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July 10, 2024

**VIA ELECTRONIC FILING**

Ms. A. Shonta Dunston, Chief Clerk  
North Carolina Utilities Commission  
4325 Mail Service Center  
Raleigh, North Carolina 27699-4300

**RE: Duke Energy Carolinas, LLC and Public Staff – North Carolina  
Utilities Commission’s Joint Proposed Order  
Docket No. E-7, Sub 1306**

Dear Ms. Dunston:

Please find enclosed for filing Duke Energy Carolinas, LLC and the Public Staff – North Carolina Utilities Commission’s Joint Proposed Order in the above-referenced docket.

If you have any questions, please let me know.

Sincerely,

A handwritten signature in blue ink that reads "Ladawn S. Toon".

Ladawn S. Toon

Enclosure

cc: Parties of Record

OFFICIAL COPY

JUL 10 2024

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-7, SUB 1306

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application of Duke Energy Carolinas, LLC for Approval of Clean Energy and Energy Efficiency Portfolio Standard Compliance Report and Cost Recovery Rider Pursuant to N.C.G.S. § 62-133.8 and Commission Rule R8-67	)	<b>JOINT PROPOSED ORDER OF DUKE ENERGY CAROLINAS, LLC AND THE PUBLIC STAFF</b>
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BY THE COMMISSION: On February 27, 2024, 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 Clean Energy and Energy Efficiency Portfolio Standard (“CEPS”), 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. 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 pre-filed testimony, DEC sought approval of its proposed CEPS Rider, which incorporated the Company’s proposed adjustments to its North Carolina retail rates.

On March 15, 2024, the Commission issued an Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Procedural and Filing Requirements, and

Requiring Public Notice (“Scheduling Order”), in which the Commission set this matter for hearing; established deadlines for the submission of intervention petitions, 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 interventions were allowed by the Commission. 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 20, 2024, the Public Staff filed the affidavits of Vevian Fang, Public Utility Regulatory Analyst in the Accounting Division of the Public Staff, and Tommy Williamson, Jr., Public Utility Engineer in the Energy Division of the Public Staff.

On May 29, 2024, DEC filed a letter in lieu of rebuttal testimony advising the Commission that it was not filing rebuttal testimony in this docket. On May 30, 2024, DEC and the Public Staff filed a joint motion to excuse all witnesses from the evidentiary hearing.

On May 31, 2024, DEC filed the required affidavits of publication for the public notice in accordance with the Commission’s Scheduling Order.

On June 7, 2024, the Commission issued an order granting the motion to excuse all witnesses from the evidentiary hearing, canceling the expert witness hearing, receiving into evidence all pre-filed testimony, affidavits, and exhibits from the DEC and Public Staff witnesses, and directing that proposed orders be filed by July 10, 2024 (“Hearing Order”).

On July 10, 2024, DEC and the Public Staff filed a joint proposed order.

Based upon the foregoing, the testimony, exhibits, and affidavits introduced into evidence, and the entire record in this proceeding, the Commission now 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 2023, the Company 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 clean energy and energy reductions due to the implementation of energy efficiency measures. Also in 2023, energy in the amount of at least 0.20% of the previous year's total electric power sold by DEC to its North Carolina retail customers must be supplied by solar energy resources (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 ("NC 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 2023 poultry waste set-aside requirement at 900,000 MWhs. 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 established that the statewide aggregate poultry waste set-aside requirement for calendar year 2023 would remain unchanged from its March 2022 Delay Order. 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. The swine waste set-aside requirement was modified in the Commission’s December 11, 2023, Order Modifying Swine Waste Set-Aside Requirement and Granting Other Relief (“2023 Delay Order”). The 2023 Delay Order set the 2023 swine waste set-aside at 0.05% of total NC retail sales for electric public utilities, and excused the electric membership cooperatives and municipalities from the swine waste set-aside for 2023.

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 Electric Membership Corporation (“EMC”) (collectively, the “Wholesale Customers”).

