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July 7, 2022

**VIA ELECTRONIC FILING**

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

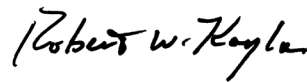
**RE: Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff  
Docket No. E-7, Sub 1264**

Dear Ms. Dunston:

Enclosed for filing with the Commission is the Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff in the referenced matter. An electronic copy is being emailed to [briefs@ncuc.net](mailto:briefs@ncuc.net).

If you have any questions, please do not hesitate to contact me.

Sincerely,



Robert W. Kaylor, P.A.

Enclosure

cc: Nadia Luhr (Public Staff)  
Parties of Record

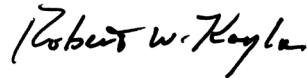
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JUL 07 2022

**CERTIFICATE OF SERVICE**

I certify that a copy of the Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff, in Docket No. E-7, Sub 1264, has been served by electronic mail, hand delivery or by depositing a copy in the United States mail, postage prepaid to the parties of record.

This the 7<sup>th</sup> day of July, 2022.



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ATTORNEY FOR DUKE ENERGY  
CAROLINAS, LLC

STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH

DOCKET NO. E-7, SUB 1264

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application of Duke Energy Carolinas, LLC for Approval of Renewable Energy and Energy Efficiency Portfolio Standard 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 March 1, 2022, Duke Energy Carolinas, LLC (DEC or the Company) filed its application seeking an adjustment to its North Carolina retail rates and charges pursuant to N.C. Gen. Stat. § 62-133.8(h) and Commission Rule R8-67, which require the Commission to conduct an annual proceeding for the purpose of determining whether a rider should be established to permit the recovery of the incremental costs incurred to comply with the requirements of the Renewable Energy and Energy Efficiency Portfolio Standard (REPS), N.C.G.S. § 62-133.8(b), (d), (e) and (f), and to true up any under-recovery or over-recovery of compliance costs. Pursuant to the Commission’s February 22, 2022 Order Granting Extension of Time to Retire RECs and File REPS Compliance Report, DEC’s 2021 REPS Compliance Report was not filed with the Company’s application. DEC’s application was accompanied by the testimony and exhibits of Kimberley 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 REPS Rider, which incorporated the Company's proposed adjustments to its North Carolina retail rates.

On March 14, 2022, the Commission issued an Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines and Requiring Public Notice, 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 North Carolina Sustainable Energy Association, 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 is recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On March 18, 2022, DEC filed the supplemental testimony and revised exhibits of witness Presson, which included the Company's 2021 REPS Compliance Report.

On May 17, 2022, the Public Staff filed the affidavits of Charles Akpom, Financial Analyst II in the Accounting Division of the Public Staff, and Scott Saillor, Utilities Engineer in the Energy Division of the Public Staff.

On May 26, 2022, DEC and the Public Staff filed a joint motion to excuse all witnesses from the evidentiary hearing. On June 3, 2022, the Commission granted the motion.

On July 6, 2022, DEC filed a Notification about Regulatory Fee Increase, informing the Commission that the regulatory fee for noncompetitive jurisdictional revenues had increased, but that the change in the regulatory fee had no impact on the monthly factors in Williams Exhibit No. 4, which was filed with the Company's application. DEC further stated that it would reflect the updated regulatory fee in its compliance filing after the issuance of a final order.

On July 7, 2022, DEC and the Public Staff filed a joint proposed order.

Based upon the foregoing, the testimony and exhibits 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 2021, 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 renewable energy and energy reductions due to the implementation of energy efficiency measures. Also in 2021, 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 sales as compared to total statewide North Carolina retail sales. In its December 16, 2019 Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief, and its February 13, 2020 Errata Order (2019 Delay Orders), issued in Docket No. E-100, Sub 113, the Commission modified the 2020 and 2021 swine waste set-aside requirement for DEC, Duke Energy Progress, LLC, and Dominion Energy North Carolina to 0.07% of prior year North Carolina retail sales, and modified the 2021 statewide poultry waste set-aside requirement to 900,000 MWh. In its March 4, 2022 Order Modifying the Swine Waste Set-Aside Requirements and Providing Other Relief (2022 Delay Order), issued in Docket No. E-100, Sub 113, the Commission further modified the 2021 swine waste set-aside requirement for electric membership corporations and municipalities, including those for which DEC performs REPS compliance services, to 0.00%, delayed by one year the scheduled increases to the requirement, and modified the 2021 statewide poultry waste set-aside requirement to 300,000 MWh.

