also identified the Solar Rebate Program costs allocable to DEC NC retail only as \$2,803,938. Williams Ex. 3 at 1.

In his affidavit, witness Allison described the Public Staff's investigation and review of DEC's filing, including its evaluation of DEC's per books incremental costs and revenues, as well as the annual revenue cap for REPS requirements, for the Test Period. Allison Affidavit at 2. Based on his review of costs submitted for recovery, witness Allison recommended approval of DEC's proposed monthly and annual REPS EMF decrement riders for the residential, general customer classes, and REPS EMF increment rider for industrial customer classes. Allison Affidavit at 2-3.

Based on the foregoing, the Commission concludes that the correct DEC NC retail and Wholesale Customer combined incremental costs for the January 1, 2022 through December 31, 2022 Test Period are \$35,720,807, and are reasonable and prudently incurred. The Commission further concludes that the appropriate DEC NC retail and Wholesale Customer combined estimated incremental costs for the Billing Period are \$36,331,693. The appropriate DEC NC retail portions of Test Period and Billing Period incremental REPS costs are \$32,980,855 and \$33,662,082, respectively. The Commission also finds and concludes that DEC appropriately complied with the requirements of the Commission's DEC Solar PV Orders relevant to this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 17-23

The evidence supporting these findings of fact appears in DEC's application, the direct testimony and exhibits of DEC witness Williams, and the affidavits of Public Staff witnesses Saillor and Allison.

DEC shows EMF Period over-collections including interest of \$(635,803) for the residential class and \$(728,187) for the general service class and an under-collection of \$127,503 for the industrial class. Williams Ex. 2 at 3. DEC shows additional credits for contract receipts by customer class of \$(44,565) for residential, \$(32,818) for general service, and \$(2,942) for industrial. DEC also shows credits for certain interest amounts included in REC sales proceeds, by customer class, of \$(122,965) for residential, \$(90,554) for general service, and \$(8,117) for industrial. The total EMF period net over-collections by customer class are \$(803,333) for residential and \$(851,559) for general service, with a total EMF period net under-collection of \$116,444 for the industrial class. Williams Ex. 4. As reflected in Williams Ex. 4, witness Williams calculated monthly per-account REPS EMF decrement riders (excluding regulatory fee) by customer class of \$(0.04) for residential and \$(0.27) for general service, and a monthly per-account REPS EMF increment rider of \$2.09 for the industrial class. Witness Williams calculated projected Billing Period REPS costs by customer class of \$18,894,518 for residential, \$13,622,962 for general service, and \$1,144,602 for industrial. Williams Ex. 3 at 2, as carried forward to Williams Ex. 4. Williams Ex. 4 shows that the proposed monthly prospective REPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$0.85 for residential accounts, \$4.27 for general service accounts, and \$20.58 for industrial accounts. The combined monthly REPS and REPS EMF rider charges per customer account, excluding regulatory fee, to be collected during the Billing Period are \$0.81 for residential accounts, \$4.00 for general service accounts, and \$22.67 for industrial accounts. Including the regulatory fee, the combined monthly REPS and REPS EMF rider charges per customer account to be collected during the Billing Period are \$0.81 for residential accounts, \$4.01 for general service accounts, and \$22.70 for industrial accounts. Williams Ex. 4 shows that DEC's REPS incremental cost rider to be charged to each customer account for the 12-month Billing Period is within the annual cost cap established for each customer class in N.C.G.S. § 62-133.8(h)(4).

Public Staff witness Allison stated in his affidavit that as a result of its investigation, the Public Staff is recommending annual REPS EMF decrement riders of \$(0.43) and \$(3.21) for residential and general service customers, respectively, and an annual REPS EMF increment rider of \$25.12 for industrial customers, excluding the regulatory fee. Excluding the regulatory fee, the corresponding monthly REPS EMF rider per-account amounts proposed by DEC and recommended for approval by witness Allison are decrement riders of \$(0.04) for residential and \$(0.27) for general service and an increment rider of \$2.09 for industrial. Allison Affidavit at 2-3.

Public Staff witness Saillor recommended that DEC's proposed prospective monthly REPS rider amounts per customer account, excluding regulatory fee, of \$0.85 for residential accounts, \$4.27 for general service accounts, and \$20.58 for industrial accounts, be approved. Combined with the monthly EMF rider amounts recommended by witness Allison, witness Saillor recommended approval of the following total monthly REPS charge per customer account, excluding regulatory fee: \$0.81 for residential accounts, \$4.00 for general service accounts, and \$22.67 for industrial accounts. Saillor Affidavit at 4.

The Commission concludes that DEC's calculations of its REPS and REPS EMF riders are reasonable and appropriate. Accordingly, the Commission finds that DEC's Test Period REPS costs and associated monthly REPS EMF riders, as well as the projected Billing Period REPS costs and the corresponding monthly REPS riders as set out in Williams Ex. 4, are appropriate. Finally, the Commission finds that these amounts are below the respective annual per-account cost caps as established in N.C.G.S. § 62-133.8(h)(4).

IT IS, THEREFORE, ORDERED as follows:

1. That DEC shall establish a REPS rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a 12-month period beginning on September 1, 2023, and expiring on August 31, 2024;

2. That DEC shall establish an EMF rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a 12-month period beginning on September 1, 2023, and expiring on August 31, 2024;

3. That DEC shall file the appropriate rate schedules and riders with the Commission in order to implement the provisions of this Order as soon as practicable but not later than ten days after the date that the Commission issues the order in this docket;

4. That DEC shall work with the Public Staff to prepare a joint notice to customers of the rate changes ordered by the Commission in this docket, as well as in Docket Nos. E-7, Subs 1281 and 1282, and DEC shall file such joint notice for Commission approval within the time frame to be set by the Commission in the orders to be issued in Subs 1281 and 1282;

5. That DEC's 2022 REPS Compliance Report is hereby approved and the RECs in DEC's 2022 compliance sub-accounts in NC-RETS shall be retired;

6. That DEC shall file in all future REPS rider applications the results of studies the costs of which were or are proposed to be recovered via its REPS EMF and rider and, for those studies that are subject to confidentiality agreements, information regarding whether and how parties can access the results of those studies; and

7. That DEC shall continue to file a worksheet explaining the discrete costs that DEC includes as "other incremental costs" in all future REPS rider proceedings.

8. That DEC shall reflect the updated regulatory fee of 0.1475% in its compliance filing in this docket; and

9. That the Chief Clerk shall serve a copy of this Order on the NC-RETS Administrator.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of August, 2023.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Tamika D. Conyers". The signature is written in a cursive, flowing style.

Tamika D. Conyers, Deputy Clerk