

LAW OFFICE OF
ROBERT W. KAYLOR, P.A.
353 EAST SIX FORKS ROAD, SUITE 260
RALEIGH, NORTH CAROLINA 27609
(919) 828-5250
FACSIMILE (919) 828-5240

November 1, 2019

VIA ELECTRONIC FILING

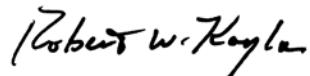
Ms. Kimberley A. Campbell
Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4300

**RE: Duke Energy Progress, LLC and Public Staff's Joint Proposed Order
Docket No. E-2, Sub 1205**

Dear Ms. Campbell:

Enclosed for filing in the above-referenced docket, please find the Joint Proposed Order of Duke Energy Progress, LLC and the Public Staff. An electronic copy is also being sent to briefs@ncuc.net.

Sincerely,



Robert W. Kaylor, P.A.

Enclosure

cc: Parties of Record

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Duke Energy Progress, LLC and the Public Staff's Joint Proposed Order, in Docket No. E-2, Sub 1205, has been served by electronic mail (e-mail), hand delivery or by depositing a copy in the United States Mail, first class postage prepaid, properly addressed to the parties of record.

This, the 1st day of November 2019.



Robert W. Kaylor
Law Office of Robert W. Kaylor, P.A.
353 Six Forks Road, Suite 260
Raleigh, North Carolina 27609
Tel: 919-546-5250
bkaylor@rwkaylorlaw.com
North Carolina State Bar No. 6237

ATTORNEY FOR DUKE ENERGY PROGRESS,
LLC

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-2, SUB 1205

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application of Duke Energy Progress,)	
LLC for Approval of Renewable Energy)	JOINT PROPOSED ORDER OF
and Energy Efficiency Portfolio)	DUKE ENERGY PROGRESS, LLC
Standard (REPS) Compliance Report)	AND THE PUBLIC STAFF
and Cost Recovery Rider Pursuant to)	
N.C. Gen. Stat. 62-133.8 and)	
Commission Rule R8-67)	

HEARD: Monday, September 9, 2019 at 2:00 p.m. in the Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner Daniel E. Clodfelter, Presiding
Chair Charlotte A. Mitchell
Commissioner ToNola D. Brown-Bland
Commissioner Lyons Gray

APPEARANCES:

For Duke Energy Progress, LLC:

Kendrick C. Fentress
Associate General Counsel
Duke Energy Corporation
410 South Wilmington Street
NCRH 20/P.O. Box 1551
Raleigh, North Carolina 27602

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

For Carolina Utility Customers Association, Inc.:

Robert F. Page

Crisp & Page, PLLC
4010 Barrett Drive, Suite 205
Raleigh, North Carolina 27609

For North Carolina Sustainable Energy Association:

Peter Ledford, General Counsel
Benjamin Smith, Regulatory Counsel
North Carolina Sustainable Energy Association
4800 Six Forks Road, Suite 300
Raleigh, North Carolina 27609

For the Using and Consuming Public:

Tim R. Dodge, Staff Attorney
Heather Fennell, Staff Attorney
Public Staff, North Carolina Utilities Commission
4326 Mail Service Center
Raleigh, North Carolina 27699-4300

BY THE COMMISSION: On June 11, 2019, Duke Energy Progress, LLC (“DEP” or “the Company”) filed its 2018 REPS Compliance Report and application seeking an adjustment to its North Carolina retail rates and charges pursuant to North Carolina General Statute (“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. Gen. Stat. §§ 62-133.8(b), (d), (e) and (f), and to true up any under-recovery or over-recovery of compliance costs. DEP’s application was accompanied by the testimony and exhibits of Travis E. Payne, Business Development Manager, and Veronica I. Williams, Rates and Regulatory Strategy Manager. In its application and pre-filed testimony, DEP sought approval of its proposed REPS rider, which incorporated the Company’s proposed adjustments to its North Carolina retail rates.

On June 21, 2019, 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 DEP rebuttal testimony; required the provision of appropriate public notice; and mandated compliance with certain discovery guidelines.

The North Carolina Sustainable Energy Association (“NCSEA”) 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. Gen. Stat. § 62-15(d) and Commission Rule R1-19(e).

On July 16, 2019, DEP filed supplemental testimony and revised exhibits of witnesses Payne and Williams, along with a proposed public notice reflecting the revised rates.

On July 25, 2019, the Commission issued an *Order Requiring Revised Public Notice*.

On August 19, 2019, the Public Staff filed the affidavits and exhibits of Evan B. Lawrence, Utilities Engineer in the Electric Division, and Michelle M. Boswell, Staff Accountant in the Accounting Division.

On August 27, 2019, DEP filed additional supplemental testimony and 2nd Revised Exhibit No. 4 of witness Williams and the Rebuttal Testimony of witness Payne.

On August 30, 2019, DEP filed a motion for witnesses to be excused from the evidentiary hearing. On September 3, 2019, the Commission issued an order granting the

motion, excusing all witnesses.

