

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-22, SUB 674

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina, for Approval of Renewable Energy and Energy Efficiency Portfolio Standard (REPS) Compliance Report and Cost Recovery Rider Pursuant to North Carolina General Statute § 62-133.8 and Commission Rule R8-67)	ORDER APPROVING REPS AND REPS EMF RIDERS AND 2022 REPS COMPLIANCE REPORT

HEARD: Wednesday, November 28, 2023, in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina 27603 (Public Witness Hearing, Hearing Examiner Warren Hicks presiding)

BEFORE: Chair Charlotte A. Mitchell and Commissioners ToNola D. Brown-Bland, Kimberly W. Duffley, Jeffrey A. Hughes, Floyd B. McKissick, Jr., and Karen M. Kemerait¹

APPEARANCES:

For Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina:

Andrea R. Kells, McGuireWoods LLP, 501 Fayetteville Street, Suite 500, Raleigh, North Carolina 27601

For Carolina Utility Customers Association, Inc.:

Marcus W. Trathen and Christopher B. Dodd, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP, Suite 1700, Wells Fargo Capitol Center, 150 Fayetteville Street, P.O. Box 1800, 27602 Raleigh, North Carolina 27601

¹ The term of Commissioner ToNola D. Brown-Bland ended prior to the decision in this docket and, therefore, she did not participate in the decision.

For Carolina Industrial Group for Fair Utility Rates I:

Christina D. Cress and Douglas E. Conant, Bailey & Dixon, LLP, Post Office
Box 1351, Raleigh, North Carolina 27602

For the Using and Consuming Public:

William Freeman, William E.H. Creech, Staff Attorneys, Public Staff – North
Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North
Carolina 27699-4300

BY THE COMMISSION: On August 15, 2023, Virginia Electric and Power Company, d/b/a Dominion Energy North Carolina (DENC or the Company), filed its annual Renewable Energy and Energy Efficiency Portfolio Standard (REPS) Compliance Report² and Application seeking an adjustment to its North Carolina retail (NC Retail) rates and charges pursuant to N.C. Gen. Stat. § 62-133.8(h) and Commission Rule R8-67 (Application). The Commission is required 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 N.C.G.S. § 62-133.8(b), (d), (e), and (f), and to true-up any under recovery or over recovery of compliance costs. Thus, DENC's annual REPS Rider has two components: (1) a forward-looking component to recover DENC's projected REPS compliance costs for the rate period of February 1, 2024 through January 31, 2025 (proposed by DENC as Rider RP); and (2) a REPS Experience Modification Factor (EMF) to true-up any over or under recovery of the REPS compliance costs under the previous REPS Rider from July 1, 2022 through June 30, 2023 (proposed by DENC as Rider RPE). DENC's Application was accompanied by the testimony and exhibits of George E. Hitch, Justin A. Wooldridge, and Jessica N. Chargois. In its Application and prefiled testimony, DENC sought approval of the proposed REPS Rider RP and REPS Rider RPE, which incorporated DENC's proposed adjustments in its NC Retail rates. In addition, DENC requested Commission approval of its 2023 REPS Compliance Report for calendar year 2022 REPS compliance, filed as Company Exhibit GEH-1 attached to the prefiled direct testimony of DENC witness Hitch. DENC's Application requested an annual revenue requirement of \$1,418,718 for the rate period (billing period) of February 1, 2024, through January 31, 2025, to be recovered through updated Rider RP, as well as a REPS EMF revenue requirement of \$51,496 to be recovered through Rider RPE.

On August 23, 2023, the Carolina Utility Customers Association, Inc. (CUCA) filed a Petition to Intervene. The Commission granted this petition to intervene on August 28, 2023.

² Pursuant to Session Law 2023-138, effective October 10, 2023, the Renewable Energy and Energy Efficiency Portfolio Standard is now titled the Clean Energy and Energy Efficiency Portfolio Standard (CEPS). Because this filing uses both a historic test period and a prospective billing period, the Commission will refer this matter as the REPS Rider, while noting that this will be titled the CEPS Rider in the upcoming 2024 calendar year filings.

On August 25, 2023, the Carolina Industrial Group for Fair Utility Rates I (CIGFUR I) filed a Petition to Intervene. The Commission granted this petition to intervene on August 28, 2023.

