

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-100, SUB 195

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
2023 Renewable Energy and Efficiency	) ORDER ACCEPTING REPS
Portfolio Standard Compliance Plans pursuant	) COMPLIANCE PLANS
to N.C. Gen. Stat. § 62-133.8 and Commission	)
Rule R8-67(b)	)

BY THE COMMISSION: North Carolina's Renewable Energy and Energy Efficiency Portfolio Standard (REPS), codified at N.C. Gen. Stat. § 62-133.8,<sup>1</sup> requires all electric power suppliers in North Carolina to meet specific percentages of their retail sales using renewable energy and energy efficiency. Subsection 62-133.8(b) sets out the percentage requirements that apply to electric power suppliers that sell electric power to retail electric power customers in North Carolina and provides the options available to these electric public utilities for meeting the REPS requirements. These options include generating electric power at a new renewable energy facility, reducing energy consumption through the implementation of energy efficiency (EE) measures or electricity demand reduction, and purchasing renewable energy certificates (RECs) derived from in-state and out-of-state renewable energy facilities. One megawatt-hour (MWh) of savings from EE, or electricity demand reduction, is equivalent to one energy efficiency certificate (EEC), which is a type of REC.

Pursuant to N.C.G.S. § 62-133.8(b)(2)(c), electric public utilities may use EE measures to meet up to 40% of the total REPS requirement beginning in calendar year 2021, and each year thereafter. Pursuant to N.C.G.S. § 62-133.8(b)(2)(e), all electric power suppliers may obtain RECs from out-of-state sources to satisfy up to 25% of their total requirements, with the exception of an electric public utility with less than 150,000 North Carolina retail jurisdictional customers, which may use out-of-state RECs to meet its entire requirement. The total amount of RECs and EECs that must be provided by electric public utilities is equal to 12.5% of their North Carolina retail (NC Retail) sales for the preceding year.

Pursuant to N.C.G.S. § 62-133.8(i), the Commission adopted Commission Rule R8-67 to implement the provisions of the REPS. Commission Rule R8-67(b) requires each electric power supplier, or its utility compliance aggregator, to file a REPS compliance plan on or before September 1 of each year, setting forth its plan for future compliance with

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<sup>1</sup> On October 10, 2023, the North Carolina General Assembly enacted Session Law 2023-138 changing the REPS to the Clean Energy and Energy Efficiency Portfolio Standard (CEPS), which added nuclear energy as a resource for compliance. Because DEP and DEC filed their Plans prior to the effective date of S.L. 2023-138, this Order uses the term REPS.

the REPS during the three-year period beginning with the current calendar year. Commission Rule R8-67(b)(1) provides a list of the minimal information each electric power supplier must include in its compliance plan.

On August 30, 2023, DEP and DEC filed their 2023 REPS compliance plans. The companies filed confidential portions of their plans under seal.

On November 16, 2024, the Commission issued an Order Establishing Dates for Comments on REPS Compliance Plans.

On February 1, 2024, the Public Staff filed comments on DEP's and DEC's REPS compliance plans.

Section § 62-133.8, requires all electric power suppliers in North Carolina to meet specific percentages of their retail sales using renewable energy and energy efficiency. The total amount of renewable energy that must either be generated by an electric power supplier or evidenced by purchased renewable energy certificates (RECs) or energy efficiency savings for 2023, 2024, and 2025 is equal to 12.5% of its North Carolina retail sales for the preceding year.

Commission Rule R8-67(b) provides the requirements for REPS compliance plans. Electric public utilities must file their plans on or before September 1 of each year, and explain their plans to meet the requirements of N.C.G.S. § 62-133.8(b)-(f) for the year of filing, and the two calendar years thereafter, in this case 2023, 2024, and 2025 (Planning Period). An electric power supplier may have its REPS requirements met by a utility compliance aggregator as defined in Rule R8-67(a)(5).