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

5. DEC complied with the 2021 solar set-aside requirement, for itself and the Wholesale Customers for which DEC provided compliance services for the 2021 compliance year, by submitting for retirement 116,073 RECs procured or generated from solar electric facilities and metered solar thermal energy facilities. DEC also complied with the 2021 poultry waste set-aside requirement, for itself and the Wholesale Customers for which DEC provides compliance services, by submitting for retirement 70,264 poultry waste RECs and 32,047 Senate Bill 886 (SB 886) RECs (which count as 64,094 poultry waste RECs), for a total of 134,358 poultry waste RECs. The Company complied with the 2021 swine waste set-aside requirement that applied to electric public utilities only, and did not apply to the Wholesale Customers, by submitting for retirement 38,859 swine waste RECs. Finally, DEC submitted for retirement 6,902,033 general requirement RECs, representing the 2021 Total Requirement for DEC North Carolina retail and the Wholesale Customers, net of the solar set-aside requirement, swine waste set-aside requirement, and poultry waste set-aside requirement detailed above.

6. DEC and the Wholesale Customers for which DEC provided compliance services met their 2021 REPS 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's ability to comply with its poultry waste set-aside requirement in 2022 is dependent on the performance of current poultry waste-to-energy contracts, particularly the achievement of projected delivery requirements and the ability of one new poultry waste-to-energy facility to reach its expected commercial operation date in 2022.

8. The Company's ability to comply with the swine waste set-aside requirement in 2022 and beyond is dependent on the ability of new facilities to come online and for all facilities to produce their full contracted RECs, as well as the Commission's decisions on two motions currently pending in Docket E-100, Sub 113.<sup>1</sup>

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

10. DEC has RECs in its inventory that were generated by its own hydroelectric (hydro) facilities that it cannot use to meet its REPS requirements because those hydro facilities are renewable energy facilities, but not new renewable energy facilities. DEC exchanged a portion of these hydro RECs for an equal number of RECs in the inventory of the North Carolina Electric Membership Corporation (NCEMC) that are qualified to meet DEC's general compliance requirement. DEC executed contracts with NCEMC for the REC exchanges

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<sup>1</sup> See Motion for Declaratory Relief (Dec. 7, 2020) and Joint Motion for Clarification and Request for Declaratory Ruling (May 20, 2021).



pursuant to the Commission's conclusion that the exchanges are reasonable and serve the public interest in its August 17, 2018 Order Approving REPS and REPS EMF Riders and 2017 REPS Compliance Report in Docket No. E-7, Sub 1162.

11. For purposes of DEC's annual rider pursuant to N.C.G.S. § 62-133.8(h), the test period for this proceeding is the calendar year 2021 (Test Period). The billing period for this proceeding is the 12-month period beginning September 1, 2022 and ending August 31, 2023 (Billing Period).

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

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

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

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

incremental costs. The projected costs to purchase such RECs during the Billing Period constitute forecasted incremental costs.

16. DEC appropriately calculated its avoided costs and incremental REPS compliance costs for the Test Period and Billing Period, including those avoided and incremental costs specifically related both to 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." DEC properly complied with the Commission-ordered conditions related to cost recovery and reporting for its Woodleaf facility in both its general rate case proceeding in Docket No. E-7, Sub 1214 and in previous REPS proceedings, and DEC's compliance requirement associated with these conditions is complete as of the Company's filing in this docket.

17. Total incremental REPS costs incurred during the Test Period for DEC North Carolina retail and the Wholesale Customers combined are

\$40,435,236, and are reasonable and prudently incurred. Total incremental REPS costs estimated to be incurred for DEC North Carolina retail and the Wholesale Customers combined during the Billing Period are \$38,166,544, and are reasonable and appropriate. The appropriate DEC North Carolina retail portions of Test Period and Billing Period incremental REPS costs are \$37,336,471 and \$35,298,948, respectively.