5. DEC complied with the 2023 solar set-aside requirement, for itself and the Wholesale Customers, by submitting for retirement 123,457 RECs procured or generated from solar electric facilities and metered solar thermal energy facilities. DEC also complied with the 2023 poultry waste set-aside requirement, for itself and the Wholesale Customers, by submitting for retirement 337,038 poultry waste RECs and 33,610 Senate Bill 886 (“SB 886”) RECs (which count as 67,220 poultry waste RECs), for a total of 404,258 poultry waste RECs. The Company complied with the 2023 swine waste set-aside requirement that applied to electric public utilities only, and did not apply to the Wholesale Customers, by submitting for retirement 29,530 swine waste RECs. Finally, DEC submitted for retirement 7,091,966 general requirement RECs, representing the 2023 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 2023 CEPS obligations, except for those from which they had been relieved under the Commission’s orders in Docket No. E-100, Sub 113.

7. The Company expects to be able to comply with its poultry waste set-aside requirement for 2024, with compliance beyond 2024 dependent on current poultry waste-to-energy suppliers delivering contracted quantities of RECs, and the ability of three new facilities to reach expected commercial operation dates in 2024. The Company’s compliance with the swine waste set-aside requirement in 2024 may be difficult as the swine waste obligation increases. The level of compliance DEC can achieve is dependent

upon whether or not currently-producing suppliers, as well as two new facilities that started operations in 2023 and one facility expected to come on line in 2024, can achieve contracted quantities of REC production in 2023.

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 were generated by its own hydroelectric ("hydro") facilities that it cannot use to meet its CEPS 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 CEPS and CEPS EMF Riders and 2017 CEPS Compliance Report in Docket No. E-7, Sub 1162.

10. 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 2023 ("Test Period"). The billing period for this proceeding is the 12-month period beginning September 1, 2024 and ending August 31, 2025 ("Billing Period").

11. DEC's other incremental CEPS compliance costs, Solar Rebate Program costs, and PowerPair<sup>SM</sup> 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.

12. 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.

13. N.C.G.S. § 62-133.8(h) authorizes an electric power supplier to recover the "incremental costs" of compliance with the CEPS requirement through an annual CEPS 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 CEPS "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.

14. 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.

15. DEC appropriately calculated its avoided costs and incremental CEPS compliance costs for the Test Period and Billing Period, including those avoided and incremental costs specifically related both to the Company'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.”

16. Total incremental CEPS costs incurred during the Test Period for DEC NC retail and the Wholesale Customers combined are \$44,369,573 and are reasonable and prudently incurred. Total incremental CEPS costs estimated to be incurred for DEC NC retail and the Wholesale Customers combined during the Billing Period are \$51,369,718 and are reasonable and appropriate. The appropriate DEC NC retail portions of Test Period and Billing Period incremental CEPS costs are \$40,944,928 and \$47,467,407, respectively.

17. For purposes of establishing the CEPS experience modification factor (“EMF”) rider in this proceeding, the Company’s incremental costs for DEC NC retail during the Test Period are \$40,944,928, and these costs were reasonably and prudently incurred. The Company’s projected Billing Period incremental costs for purposes of determining the CEPS rider for DEC NC retail are \$47,467,407. DEC’s Test Period CEPS expense under-collections by customer class were \$2,548,446 for residential, \$2,417,189 for general service, and \$353,228. In addition, the Company 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 \$(5,313) for residential, \$(4,040) for general service, and \$(377) for industrial. Total net Test Period under-collections by customer class, including offsetting credit totals for contract-related receipts, are \$2,543,133 for residential,

\$2,413,149 for general service, and \$352,851 for industrial. All amounts exclude the North Carolina regulatory fee (“regulatory fee”).

18. DEC’s North Carolina retail prospective Billing Period costs for use in this proceeding are \$25,794,983, \$19,738,961, and \$1,933,463, for the residential, general service, and industrial classes, respectively, excluding the regulatory fee.

19. The appropriate monthly CEPS EMF riders to be charged to customer accounts during the upcoming Billing Period are \$0.11 for residential accounts, \$0.75 for general service accounts, and \$6.32 for industrial accounts, excluding the regulatory fee.

20. The appropriate prospective CEPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$1.14 for residential accounts, \$6.11 for general service accounts, and \$34.64 for industrial accounts.

21. The combined CEPS and CEPS EMF rider charges per customer account, excluding the regulatory fee, to be collected each month during the Billing Period are \$1.25 for residential accounts, \$6.86 for general service accounts, and \$40.96 for industrial accounts. Including the regulatory fee in effect at the time of the issuance of the Hearing Order, the combined monthly CEPS and CEPS EMF rider charges per customer account to be collected during the Billing Period are \$1.25 for residential accounts, \$6.87 for general service accounts, and \$41.02 for industrial accounts.