The intervention and participation of the Public Staff – North Carolina Utilities Commission (Public Staff) in this docket are recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On August 30, 2023, the Commission issued an Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring Public Notice, which was amended by order issued September 7, 2023 (Amended Scheduling Order). Pursuant to the Amended Scheduling Order, the Commission established deadlines for the filing of petitions to intervene, intervenor testimony and exhibits, and DENC rebuttal testimony and exhibits, and scheduled the public hearing to begin on November 28, 2023.

On September 25, 2023, DENC filed an errata to the Application and to the testimony and schedules of witness Jessica N. Chargois.

On November 7, 2023, the Public Staff filed the Affidavits of Jay B. Lucas, Manager, Electric Section – Rates and Energy Services, Energy Division; and Darrus K. Cofield, Public Utilities Regulatory Analyst for the Accounting Division.

On November 9, 2023, DENC filed its Affidavit of Publication as directed by the Amended Scheduling Order.

On November 16, 2023, DENC filed a letter in lieu of rebuttal testimony indicating that there were no issues in dispute between DENC and the Public Staff and intervenors based upon the Public Staff's affidavits and the fact that intervenors did not file testimony.

On November 17, 2023, DENC and the Public Staff filed a Joint Motion to Excuse Witnesses and Cancel Evidentiary Hearing (Joint Motion), stating that these parties had reached agreement on all issues in this docket and had agreed to waive cross-examination of each other's witnesses, and that CIGFUR I and CUCA also agreed to waive cross-examination of the witnesses and did not object to the Joint Motion.

On November 27, 2023, the Commission granted the Joint Motion. The Commission also canceled the expert witness hearing scheduled for November 28, 2023, and accepted into evidence the prefiled testimony, exhibits, and affidavits of DENC witnesses Hitch, Wooldridge, and Chargois, and Public Staff affiants Lucas and Cofield. The Commission also directed that proposed orders be filed on or before December 28, 2023.

This matter came on for public witness hearing as scheduled on November 28, 2023, before Hearing Examiner Warren Hicks. No public witnesses appeared at the hearing.

DENC and the Public Staff filed a joint proposed order in this proceeding on December 21, 2023.

Based upon the foregoing, including the testimonies, exhibits, and affidavits received into evidence, the records in the North Carolina Renewable Energy Tracking System (NC-RETS), and the entire record in this proceeding, the Commission makes the following:

FINDINGS OF FACT

1. DENC is duly organized as a public utility company under the laws of the State of North Carolina and is subject to the jurisdiction of the Commission. DENC is engaged in the business of generating, transmitting, distributing, and selling electric power and energy to the public for compensation in North Carolina. DENC is also an electric power supplier as defined in N.C.G.S. § 62-133.8(a)(3). DENC 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. Pursuant to the REPS statute, N.C.G.S. § 62-133.8, in 2022 electric public utilities were required to meet 12.5% of their previous year's NC Retail electric sales by a combination of renewable energy and energy reductions due to the implementation of energy efficiency (EE) measures. In addition, electric power suppliers were required to acquire solar energy, or renewable energy certificates (RECs) for solar energy, by the end of 2022 in an amount equal to at least 0.2% of the previous year's NC Retail sales. The 0.2% solar energy requirement is part of the 12.5% total REPS requirement. The solar energy sources can be a combination of new solar electric facilities and new metered solar thermal energy facilities. The electric power suppliers of North Carolina were initially required by N.C.G.S. § 62-133.8 to procure a certain portion of their renewable energy requirements beginning in 2012 from electricity generated by poultry and swine waste. However, by orders issued November 29, 2012, and March 26, 2014, in Docket No. E-100, Sub 113 (collectively, together with the Orders of November 13, 2014, December 1, 2015, October 17, 2016, October 16, 2017, October 8, 2018, December 16, 2019, February 13, 2020, December 30, 2020, March 4, 2022, December 20, 2022, and December 11, 2023, the Delay Orders), the Commission delayed the initial swine and poultry waste resource requirements until 2014; in an order issued November 13, 2014, in the same docket, the Commission granted an additional delay of the initial swine waste requirement until 2015 and established an initial aggregate poultry waste resource requirement of 170,000 megawatt-hours (MWh) for 2014; in an order issued December 1, 2015, the Commission again granted a further delay of the initial swine waste requirement until 2016 and maintained the aggregate poultry waste resource requirement at 170,000 MWh for 2015; in an order issued October 17, 2016, the Commission further delayed the initial swine waste requirement for one additional year and maintained the aggregate poultry waste requirement at 170,000 MWh for 2016; in an order issued October 16, 2017, the Commission delayed the initial swine waste requirement for one additional year and maintained the aggregate poultry waste requirement at 170,000 MWh for 2017; in an order issued October 8, 2018, the