18. For purposes of establishing the REPS experience modification factor (EMF) rider in this proceeding, the Company's incremental costs for DEC retail during the Test Period are \$37,336,471, and these costs were reasonably and prudently incurred. The Company's projected Billing Period incremental costs for purposes of determining the REPS rider for DEC retail are \$35,298,948. DEC's Test Period REPS expense under-collections by customer class were \$3,182,410 for residential, \$2,739,558 for general service, and \$429,334 for industrial. 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 \$(57,038) for residential, \$(42,650) for general service, and \$(3,767) for industrial. Total net Test Period costs by customer class, including offsetting credit amounts for contract-related receipts, are \$3,125,372 for residential, \$2,696,908 for general service, and \$425,567 for industrial. All amounts exclude the North Carolina regulatory fee (regulatory fee).

19. DEC's North Carolina retail prospective Billing Period expenses for use in this proceeding are \$19,526,617, \$14,506,523, and \$1,265,808, for the

residential, general service, and industrial classes, respectively, excluding the regulatory fee.

20. The appropriate monthly REPS EMF riders, excluding regulatory fee, to be charged to customer accounts during the upcoming Billing Period are \$0.14 for residential accounts, \$0.87 for general service accounts, and \$7.62 for industrial accounts, excluding the regulatory fee.

21. The appropriate prospective REPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$0.90 for residential accounts, \$4.66 for general service accounts, and \$22.67 for industrial accounts.

22. The combined REPS and REPS EMF rider charges per customer account, excluding the regulatory fee, to be collected each month during the Billing Period are \$1.04 for residential accounts, \$5.53 for general service accounts, and \$30.29 for industrial accounts. Including the regulatory fee, the combined monthly REPS and REPS EMF rider charges per customer account to be collected during the Billing Period are \$1.04 for residential accounts, \$5.54 for general service accounts, and \$30.33 for industrial accounts.

23. DEC's REPS 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 2021 REPS Compliance Report, in the direct and supplemental testimony and exhibits

of DEC witnesses Presson and Williams, and in the affidavits of Public Staff witnesses Saillor and Akpom. These findings of fact are essentially informational, jurisdictional, and procedural in nature and are not contested.

N.C.G.S. § 62-133.8(b)(1) establishes a REPS requirement for all electric power suppliers in the State. The statute requires each electric public utility to provide a certain percentage of its North Carolina retail sales from various renewable energy or energy efficiency resources, including the following: (a) generating electric power at a new renewable energy facility; (b) using a renewable energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel; (c) reducing energy consumption through the implementation of energy efficiency measures; (d) purchasing electric power from a new renewable energy facility; (e) purchasing RECs from a new renewable energy facility; (f) using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of the REPS in any calendar year as a credit toward the requirements of the REPS in the following calendar year; or (g) electricity demand reduction. Each of these measures is subject to additional limitations and conditions. For 2021, DEC was required to meet a total REPS requirement of 12.5% of its previous year's North Carolina retail electric sales by a combination of these measures.

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 2021 is 0.20%.

N.C.G.S. § 62-133.8(e) and (f) require DEC and the other North Carolina electric suppliers, in the aggregate, to procure a certain portion of their renewable energy requirements from electricity generated from swine and poultry waste. The swine waste energy requirement is based on a percentage of retail sales, similar to the solar energy requirement. The poultry waste energy requirement is based on each electric power supplier's respective pro-rata share derived from the ratio of its North Carolina retail sales as compared to the total North Carolina retail sales. 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, DEC's share of the aggregate Statewide set-aside requirements for energy from swine and poultry waste is based on the ratio of its North Carolina retail kilowatt-hour sales for the previous year divided by the previous year's total North Carolina retail kilowatt-hour sales. In its 2019 Delay Orders, the Commission established a modified 2021 swine waste set-aside requirement of 0.07% of North Carolina retail sales, and changed the statewide poultry waste set-aside requirement to 900,000 MWh. In its 2022 Delay Order, the Commission modified the 2021 swine waste set-aside requirement specifically for electric membership corporations and municipalities, including those for which DEC performs REPS compliance services, to 0.00%, delayed by one year the scheduled increases to the requirement, and modified the