22. In Docket No. M-100, Sub 142 the Commission issued its June 20, 2024, Order Increasing Regulatory Fee Effective July 1, 2024, changing the regulatory fee for noncompetitive jurisdictional revenues from 0.1475% to 0.17%, effective July 1, 2024. The appropriate regulatory fee for DEC to use in its compliance filing in this docket is 0.17%.

23. DEC's CEPS incremental cost rider, including the regulatory fee, to be charged to each customer account for the twelve-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 2023 CEPS Compliance Report, in the direct testimonies and exhibits of DEC witnesses Presson and Williams, and in the affidavits of Public Staff witnesses Fang and Williamson. 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 CEPS requirement for all electric public utilities in the State. The statute requires each electric public utility to provide a certain percentage of its NC retail sales from various clean energy or energy efficiency resources, including by means of the following: (a) generating electric power at a new clean energy facility; (b) using a clean 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 clean energy facility; (e) purchasing RECs from a new clean energy facility; (f) using electric power that is supplied by a new clean energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of the CEPS in any calendar year as a credit toward the requirements of the CEPS in the following calendar year; or (g) electricity demand reduction. Each of these measures is subject to additional limitations and conditions. For 2023, DEC was required to meet a total CEPS requirement of 12.5% of its previous year

NC retail electric sales by a combination of these measures. The total 2023 CEPS 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 2023 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 NC 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 set the aggregate state-wide poultry waste set-aside requirement to 900,000 MWhs for 2023. (Presson Exhibit No. 1 at 7) In its December 2022 Delay Order, the Commission confirmed the 2023 poultry waste set-aside requirements established in its March 2022 Delay Order.

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 CEPS compliance years 2022-2024, including those for DEC and the Wholesale Customers. The 2023 Delay Order set the 2023 swine waste set-aside at 0.05% of total NC retail sales for electric public utilities, and excused the electric membership cooperatives and municipalities (including the Wholesale Customers) from the swine waste set-aside requirement for 2023. (Presson Exhibit No. 1 at 7-8)

In its 2023 CEPS Compliance Report, DEC stated that it provided CEPS 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 Exhibit No. 1 at 3)

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

The evidence supporting these findings of fact appears in DEC's 2023 CEPS Compliance Report, which was admitted into evidence as Presson Exhibit No. 1, in the direct testimony and exhibits of DEC witness Presson, and in the affidavit of Public Staff witness Williamson. In addition, the Commission takes judicial notice of the information contained in the North Carolina Renewable Energy Tracking System ("NC-RETS"). DEC's 2023 CEPS 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 combined Total Requirement for compliance year 2023 for DEC and the Wholesale Customers is 7,649,211 RECs, based on DEC 2022 NC retail sales of 59,059,117 and the Wholesale Customers' 2022 NC retail sales of 2,668,189 MWhs. (Presson Exhibit No. 1 at 7) On behalf of DEC and its Wholesale Customers, the

Company submitted for retirement 7,581,991 RECs, including 33,610 SB 886 RECs, which count as 33,610 general requirement and 67,220 bonus poultry waste RECs, to meet its 2023 Total Requirement of 7,649,211 (7,581,991 + 67,220) RECs. (Presson Exhibit No. 1 at 7) Within this total, the Company submitted the following to meet the set-aside requirements: 123,457 solar RECs, 29,530 swine waste RECs, and 337,038 poultry waste RECs, along with 33,610 SB 886 RECs (which count as 67,220 poultry waste RECs) for the equivalent of 404,258 poultry waste RECs. (Presson Exhibit No. 1 at 7)

Witness Presson's testimony states that the Billing Period for this application spans two calendar years, with different requirements in each year. For compliance year 2024, the Company estimates that it will be required to submit for retirement 7,446,972 RECs to meet its Total Requirement. Within this total, the Company estimates that it will be required to retire approximately 120,178 solar RECs, 82,335 swine waste RECs, and 404,258 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 2025, the Company estimates that it will be required to submit for retirement 7,719,022 RECs to meet its Total Requirement. Within this total, the Company expects to be required to retire the following: 124,533 solar RECs, 121,200 swine waste RECs, and 404,258 poultry waste RECs, to meet the requirements set out in N.C.G.S. §§ 62-133.8(d), (e), and (f), respectively. (Presson Direct at 9)