Commission delayed the initial swine waste requirement for one additional year for electric membership corporations and municipal electric systems but required the electric public utilities (including DENC) to meet 0.02% of their sales using swine waste resources and, relative to the increase required pursuant to N.C.G.S. § 62-133.8(f), decreased the aggregate poultry waste requirement to 300,000 MWh; in an order issued December 16, 2019, as clarified by a February 13, 2020 Errata Order, the Commission delayed the initial swine waste requirement for one additional year for electric membership corporations and municipal electric systems but required the electric public utilities (including DENC) to meet 0.04% of their sales using swine waste resources and, relative to the increase required pursuant to N.C.G.S. § 62-133.8(f), decreased the aggregate poultry waste requirement to 500,000 MWh; in an order issued December 30, 2020, the Commission delayed the initial swine waste requirement for one additional year for electric membership corporations; in an order issued March 4, 2022, the Commission delayed the initial swine waste set-aside requirement until 2022 for electric membership corporations and municipal electric systems, and reduced the poultry waste set-aside requirements for all electric suppliers; and in an order issued December 20, 2022, the Commission delayed the initial swine waste set-aside requirement until 2023 for electric membership corporations and municipal electric systems and modified the swine waste set-aside requirement for the electric public utilities; in an order issued December 11, 2023, the Commission modified the swine waste set-aside requirement for DENC, Duke Energy Progress, LLC (DEP) and Duke Energy Carolinas, LLC(DEC) by lowering the 2023 compliance requirement to 0.05% of 2022 retail sales, delayed entirely the 2023 swine waste set-aside requirement for the electric membership corporations and municipalities, and imposed for 2024-23 a requirement of 0.07%, for 2026-27 a requirement of 0.14%, and for 2028 and thereafter a requirement of 0.20%.

3. N.C.G.S. § 62-133.8(h)(4) provides that an electric power supplier shall be allowed to recover through an annual rider the incremental costs incurred to comply with the REPS.

4. Pursuant to N.C.G.S. § 62-133.8(b)(2)(e), DENC may use 100% of out-of-state RECs to achieve REPS compliance. 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.

5. DENC has agreed to provide REPS compliance services, including the procurement of RECs, to the Town of Windsor pursuant to N.C.G.S. § 62-133.8(c)(2)(e). Town of Windsor's 2022 REPS compliance status is included in DENC's 2023 REPS Compliance Report for compliance year 2022.

6. Considering the Delay Orders, DENC, on its own behalf and on behalf of Town of Windsor, has complied with its 2022 REPS obligations. DENC's 2023 REPS Compliance Report for compliance year 2022 should be approved.

7. For purposes of DENC's annual rider pursuant to N.C.G.S. § 62-133.8(h), the rate period is the 12-month period from February 1, 2024, through January 31, 2025. The test period is the 12-month period from July 1, 2022, through June 30, 2023.

8. DENC's approach of managing its retail REPS costs separately from the REPS costs for its wholesale customer, Town of Windsor, is reasonable.

9. For purposes of establishing the REPS EMF charge (Rider RPE) in this proceeding, DENC's actual incurred incremental costs of REPS compliance, during the REPS test period, were \$830,411. DENC's Rider RP revenues were \$778,915. DENC's under recovery of test-period compliance costs, including interest, was \$51,496.

10. For purposes of establishing the forecasted REPS charge (Rider RP) in this proceeding, DENC's incremental costs of REPS compliance projected to be incurred during the rate period are \$1,418,718.

11. DENC's projected total adjusted number of customer accounts for the Rate Year ending January 31, 2025, is 127,562, including 108,842 in the residential class, 18,673 in the commercial class, and 47 in the industrial class.

12. The appropriate monthly amount of the REPS EMF charge (Rider RPE) to be collected during the billing period, per customer account, including the regulatory fee, is \$0.02 for residential accounts, \$0.11 for commercial accounts, and \$0.74 for industrial accounts.