2021 statewide poultry waste set-aside requirement to 300,000 MWh. (Presson Direct at 6-8)

In its 2021 REPS Compliance Report, DEC stated that it provided 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). (Revised Presson Exhibit No. 1 at 3)

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5-8**

The evidence supporting these findings of fact appears in DEC's 2021 REPS Compliance Report, which was admitted into evidence as Revised Presson Exhibit No. 1, in the direct and supplemental testimony and exhibits of DEC witness Presson, and in the affidavit of Public Staff witness Saillor. In addition, the Commission takes judicial notice of the information contained in the North Carolina Renewable Energy Tracking System (NC-RETS). DEC's 2021 REPS Compliance Report provided the information required by Commission Rule R8-67(c) in the aggregate for DEC and the Wholesale Customers for which DEC has agreed to provide REPS compliance services.

Witness Presson testified that, on behalf of DEC and its Wholesale Customers, the Company submitted for retirement 7,127,229 RECs, which includes 32,047 SB 886 RECs, each of which counts for two poultry waste and one general REC, to meet its 2021 Total Requirement of 7,191,323 RECs. Within this total, the Company submitted for retirement: 116,073 RECs to meet the solar set-aside requirement; 70,264 RECs, along with 32,047 SB 886 RECs (which count as 64,094 poultry waste set-aside RECs) to meet the poultry waste set-aside

requirement; and 38,859 RECs to meet the swine waste set-aside requirement. (Presson Supplemental at 5)

Witness Presson's testimonies state that the Billing Period for this application spans two calendar years, with different requirements in each year. In 2022, the Company estimates that it will be required to submit for retirement 7,521,815 RECs to meet its Total Requirement. Within this total, the Company estimates that it will be required to retire approximately 121,405 solar RECs, 83,141 swine waste RECs, and 313,499 poultry waste RECs to meet the requirements set out in N.C.G.S. §§ 62-133.8(d), (e), and (f), respectively. In 2023, the Company estimates that it will be required to submit for retirement 7,646,617 RECs to meet its Total Requirement. Within this total, the Company expects to be required to retire the following: 123,401 solar RECs, 84,539 swine waste RECs, and 403,068 poultry waste RECs, to meet the requirements set out in N.C.G.S. §§ 62-133.8(d), (e), and (f), respectively. (Presson Supplemental at 5-6)

Witness Presson testified that DEC met its 2021 solar set-aside requirement of 116,073 solar RECs and that the Company submitted these RECs for retirement by transferring these RECs from the Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account and the Sub-Accounts of its Wholesale Customers. (Presson Direct at 14-15)

Witness Presson testified that DEC met the 2021 poultry waste set-aside requirement of 134,358 RECs. The Company submitted for retirement 70,264 poultry RECs and 32,047 SB 886 RECs (which count as 64,094 poultry waste RECs). Accordingly, the equivalent of 134,358 RECs were submitted for retirement



by transferring them from the Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account and the Sub-Accounts of its Wholesale Customers. (Presson Supplemental at 7)

Witness Presson testified that DEC met the 2021 swine waste set-aside requirement of 38,859 swine waste RECs. The Company submitted these RECs for retirement by transferring these RECs from the Duke Energy Electric Power Supplier Account to the Duke Energy Compliance Sub-Account. (Presson Supplemental at 8)

Witness Presson further testified that the Company met its 2021 general requirement of 6,902,033 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 Supplemental at 6)

Witness Presson testified that the Company's ability to comply with its poultry waste set-aside requirement in 2022 is dependent on the performance of current poultry waste-to-energy contracts, particularly the achievement of projected delivery requirements and the ability of one new poultry waste-to-energy facility to reach its expected commercial operation date in 2022. She further testified that production associated with several poultry waste facilities is expected to ramp up throughout 2022 and 2023, with two new facilities expected to come on line in 2023. This increase in expected poultry waste REC generation is somewhat offset by an interruption in service until at least 2023 for repairs at one poultry waste facility that previously provided RECs. (Presson Direct at 17) Witness