Witness Presson testified that DEC met the 2023 solar set-aside requirement of 123,457 solar RECs and that the Company 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 at 16)

Witness Presson testified that DEC met the 2023 poultry waste set-aside requirement of 404,258 RECs. The Company submitted for retirement 337,038 poultry RECs and 33,610 SB 886 RECs (which count as 67,220 poultry waste RECs). Accordingly, the equivalent of 404,258 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 at 18)

Witness Presson testified that DEC met its 2023 swine waste set-aside requirement of 29,530 swine waste RECs. The Company 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 at 20)

Witness Presson further testified that the Company met its 2023 general requirement of 7,091,966 RECs. The Company 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 at 10)

Witness Presson testified that the Company expects to comply with its poultry waste set-aside requirement in 2024, but compliance beyond 2024 is dependent on the performance of current poultry waste-to-energy contracts. She stated the Company's ability to meet future poultry waste set-aside requirements is affected by achievement of projected delivery requirements by those poultry waste-to-energy facilities currently operating, and whether three new facilities reach expected commercial operation dates in 2024. (Presson Direct at 18-19) Witness Presson testified that the Company is took various steps during the Test Period to secure poultry waste-to-energy resources to meet its

compliance requirements, including: continued direct negotiations for additional supplies of both in-state and out-of-state resources; continued the pursuit of poultry-derived directed biogas from facilities located in North Carolina in order to direct such biogas to combined cycle plants for combustion and electric generation; worked 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 could not be overcome, worked with developers via contract amendments to adjust for more realistic outcomes; and maintained an open solicitation for out-of-state poultry REC opportunities when available in the market. (Presson Direct at 19)

Witness Presson testified that the swine waste set-aside for 2024 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, conversely, two new swine waste-to-energy projects came online in 2023, and another is expected to come online in early 2024. The Company's level of compliance with near-term requirements is dependent on all facilities including the new projects meeting full contract production levels. (Presson Direct at 20-21) Finally, witness Presson outlined the challenges associated with development of swine waste-to-energy projects and the actions taken by the Company to procure RECs from, or aid in the development of, such projects for purposes of meeting its swine waste set-aside requirement. The Company referred to its semi-annual progress



report filed in Docket No. E-100, Sub 113A for additional details. (Presson Direct at 21-23)

Public Staff witness Williamson recommended that the Commission approve DEC's 2023 CEPS Compliance Report. (Williamson Affidavit at 3) Specifically, he stated that for 2023 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 2022 NC retail electricity sales of itself and 10% of 2022 NC retail sales for the Wholesale Customers. Witness Williamson additionally stated that DEC needed to pursue retirement of sufficient solar RECs to match 0.20% of retail sales in 2022 for itself and the Wholesale Customers, sufficient poultry waste RECs to match their pro-rata shares of 900,000 MWh, and sufficient swine waste RECs to match 0.05% of retail sales in 2022 for itself only as the swine waste requirement for the Wholesale Customers was delayed until the 2024 compliance year. (Williamson Affidavit at 2-3)

No party disputed that DEC fully complied with the applicable CEPS requirements or argued that DEC's 2023 CEPS Compliance Report should not be approved.

Based on the evidence presented and the entire record herein, the Commission finds and concludes that DEC and the Wholesale Customers fully complied with the CEPS requirements for 2023, as modified by the Commission's March 2022 Delay Order, December 2022 Delay Order, 2022 Poultry Order, and 2023 Delay Order, and that DEC's 2023 CEPS 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 the Company is entitled to retain RECs from systems of customers participating in net metering through the Net Metering Rider (“Rider NM”) and the Non-Residential Solar Choice Rider (“Rider NSC”) where, in either case, the base tariff associated with the net metering service lacks time-of-use periods and demand charges (NMNTD). She further testified that, while Rider NM was closed to new residential participants on and after October 1, 2023, the Company will continue to receive RECs related to residential customers who continue to be billed under this rider until December 31, 2026. Rider NM was closed to new non-residential participants on and after January 15, 2024, and the Company will receive the RECs associated with these non-residential participants who continue to be billed under this rider until December 31, 2033. She explained that the Company also retains RECs created under Rider NSC, which became effective for service rendered on and after January 15, 2024. (Presson Direct at 12-13) Witness Presson also testified that pursuant to the Commission’s March 23, 2023, Order Approving Revised Net Metering Tariffs issued in Docket No. E-100, Sub 180, residential customers served under the new Residential Solar Choice Rider (“Rider RSC”) and the new Net Metering Bridge Rider (“Rider NMB”) will retain all RECs produced by their facilities. (Presson Direct at 14)