13. The appropriate monthly amount of the forecasted REPS charge (Rider RP) to be collected during the billing period, per customer account, including the regulatory fee, is \$0.55 for residential accounts, \$3.07 for commercial accounts, and \$20.46 for industrial accounts. The combined monthly Rider RP and Rider RPE charges to be collected during the billing period, per customer account, including the regulatory fee, are \$0.57 for residential accounts, \$3.18 for commercial accounts, and \$21.20 for industrial accounts.

14. DENC's combined REPS riders to be charged to each customer account for the billing period are within the annual cost caps established in N.C.G.S. § 62-133.8(h)(4).

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-5

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) and (c)(1) establish a REPS requirement for all electric power suppliers in the State. These provisions require each electric power supplier to provide a certain percentage of its North Carolina sales from various renewable energy or EE resources. Authorized methods of compliance with the REPS requirement for

electric public utilities are listed in N.C.G.S. § 62-133.8(b)(2) as follows: (a) generate electric power at a new renewable energy facility; (b) use 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) reduce energy consumption through the implementation of an EE measure; (d) purchase electric power from a new renewable energy facility; (e) purchase RECs derived from in-state or out-of-state new renewable energy facilities; (f) use electric power that is supplied by a new renewable energy facility or energy saved due to the implementation of an EE measure that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year; or (g) electricity demand reduction. In 2022, the electric public utilities were required to meet 12.5% of their previous year's North Carolina retail electric sales by a combination of the measures authorized by N.C.G.S. § 62-133.8(b). Each of these compliance methods is subject to certain additional limitations and conditions.

N.C.G.S. § 62-133.8(c) has similar requirements for electric membership corporations and municipal electric systems.

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 is 0.2% for 2018 and subsequent years.

N.C.G.S. § 62-133.8(e) requires a certain percentage of the total electric power sold to retail electric customers in the State to be supplied by swine waste resources. The General Assembly established an initial aggregate 0.07% swine waste resources requirement in 2012, increasing thereafter. N.C.G.S. § 62-133.8(f) requires a specific amount of electric power sold to retail electric customers in the State, or an equivalent amount of energy, to be supplied, or contracted for supply in each year, by poultry waste resources. The General Assembly established an initial aggregate poultry waste resources requirement of 170,000 MWh in 2012, increasing thereafter. Pursuant to the Commission's Order on Pro-Rata Allocation of Aggregate Swine and Poultry Waste Set-Aside Requirements and Motion for Clarification issued on March 31, 2010, in Docket No. E-100, Sub 113, DENC's share of the aggregate State set-aside requirements for energy from poultry waste resources is based on the ratio of its North Carolina retail kilowatt-hour (kWh) sales from the previous year divided by the previous year's total North Carolina retail kWh sales for all electric power suppliers. Pursuant to the Commission's Order Establishing Method of Allocating the Aggregate Poultry Waste Resources Set-Aside Requirement issued April 18, 2016, in Docket No. E-100, Sub 113, starting with compliance year 2016, the aggregate poultry waste set-aside obligation shall be allocated among the electric power suppliers by averaging three years of historical retail sales, with the resulting allocation being held constant for three years.

At the joint request of the State's electric power suppliers, including DENC, the Commission issued the Delay Orders in Docket No. E-100, Sub 113, pursuant to specific

authority provided to the Commission by the General Assembly to modify the REPS requirements under N.C.G.S. § 62-133.8(i)(2).