Presson testified that the Company is taking various steps to secure poultry waste-to-energy resources to meet its future requirements, including: continuing direct negotiations for additional supplies of both in-state and out-of-state resources; securing contracts for additional poultry waste-to-energy resources; continuing the pursuit of poultry-derived directed biogas from facilities located in North Carolina and directing such biogas to combined cycle plants for combustion and electric generation; working diligently to understand the technological, permitting, and operational risks associated with various methods of producing qualifying poultry RECs to aid developers in overcoming those risks; when the risks associated with producing poultry RECs cannot be overcome, working with developers via contract amendments to adjust for more realistic outcomes; exploring leveraging current bioenergy contracts by working with developers to add poultry waste to their fuel mix; exploring adding thermal capabilities to current poultry sites to bolster REC production; utilizing the Company's REC trader to search the broker market for out-of-state poultry RECs available in the market; and funding a North Carolina biogas utilization study through RTI International aimed at growth in poultry-derived directed biogas project development. (Presson Direct at 17-18)

Witness Presson testified that the swine waste set-aside for 2022 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 one new swine waste-to-energy project is

under construction and is scheduled to come online in 2022, and that two others are scheduled to come online in 2023. (Presson Direct at 19-20)

Public Staff witness Saillor recommended that the Commission approve DEC's 2021 REPS Compliance Report. (Saillor Affidavit at 3) Specifically, he stated that for 2021 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 2020 North Carolina retail electricity sales of itself and 10% of 2020 North Carolina retail sales for Wholesale Customers. Witness Saillor additionally stated that DEC needed to pursue retirement of sufficient solar RECs to match 0.20% of retail sales in 2020 for itself and the Wholesale Customers, sufficient poultry waste RECs to match their pro-rata share of 300,000 MWh, and sufficient swine waste RECs to match 0.07% of retail sales in 2020 for itself. (Saillor Affidavit at 2-3)

No party disputed that DEC had fully complied with the applicable REPS requirements, or argued that DEC's 2021 REPS 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 five Wholesale Customers for which it is providing REPS compliance services have fully complied with the REPS requirements for 2021, as modified by the Commission's 2019 Delay Orders, 2020 Delay Order, and 2022 Delay Order, and that DEC's 2021 REPS Compliance Report should be approved. The Commission further concludes that the RECs and

EECs in the related NC-RETS compliance sub-accounts should be permanently retired.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 9-10**

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

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

Witness Presson testified that DEC has hydro RECs in its inventory that it cannot use for its own REPS compliance efforts because they were generated by specific hydro facilities owned by the Company. 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 specific 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 23-24) Witness Presson further testified that in DEC's REPS 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 REPS compliance requirements. In its August 17, 2018 Order Approving REPS and REPS EMF Riders and 2017 REPS Compliance Report, the Commission concluded that the proposed transfer was reasonable and served the public interest. Witness Presson stated that the Company executed contracts with NCEMC exchanging a portion of these hydroelectric RECs for an equal number of general requirement RECs in NCEMC's inventory that DEC can use for REPS compliance. (Presson Direct at 24-25)

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 REPS compliance.

## EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 11

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

Commission Rule R8-67(e)(3) provides that the test period for REPS rider proceedings shall be the same as that used by the utility in its fuel charge adjustment proceedings, which is specified in Commission Rule R8-55(c) for DEC to be the 12 months ending December 31 of each year. Company witness Williams testified that the Test Period or EMF period used for this proceeding was the twelve months beginning on January 1, 2021 and ending on December 31, 2021. (Williams Direct at 3) Commission Rule R8-67(e)(5) provides that “the REPS EMF rider will reflect the difference between reasonable and prudently incurred incremental costs and the revenues that were actually realized during the test period under the REPS rider then in effect.” Witness Williams further stated that the rider includes the REPS EMF component to recover the difference between the compliance costs incurred and revenues realized during the Test Period. (Williams Direct at 5) Witness Williams also testified that the Billing Period for the REPS rider requested in the Company’s application is the twelve months beginning on September 1, 2022 and ending on August 31, 2023. (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, 2021 through December 31, 2021.