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 at 13)

Witness Presson testified that DEC has hydro RECs in its inventory that it cannot use for its own CEPS compliance efforts because they were generated by hydro facilities owned by the Company, placed in service prior to January 1, 2007, and each with a generating capacity 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 at 23-25) Witness Presson further testified that in DEC's CEPS cost recovery proceeding in Docket No. E-7, Sub 1162, the Company 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 CEPS compliance requirements. In its August 17, 2018 Order Approving CEPS and CEPS EMF Riders and 2017 CEPS Compliance Report, the

Commission concluded that the proposed transfer was reasonable and served the public interest. Witness Presson stated that the Company 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 CEPS compliance. (Presson Direct at 25-26)

Based on the foregoing, the Commission finds and 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 CEPS compliance.

#### **EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10**

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 Fang and Williamson, and is not contested.

Commission Rule R8-67(e)(3) provides that the test period for CEPS 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. Company witness Williams testified that the Test Period or EMF period used for this proceeding was the twelve months beginning on January 1, 2023 and ending on December 31, 2023. (Williams Direct at 3) Commission Rule R8-67(e)(5) provides that "the CEPS 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 CEPS rider then in effect." Witness Williams further stated that the rider includes the CEPS EMF component to recover the difference between the

compliance costs incurred and revenues realized during the Test Period. (Williams Direct at 5) Witness Williams also testified that the Billing Period for the CEPS rider requested in the Company's application is the twelve months beginning on September 1, 2024 and ending on August 31, 2025. (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 at 5) The Test Period and the Billing Period proposed by DEC were not challenged by any party.

Based on the foregoing, the Commission concludes that, consistent with Commission Rule R8-67(e)(3), the Test Period for this proceeding is the twelve months from January 1, 2023 through December 31, 2023.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11-12**

The evidence for these findings of fact can be found in the direct testimonies and exhibits of DEC witnesses Presson and Williams and the affidavit of Public Staff witness Fang.

Witness Presson sponsored Confidential Presson Exhibit Nos. 2 and 3 to her testimony, wherein she identified the renewable energy and REC costs, as well as "Other Incremental," "Solar Rebate Program," "PowerPair<sup>SM</sup> Program", and "Research" costs that the Company incurred or expects to incur in association with CEPS compliance. With respect to research costs, Confidential Williams Exhibit No. 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 CEPS proceedings, witness Presson provided testimony and exhibits on the results and status of various studies, the

costs of which DEC included for recovery as research in its incremental CEPS cost for the 2023 Test Period. (Presson Direct at 33-53)

In her testimony, witness Presson describes “Other Incremental” costs of CEPS compliance as including labor costs associated with CEPS compliance activities and non-labor costs associated with administration of CEPS compliance. Among the non-labor costs associated with CEPS compliance are the Company’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 at 27)

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, the various deadlines in place for selection, and the resulting effect on the payments made each year. (Presson Direct at 27-28) 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, offset by early termination fees assessed to customers. (Presson Direct at 29-30)

Witness Presson testified that costs related to the Company’s PowerPair<sup>SM</sup> Program are included for recovery in this rider filing pursuant to the Commission’s March 23, 2023,

Order Declining to Approve Proposed Smart Saver Solar Program and Requiring Development of Pilot Program, and the Commission’s January 11, 2024, Order Approving PowerPair Pilot Program, with Conditions, and Approving Modifications to Energywise and Power Manager Residential Load Control Programs, both issued in Docket No. E-7, Sub 1261 (collectively, “PowerPair Orders”). Witness Presson described the incentives offered and the recovery of program incentive and administration costs through the annual amortization of such costs, including a return, over a 20-year period. The PowerPair Orders provided for recovery of this annual amortization cost by authorizing its inclusion with the other costs recoverable by DEC through the CEPS rider as prescribed by N.C.G.S. § 62-133.8(h)

Other Incremental, Solar Rebate Program, PowerPair<sup>SM</sup> Program, and Research costs included for recovery in the CEPS EMF and CEPS 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 the Company 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 CEPS 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, Solar Rebate Program, and PowerPair<sup>SM</sup> Program costs are properly recoverable in the CEPS EMF and CEPS riders calculated in this proceeding.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 13-15**

The evidence for these findings of fact is found 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 Fang.