Specifically, the Commission's November 29, 2012 Order Modifying the Poultry and Swine Waste Set-Aside Requirements and Granting Other Relief directed that the swine waste resource set-aside requirement for 2012 be eliminated and that the poultry waste resource requirements for 2012 and subsequent years be delayed for a year. On March 26, 2014, the Commission issued a Final Order Modifying the Poultry and Swine Waste Set-Aside Requirements and Providing Other Relief, approving another one-year delay for both the swine waste resource and poultry waste resource requirements and requiring certain additional reporting by all electric power suppliers, including DENC. On November 13, 2014, the Commission issued an Order Delaying Swine Set-Aside and Providing Other Relief, delaying DENC's and other electric power suppliers' swine waste resource requirement for one year and establishing an initial aggregate poultry waste resource requirement of 170,000 MWh for 2014, to be divided among the electric power suppliers. On December 1, 2015, the Commission issued an Order Delaying Swine Set-Aside and Providing Other Relief, granting a further delay of the initial swine waste requirement until 2016, modifying the 2015 poultry waste set-aside requirement to remain at the same level as the 2014 aggregate requirement of 170,000 MWh, and delaying by one year the scheduled increases in the requirement (the requirement was scheduled to increase to 700,000 MWh in the aggregate for all electric power suppliers). On October 16, 2016, the Commission issued an Order Modifying the Swine Waste Set-Aside Requirement and Providing Other Relief, which delayed for one additional year the commencement of the swine waste set-aside requirement. The Commission also modified the 2016 poultry waste set-aside requirement to remain at the same level as the 2014 and 2015 aggregate requirement of 170,000 MWh and delayed by one additional year the scheduled increases in the requirement (increasing to 700,000 MWh for 2017, and 900,000 MWh for 2018 and each year thereafter).

On October 16, 2017, the Commission issued an Order Modifying the Swine Waste Set-Aside Requirement and Providing Other Relief, which delayed for one additional year the initial compliance requirement under the swine waste set-aside. The Commission also modified the 2017 poultry waste set-aside requirement to remain at the same level as the 2014 and 2015 aggregate requirement of 170,000 MWh and delayed by one additional year the scheduled increases in the requirement (increasing to 700,000 MWh for 2018 and 900,000 MWh for 2019 and each year thereafter). Through its Delay Orders, the Commission established that the aggregate statewide poultry waste resource requirement for the State's electric power suppliers, including DENC, is 170,000 MWh for 2016 and 2017, and delayed the initial swine waste requirement until 2018. In its October 8, 2018 Order, the Commission required the electric public utilities, including DENC, to meet 0.02% of their sales using swine waste resources and decreased the aggregate poultry waste requirement to 300,000 MWh. In its December 16, 2019 Order, the Commission required the electric public utilities, including DENC, to meet 0.04% of their sales using swine waste resources and decreased the aggregate poultry waste requirement to 500,000 MWh. In its December 30, 2020 Order, the Commission delayed the initial swine waste requirement for one additional year for electric membership

corporations. In its March 4, 2022 Order, the Commission established modified aggregate statewide 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 4, 2022 Order and modified the 2022 swine waste set-aside requirement for the electric public utilities. On December 11, 2023, the Commission issued an Order Modifying the Swine Waste Set-Aside Requirement and Granting Other Relief that modified the requirements of N.C.G.S. § 62-133.8(e) for DEC, DEP, and DENC by lowering the 2023 compliance requirement to 0.05% of retail sales, delayed entirely the 2023 swine waste set-aside requirement for the electric membership corporations and municipalities and imposed for 2024-25 a requirement of 0.07% for 2026-27 a requirement of 0.14%, and for 2028 and thereafter a requirement of 0.20%.

N.C.G.S. § 62-133.8(b)(2)(e) provides that an electric power supplier shall achieve no more than 25% of its annual REPS compliance obligations using RECs from out-of-state new renewable energy facilities. However, paragraph (b)(2)(e) specifically exempts any electric public utility with less than 150,000 North Carolina retail jurisdictional customers as of December 31, 2006. The Commission held in its Order on Dominion's Motion for Further Clarification, issued September 22, 2009, in Docket No. E-100, Sub 113, that this exemption applies to DENC for purposes of both its general REPS obligation and individual set-aside requirements pursuant to N.C.G.S. § 62-133.8(d)–(f). DENC may, therefore, achieve 100% of its REPS compliance using RECs generated by out-of-state new renewable energy facilities.

N.C.G.S. § 62-133.8(b)(2)(c) provides that an electric public utility may use energy efficiency certificates (EECs) to meet no more than 25% of its total requirement through 2020 but allows no more than 40% for 2021 and thereafter. This limitation on the use of EECs to meet the total requirement does not apply to municipal suppliers such as Town of Windsor.

N.C.G.S. § 62-133.8(h)(4) requires the Commission to allow an electric power supplier to recover all of 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 costs and avoided capacity costs. Commission Rule R8-67(e)(2) provides that the reasonable and prudently incurred costs of unbundled RECs are incremental costs and have no avoided cost component.

Commission Rule R8-67(e)(5) provides that “[t]he REPS EMF 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.”