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

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 Akpom.

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,” and “Research” costs that the Company has incurred or projects to incur in association with REPS 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 REPS proceedings, witness Presson provided testimony and exhibits on the results and status of various studies, the costs of which DEC is including for recovery as research in its incremental REPS cost for the 2021 Test Period. (Presson Direct at 34-43)

In her testimony, witness Presson describes “Other Incremental” costs of REPS compliance as including labor costs associated with REPS compliance activities and non-labor costs associated with administration of REPS compliance. Among the non-labor costs associated with REPS compliance are 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, and amounts paid for administrative contractual amendments requested by sellers. (Presson Direct at 26)

Witness Presson also testified that, as required by N.C.G.S. § 62-155(f), DEC developed a Solar Rebate Program. She discussed the processes in place to pay rebates, and the resulting effect on the payments made each year. (Presson Direct at 26-31) She further testified that the incremental costs incurred to “provide incentives to customers, including program costs, incurred pursuant to N.C. Gen. Stat. § 62-155(f)” are allowed to be recovered under N.C.G.S. § 62-133.8(h). Therefore, DEC has included for recovery in this filing costs incurred during the EMF period, and projected to be incurred in the Billing Period, related to the implementation of the Solar Rebate Program. These costs include the annual amortization of incentives paid to customers and program administration costs, which include labor, information technology, and marketing costs. (Presson Direct at 31-32) Other Incremental and Solar Rebate Program costs included for recovery in the REPS EMF and REPS riders in this proceeding were not contested by any party.

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

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 14-17**

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 Akpom.

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 and avoided capacity costs. Commission Rule R8-67(e)(2) provides that the “cost of an unbundled renewable energy certificate to the extent that it is reasonable and prudently incurred is an incremental cost and has no avoided cost component.”

DEC witness Williams testified regarding the calculation of DEC’s various incremental costs of compliance with REPS requirements, based on detailed incurred and projected costs provided by witness Presson. (Williams Direct at 5) Witness Williams also described in detail the methods used by the Company to determine the appropriate avoided costs to apply to REPS compliance purchased power agreements and biogas costs, the Company’s Solar PVDG Program, and its newer utility-owned solar facilities, in order to calculate the incremental costs for recovery through the REPS rider. (Williams Direct at 5-9) She testified that the Company limited cost recovery in this proceeding for its DEC Solar PV facilities as required by the Commission in its DEC Solar PV Orders. (Williams Direct at 10-12) Finally, witness Williams described DEC’s compliance with the cost recovery and reporting conditions of the DEC Solar PV Orders with respect to its Woodleaf facility, and submitted that the Company’s reporting requirement is now complete. (Williams Direct at 10-12)

Confidential Williams Exhibit No. 1, page 1, identified total Test Period incremental costs incurred for DEC North Carolina retail and the Wholesale Customers combined as \$40,435,236, and Confidential Williams Exhibit No. 1, page 2, showed estimated Billing Period incremental costs for DEC North Carolina retail and the Wholesale Customers combined as \$38,166,544. Williams Exhibit

No. 2, page 1, showed the DEC retail portion of Test Period incremental costs as \$37,336,471, and Williams Exhibit No. 3, page 1, showed the DEC retail portion of Billing Period incremental costs as \$35,298,948.

In his affidavit, witness Akpom 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, as well as the annual revenue cap for REPS requirements, for the Test Period. (Akpom Affidavit at 2) Based on his review of costs submitted for recovery, witness Akpom recommended approval of DEC's proposed monthly and annual REPS EMF decrement riders for the residential, general service, and industrial customer classes. (Akpom Affidavit at 2-3)

Based on the foregoing, the Commission concludes that the correct DEC retail and Wholesale Customer combined incremental costs for the January 1, 2021 through December 31, 2021 Test Period are \$40,435,236, and are reasonable and prudently incurred. The Commission further concludes that the appropriate DEC retail and Wholesale Customer combined estimated incremental costs for the Billing Period are \$38,166,544. The appropriate DEC North Carolina retail portions of Test Period and Billing Period incremental REPS costs are \$37,336,471 and \$35,298,948, respectively.