N.C.G.S. § 62-133.8(h)(4) requires the Commission to allow an electric power supplier to recover 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 CEPS 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 CEPS requirements, based on detailed incurred and projected costs provided by witness Presson's exhibits. (Williams Direct at 5-7) Witness



Williams also described in detail the methods used by the Company to determine the appropriate avoided costs to apply to CEPS compliance purchased power agreements and biogas costs, and the Company's utility-owned solar generating facilities, to calculate the incremental costs for recovery through the CEPS rider. (Williams Direct at 8-10) She testified that the Company limited cost recovery in this proceeding for its Solar PVDG Program facilities and its DEC Solar PV facilities as required by the Commission in its DEC Solar PV Orders. (Williams Direct at 7-8)

Williams Exhibit No. 2, page 1, identified total Test Period incremental CEPS compliance costs incurred for DEC NC retail and the Wholesale Customers combined as \$41,712,173, and Solar Rebate Program and PowerPair<sup>SM</sup> Program costs allocable to DEC NC retail only of \$2,657,400, for a total combined Test Period cost of \$44,369,573 subject to allocation to DEC NC retail and recovery through the CEPS rider. Total Test Period costs allocated to DEC NC retail shown on Williams Exhibit No. 2, page 1, including Solar Rebate Program and PowerPair<sup>SM</sup> Program costs allocable to DEC NC retail only, were \$40,944,928.

Williams Exhibit No. 3, page 1, showed estimated Billing Period incremental CEPS compliance costs incurred for DEC NC retail and the Wholesale Customers combined as \$47,526,134, and Solar Rebate Program and PowerPair<sup>SM</sup> Program costs allocable to DEC NC retail only of \$3,843,584, for a total combined estimated Billing Period cost of \$51,369,718 subject to allocation to DEC NC retail and recovery through the CEPS rider. Total Billing Period costs allocated to DEC NC retail shown on Williams Exhibit No. 3, page 1, including Solar Rebate Program and PowerPair<sup>SM</sup> Program costs allocable to DEC NC retail only, were \$47,467,407.

In her affidavit, witness Fang described the Public Staff's investigation and review of the Company's filing, including its evaluation of DEC's per books incremental costs and revenues, its examination of certain specific types of expenditures including research and labor costs, as well as its review of numerous responses to written data requests, for the Test Period. (Fang Affidavit at 2) Based on her review of costs submitted for recovery, witness Fang recommended approval of DEC's proposed monthly and annual CEPS EMF decrement riders for the residential, general service, and industrial customer classes. (Fang 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, 2023 through December 31, 2023 Test Period are \$44,369,573, 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 \$51,369,718. The appropriate DEC NC retail portions of Test Period and Billing Period incremental CEPS costs are \$40,944,928 and \$47,467,407, 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. 16-23**

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 Fang and Williamson.

Total Test Period costs allocated to DEC NC retail shown on Williams Exhibit No. 2, page 1, including Solar Rebate Program and PowerPair<sup>SM</sup> Program costs allocable to

DEC NC retail only, were \$40,944,928. The NC retail total is carried forward to Williams Exhibit No. 2, Page 3, which shows EMF Period under-collections by customer class of \$2,548,446 for residential, \$2,417,189 for general service, and \$353,228 for industrial. Williams Exhibit No. 4 shows credits for contract receipts by customer class of \$(5,313) for residential, \$(4,040) for general service, and \$(337) for industrial. The total EMF period under-collections, net of contract-related credits, by customer class are \$2,543,133 for residential and \$2,413,149 for general service, and \$352,851 for industrial. As reflected in Williams Exhibit No. 4, witness Williams calculated monthly per-account CEPS EMF increment riders (excluding regulatory fee) by customer class of \$0.11 for residential, \$0.75 for general service, and \$6.32 for industrial.