DENC's 2023 REPS Compliance Report for compliance year 2022 stated that pursuant to N.C.G.S. § 62-133.8(c)(2)(e), DENC provided renewable energy resources and compliance reporting services for Town of Windsor.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence supporting this finding of fact appears in DENC's 2023 REPS Compliance Report for compliance year 2022 and in the testimony and exhibits of DENC witness Hitch and the affidavit of Public Staff affiant Lucas. In addition, the Commission takes judicial notice of information contained in NC-RETS.

DENC's 2023 REPS Compliance Report was admitted into evidence as Company Exhibit GEH-1. This report provided the information required by Commission Rule R8-67(c) for DENC and Town of Windsor. Public Staff affiant Lucas stated that he reviewed DENC's 2023 REPS Compliance Report and recommended that it be approved.

DENC's 2023 REPS Compliance Report stated that DENC's 2021 retail electric sales were 4,222,019 MWh and Town of Windsor's were 47,196 MWh. DENC's 12.5% 2021 total REPS obligation amounted to 527,752 RECs, including 459,575 general obligation RECs, 8,445 solar RECs (0.2% of 4,222,019), 22,134 poultry waste RECs, 2,112 swine waste RECs, and 35,486 EECs from its portfolio of in-state EE programs approved pursuant to N.C.G.S. § 62-133.9. Town of Windsor's 10% 2021 total REPS obligation amounted to 4,720 RECs, including 4,379 general obligation RECs, 95 solar RECs (0.2% of 47,196), and 246 poultry waste RECs. The Commission's December 16, 2019; December 30, 2020; March 4, 2022; and December 20, 2022 Orders each delayed the initial swine waste set-aside requirement for municipalities until 2023. The December 11, 2023 Delay Order delayed the swine waste set-aside requirements for electric membership corporations and municipalities until 2024. Town of Windsor did not use any EECs for compliance. Public Staff affiant Lucas stated that these numbers of RECs met the REPS requirement that 12.5% of 2021 retail sales must be matched with an equivalent number of RECs in 2022, including 0.2% of 2021 retail sales that must be matched with an equivalent number of RECs derived from solar energy. Witness Hitch testified that out-of-state RECs may be used for 100% of DENC's REPS compliance but may not be used to meet more than 25% of Town of Windsor's REPS requirements. DENC complied with these limitations. NC-RETS further indicates that DENC complied with the provisions of N.C.G.S. § 62-133.8(b)(2)(e) and (c)(2)(d).

No party disputed that DENC and Town of Windsor complied with their 2022 REPS requirements, and witness Hitch and affiant Lucas both stated that DENC and Town of Windsor met the 2022 REPS requirements.

Based on the foregoing and all the evidence of record, the Commission finds that DENC and its wholesale customer, Town of Windsor, for which DENC is providing REPS compliance services, have fully complied with the requirements of the REPS for 2022, and that DENC's 2023 REPS Compliance Report for compliance year 2022 should be approved.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 7

The evidence supporting this finding of fact appears in DENC's Application; the testimony of DENC witnesses Hitch, Wooldridge, and Chargois; and the affidavits of Public Staff affiants Lucas and Cofield.

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 annual fuel charge adjustment proceedings, which is specified in Rule R8-55(c) for DENC to be the 12-month period ending each June 30. Therefore, the test period to be used for purposes of this proceeding is the period July 1, 2022, through June 30, 2023.

Regarding the rate period, Rule R8-67(e)(4) provides that the REPS and REPS EMF riders shall be in effect for a fixed period that "shall coincide, to the extent practical, with the recovery period for the cost of fuel and fuel-related cost rider established pursuant to Rule R8-55." For DENC, this time period is February 1, and the subsequent 12-month period. In its current fuel proceeding, Docket No. E-22, Sub 675, and in this proceeding, DENC has proposed that its rate adjustments take effect on February 1, 2024, and remain in effect for a 12-month period.