The record in this proceeding shows that DEC and DEP have each contracted for or procured sufficient resources to meet the general requirement and solar energy set-aside requirement for the Planning Period, both for the utilities and the utilities' wholesale customers. DEC and DEP each intends to use EE programs to meet up to 40% of their REPS requirements, which is the maximum allowable under N.C.G.S. § 62-133.8(b)(2)c, during the Planning Period.

DEP and DEC plan to satisfy the minimum solar set-aside requirements in the Planning Period through a combination of power purchase agreements (PPAs) and company-owned solar facilities. DEP and DEC plan to meet a portion of the general requirement using RECs from its self-owned solar photovoltaic facilities, renewable energy purchased power agreements, and competitive solar energy procurement. DEP and DEC each plan to meet a portion of the general requirement through biomass resources including landfill gas to energy, combined heat and power, and direct combustion of biomass fuels. They also plan to use hydroelectric power to meet a portion of the general requirement and will continue to evaluate the use of in-state and out-of-state wind energy resources for future REPS compliance. DEP and DEC also plan to use RECs acquired through the Competitive Procurement of Renewable Energy (CPRE) Requests for Proposal solicitations as needed for future REPS compliance requirements.

Both DEP and DEC anticipate that their REPS compliance costs for the Planning Period will increase but will remain below the cost caps contained in N.C.G.S. § 62-133.8(h)(3) and (4). DEP expects that its incremental REPS compliance costs will reach approximately 76% of the cost cap in 2025.

The state's electric power suppliers have encountered continuing difficulties in their efforts to comply with the swine and poultry waste set-aside requirements. In each year from 2012 through 2023, the electric power suppliers moved the Commission to delay the swine waste set-aside requirement until the following year, and the Commission granted each request. After DEC, DEP, and other electric power suppliers filed their REPS compliance plans, they requested the Commission modify and delay the swine waste energy set-aside requirements. On December 11, 2023, the Commission issued an order reducing the swine waste energy set-aside requirements for electric public utilities to 0.05%, 0.14%, and 0.20% of NC Retail sales for 2023, 2024, and 2025, respectively. DEC and DEP note that they have met their swine waste set-aside requirements as modified by the Commission in 2023 but are uncertain that they can meet their swine waste set-aside requirements in 2024, and 2025. The Public Staff states that, based on history, it anticipates that DEC and DEP will diligently attempt to comply with their swine waste set-aside requirements in the Planning Period.

With respect to poultry waste, the electric power suppliers annually requested from 2012 to 2022 that the requirement be delayed and modified. The Commission granted these motions. The 2022 poultry waste set-aside requirement was 700,000 MWh and the 2023 and 2024 poultry waste set-aside requirement is 900,000 MWh pursuant to the Commission's December 20, 2022 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, in Docket No. E-100, Sub 113. Both DEP and DEC state that they are in a position to comply with their poultry waste set-aside requirement for the Planning Period. However, longer-term compliance is dependent on the performance of poultry waste-to-energy developers under current contracts, particularly achievement of projected delivery requirements and commercial operation milestones.

In its comments, the Public Staff concludes that DEP and DEC should be able to meet their general requirements, solar energy set-aside requirements, and poultry waste set-aside requirements in the Planning Period, without exceeding their cost caps. The Public Staff notes that both DEP and DEC indicate that they will have difficulty meeting the swine waste set-aside requirement during the Planning Period. The Public Staff recommends that the Commission approve the 2023 REPS compliance plans. No other party to this proceeding has taken issue with the compliance plans filed by DEP and DEC. Accordingly, the Commission concludes that the REPS compliance plans filed by DEP and DEC contain the information required by Commission Rule R8-67(b).

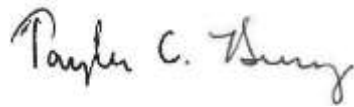
As such, and based on the recommendation of the Public Staff, the Commission accepts the REPS compliance plans filed by DEP and DEC in this docket.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of April, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in dark ink, reading "Taylor C. Berry". The signature is written in a cursive, flowing style.

Taylor C. Berry, Deputy Clerk