Total Billing Period costs allocated to DEC NC retail shown on Williams Exhibit No. 3, page 1, including Solar Rebate Program and PowerPair<sup>SM</sup> Program costs allocable to DEC NC retail only, were \$47,467,407. The NC retail total is reflected on Williams Exhibit No. 3, page 2, where witness Williams calculated projected Billing Period CEPS costs by customer class of \$25,794,983 for residential accounts, \$19,738,961 for general service accounts, and \$1,933,463 for industrial accounts, as carried forward to Williams Exhibit No. 4. Williams Exhibit No. 4 shows the calculation of the proposed monthly prospective CEPS riders per account by customer class to be collected during the Billing Period as: \$1.14 for residential, \$6.11 for general service, and \$34.64 for industrial, all excluding regulatory fee. The combined monthly CEPS and CEPS EMF rider charges per customer account, excluding regulatory fee, to be collected during the Billing Period are \$1.25 for residential accounts, \$6.86 for general service accounts, and \$40.96 for industrial accounts. Including the regulatory fee, Williams Exhibit No. 4 shows the combined

monthly CEPS and CEPS EMF rider charges per customer account to be collected during the Billing Period are \$1.25 for residential, \$6.87 for general service, and \$41.02 for industrial. Williams Exhibit No. 4 also shows that the Company's CEPS incremental cost rider to be charged to each customer account for the twelve-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 Fang stated in her affidavit that as a result of its investigation, the Public Staff is recommending approval of DEC's proposed monthly CEPS EMF increment riders of \$0.11, \$0.75, and \$6.32 for residential, general service, and industrial customers, respectively, per customer account, excluding the regulatory fee. Witness Fang calculated annual CEPS EMF increment riders by customer class of \$1.35 for residential, \$8.96 for general service, and \$75.87 for industrial, excluding the regulatory fee. (Fang Affidavit at 2-3)

Public Staff witness Williamson recommended approval of the Company's proposed prospective monthly CEPS rider amounts per customer account, excluding regulatory fee, of \$1.14 for residential, \$6.11 for general service, and \$34.64 for industrial. Combined with the monthly EMF rider amounts recommended by witness Fang, witness Williamson recommended approval of the following total monthly CEPS charge per customer account, excluding regulatory fee: \$1.25 for residential, \$6.86 for general service, and \$40.96 for industrial. He recommended approval of the following combined monthly CEPS charges per customer account as proposed by DEC, including the regulatory fee: \$1.25 for residential, \$6.87 for general service, and \$41.02 for industrial (Williamson Affidavit at 4)

The Commission concludes that DEC's calculations of its CEPS and CEPS EMF riders are reasonable and appropriate. Accordingly, the Commission finds that the Company's Test Period CEPS costs and associated monthly CEPS EMF riders, as well as the projected Billing Period CEPS costs and the corresponding monthly CEPS riders, as set out in Williams Exhibit No. 4, are appropriate. 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). Finally, the appropriate regulatory fee for DEC to use in its compliance filing in this docket is 0.17%.

IT IS, THEREFORE, ORDERED as follows:

1. That DEC shall establish a CEPS 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, 2024 and expiring on August 31, 2025;
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, 2024 and expiring on August 31, 2025;
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 1304 and 1307, 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 1304 and 1307;

5. That DEC's 2023 CEPS Compliance Report is hereby approved and the RECs in DEC's 2023 compliance sub-accounts in NC-RETS shall be retired;

6. That DEC shall file in all future CEPS rider applications the results of studies the costs of which were or are proposed to be recovered via its CEPS 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 CEPS rider proceedings.

8. That DEC shall reflect the updated regulatory fee of 0.17% 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 \_\_\_ day of August, 2024.

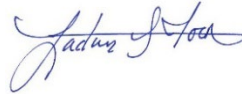
NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk

## CERTIFICATE OF SERVICE

I certify that a copy of Duke Energy Carolinas, LLC and the Public Staff – North Carolina Utilities Commission’s Joint Proposed Order, in Docket No. E-7, Sub 1306, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to parties of record.

This the 10<sup>th</sup> day of July, 2024.



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