DENC's test period and rate period were not challenged by any party. Therefore, the Commission finds that the test period and rate period proposed by DENC are appropriate for use in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The evidence supporting this finding of fact is found in the testimony and exhibits of DENC witness Hitch. DENC witness Hitch testified that DENC purchases RECs for use by Town of Windsor, its wholesale customer, to meet its REPS obligations. However, 75% of Town of Windsor's RECs must be obtained from in-state sources, whereas DENC, pursuant to N.C.G.S. § 62-133.8(b)(2)(e), is exempt from this requirement and may obtain all of its RECs from outside North Carolina. Because of this difference in requirements, DENC has directly assigned to the Town of Windsor the costs of RECs used for its REPS compliance and has excluded them from the REPS costs DENC is seeking to recover in this proceeding. Similarly, witness Hitch testified, other incremental REPS compliance costs reasonably attributable to Town of Windsor are excluded from the costs that DENC is seeking to recover. The Public Staff made no objection to the manner in which DENC separates its own REPS compliance costs from those incurred on behalf of Town of Windsor. Accordingly, the Commission finds that DENC's practice of managing its retail REPS costs separately from the REPS costs for Town of Windsor is reasonable.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9-14

The evidence supporting these findings of fact appears in the testimony and exhibits of DENC witnesses Wooldridge and Chargois and the affidavits of Public Staff affiants Lucas and Cofield.

As shown in witness Wooldridge’s Exhibit JAW-1, Schedule 2, DENC’s incremental REPS compliance costs for the test period amounted to \$830,411, while its test-period Rider RP revenues totaled \$778,915, resulting in an under recovery of \$51,496, to be recovered through Rider RPE. The under recovery for each customer class is set forth on witness Chargois’ amended Exhibit JNC-1, Schedule 2, as follows: \$26,152 for the residential class, \$24,926 for the commercial class, and \$418 for the industrial class. These under recoveries are divided by the total adjusted number of accounts, which are 108,842, 18,673, and 47 for the residential, commercial, and industrial classes, respectively, and further divided by 12 months to determine the monthly per-account charge. The projected incremental costs for the billing period, which are recovered through Rider RP, amount to \$1,417,810. These costs are set forth on amended Exhibit JNC-1, Schedule 5, and are broken down by customer class as follows: \$718,357 for the residential class, \$687,913 for the commercial class, and \$11,539 for the industrial class. DENC acknowledges that the costs presented by customer class on Exhibit JNC-1, amended Schedule 5, do not equal the projected incremental costs for the billing period due to rounding in the calculations utilized to determine the costs per customer class. These incremental costs are divided by the projected total adjusted number of accounts for each class, and further divided by 12 months to determine the monthly per-account charge.

In her testimony, witness Chargois determined that the appropriate monthly rates for Riders RP and RPE, including the regulatory fee, are as follows:

Customer Class	Forecast Rate (Rider RP)	EMF Rate (Rider RPE)	Total REPS Rate
Residential	\$0.55	\$0.02	\$0.57
Commercial	\$3.07	\$0.11	\$3.18
Industrial	\$20.46	\$0.74	\$21.20

Public Staff affiants Lucas and Cofield described the Public Staff’s audit of DENC’s REPS costs and recommended approval of DENC’s proposed Rider RP and RPE rates. The Commission therefore finds DENC’s proposed rates to be reasonable.

IT IS, THEREFORE, ORDERED as follows:

1. That DENC shall establish a REPS Rider RP as described herein, in the amounts approved herein, and that this rider shall remain in effect for a 12-month period beginning February 1, 2024, and expiring January 31, 2025;
2. That DENC shall establish a REPS EMF Rider RPE as described herein, and that this rider shall remain in effect for a 12-month period beginning February 1, 2024, and expiring January 31, 2025;
3. That DENC 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 No. E-22, Subs 675 and 676, and DENC shall file such notice for Commission

approval as soon as practicable, but not later than five working days after the Commission issues orders in all of the above-referenced dockets;

4. That DENC shall file appropriate rate schedules and riders with the Commission to implement the provisions of this Order as soon as practicable; and

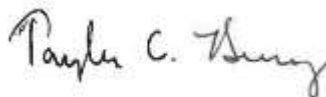
5. That DENC's 2022 REPS Compliance Report is hereby approved, and the RECs and EECs in DENC's and Town of Windsor's 2022 compliance sub-accounts in NC-RETS shall be retired.

6. That the Chief Clerk's Office shall send a copy of this Order to the NC-RETS Administrator.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of January, 2024.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Taylor C. Berry".

Taylor C. Berry, Deputy Clerk

Commissioners William M. Brawley and Tommy Tucker did not participate in the decision in this docket.