The Commission finds and concludes that DEC appropriately complied with the applicable requirements of the Commission's DEC Solar PV Orders relevant to this proceeding, and DEC's compliance obligation related to the conditions detailed above is complete as of the filing made in this docket, with respect to the Company's Woodleaf solar facility.

## EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 18-23

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

Williams Exhibit No. 2, Page 3 shows EMF Period under-collections by customer class of \$3,182,410 for residential, \$2,739,558 for general service, and \$429,334 for industrial. Williams Exhibit No. 4 shows additional credits for contract receipts by customer class of \$(57,038) for residential, \$(42,650) for general service, and \$(3,767) for industrial. The total EMF period net under-collections by customer class are \$3,125,372 for residential, \$2,696,908 for general service, and \$425,567 for industrial. As reflected in Williams Exhibit No. 4, witness Williams calculated monthly per-account REPS EMF charges (excluding regulatory fee) by customer class of \$0.14 for residential, \$0.87 for general service, and \$7.62 for industrial. Also in Williams Exhibit No. 4, witness Williams calculated projected Billing Period REPS costs by customer class of \$19,526,617 for residential, \$14,506,523 for general service, and \$1,265,808 for industrial. Williams Exhibit No. 4 shows that the proposed monthly prospective REPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$0.90 for residential accounts, \$4.66 for general service accounts, and \$22.67 for industrial accounts. The combined monthly REPS and REPS EMF rider charges per customer account, excluding regulatory fee, to be collected during the Billing Period are \$1.04 for residential accounts, \$5.53 for general service accounts, and \$30.29 for industrial accounts. Including the regulatory fee, the combined monthly

REPS and REPS EMF rider charges per customer account to be collected during the Billing Period are \$1.04 for residential accounts, \$5.54 for general service accounts, and \$30.33 for industrial accounts. Williams Exhibit No. 4 shows that the Company's REPS 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 Akpom stated in his affidavit that as a result of its investigation, the Public Staff is recommending annual REPS EMF increment riders of \$1.72, \$10.39, and \$91.44 per customer account, respectively, for DEC's residential, general service, and industrial customers, excluding the regulatory fee. Excluding the regulatory fee, the corresponding monthly REPS EMF increment rider amounts are \$0.14, \$0.87, and \$7.62 for residential, general service, and industrial customers, respectively. (Akpom Affidavit at 2-3)

Public Staff witness Saillor recommended that the Company's proposed prospective monthly REPS rider amounts per customer account, excluding regulatory fee, of \$0.90 for residential accounts, \$4.66 for general service accounts, and \$22.67 for industrial accounts, be approved. Combined with the monthly EMF rider amounts recommended by witness Akpom, witness Saillor recommended approval of the following total monthly REPS charge per customer account, excluding regulatory fee: \$1.04 for residential accounts, \$5.53 for general service accounts, and \$30.29 for industrial accounts. (Saillor Affidavit at 3-4)

The Commission concludes that DEC's calculations of its REPS and REPS EMF riders are reasonable and appropriate. Accordingly, the Commission finds

that the Company's test period REPS costs and associated monthly REPS EMF riders, as well as the projected Billing Period REPS costs and the corresponding monthly REPS riders, as set out in Williams Exhibit No. 4, are appropriate. Finally, the Commission finds that these amounts are below the respective annual per-account cost caps as established in N.C.G.S. § 62-133.8(h)(4).

IT IS, THEREFORE, ORDERED as follows:

1. That DEC shall establish a REPS rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a 12-month period beginning on September 1, 2022 and expiring on August 31, 2023;

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, 2022 and expiring on August 31, 2023;

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, Sub 1262, 1263, and 1265, and the Company shall file such notice for Commission approval as soon as practicable, but not later than ten days after the Commission issues orders in all four dockets;

5. That DEC's 2021 REPS Compliance Report is hereby approved and the RECs in DEC's 2021 compliance sub-accounts in NC-RETS shall be retired;

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

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

ISSUED BY ORDER OF THE COMMISSION.

This the \_\_ day of July, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A. Shonta Dunston, Chief Clerk