On September 6, 2019, DEP filed affidavits of publication for the public notice of its request for approval of its proposed REPS rider, and on September 10, 2019, DEP filed the remaining affidavit that had not been received when the majority of affidavits were filed.

The matter came on for hearing on September 9, 2019. DEP presented the testimony and exhibits of Mr. Payne and Ms. Williams, and the Public Staff presented the affidavits of Ms. Boswell and Mr. Lawrence. All pre-filed testimony, exhibits, and affidavits from DEP and Public Staff witnesses were received into evidence.

On November 1, 2019, DEP and the Public Staff filed a joint proposed order.

Based upon the foregoing, the testimony, exhibits, and affidavits introduced at the hearing, the records in the North Carolina Renewable Energy Tracking System (“NC-RETS”), and the entire record in this proceeding, the Commission now makes the following:

FINDINGS OF FACT

1. DEP 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. DEP is lawfully before this Commission based upon its application filed pursuant to N.C. Gen. Stat. § 62-133.8 and Commission Rule R8-67.

2. For calendar year 2018, the Company must generally supply an amount of at least 10% of its previous year’s North Carolina retail electric sales by a combination of

renewable energy and energy reductions due to the implementation of energy efficiency measures. Also in 2018, energy in the amount of at least 0.20% of the previous year's total electric power sold by DEP to its North Carolina retail customers must be supplied by solar energy resources.

3. Beginning in 2012, N.C. Gen. Stat. §§ 62-133.8(e) and (f) require DEP 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 state-wide North Carolina retail sales. In its October 8, 2018, *Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief* ("2018 Delay Order"), issued in Docket No. E-100, Sub 113, the Commission modified the 2018 Swine Waste Set-Aside requirement for public utilities to 0.02% of prior year North Carolina retail sales, and delayed for one year the scheduled increases to the requirement. In addition, the 2018 Delay Order modified the 2018 state-wide Poultry Waste Set-Aside Requirement to 300,000 MWh, and delayed the subsequent scheduled increases by one year.

4. DEP complied with the 2018 solar set-aside requirements by submitting for retirement 73,660 renewable energy certificates ("RECs") procured or generated from solar electric facilities and metered solar thermal energy facilities. DEP also complied with the 2018 Poultry Waste Set-Aside requirement by submitting for retirement 66,987 poultry waste RECs and 8,789 Senate Bill 886 ("SB 886") RECs (which count as 17,578 poultry waste RECs), for a total of 84,565 poultry waste RECs. The Company complied with the

modified 2018 Swine Waste Set-Aside requirement, applicable only to electric public utilities, by submitting for retirement 7,366 swine waste RECs. Finally, DEP submitted for retirement 3,517,399 general requirement RECs, representing the Company's total 2018 compliance requirement, net of the set-aside requirements detailed above. Accordingly, DEP met its total 2018 REPS obligation of 3,682,990 RECs, as adjusted by previous Commission orders in Docket No. E-100, Sub 113.

5. At the time of the original filing, DEP noted that current projections indicated it would not be able to acquire enough RECs to comply with its swine waste requirement for compliance year 2019, and compliance with its poultry waste requirement beyond 2019 is dependent on supplier performance on current contracts as well as new facilities expected to come on line beginning in 2019. On September 23, 2019 (after the September 9 hearing date in this REPS docket), DEP and other North Carolina electric power suppliers filed a joint motion to modify and delay the 2019 requirements of N.C. Gen. Stat. § 62-133.8(e) and (f) in response to a lack of sufficient swine and poultry waste resources.

6. DEP's REC inventory available for future use properly includes RECs generated from net metering customers receiving electric service under schedules other than time-of-use schedules with demand rates ("NMNTD customers").

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

8. The research activities funded by DEP during the test period are recoverable under N.C. Gen. Stat. § 62-133.8(h)(1)(b), and within the statute's \$1 million annual limit.

9. No costs associated with the Competitive Procurement of Renewable Energy (“CPRE”) program are included for recovery in this REPS proceeding nor in the concurrent DEP CPRE rider proceeding, and the recoverability of such costs in a REPS rider is not decided in this current REPS rider docket.

10. For purposes of DEP’s annual rider pursuant to N.C. Gen. Stat. § 62-133.8(h), the test period for this proceeding is the twelve-month period beginning April 1, 2018 and ending March 31, 2019 (“Test Period”). The billing period for this proceeding is the 12-month period beginning December 1, 2019 and ending November 30, 2020 (“Billing Period”).

11. N.C. Gen. Stat. § 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. Gen. Stat. § 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.

12. Under Commission Rule R8-67(e)(2), the total costs reasonably and prudently incurred during the test period to purchase unbundled renewable energy certificates (“RECs”) constitute incremental costs. The projected costs to purchase such RECs during the billing period constitute forecasted incremental costs.

13. DEP appropriately calculated its avoided costs and incremental REPS compliance costs for the Test Period and Billing Period.

14. For purposes of establishing the REPS experience modification factor (“EMF”) rider in this proceeding, DEP’s incremental costs for REPS compliance during the Test Period were \$37,201,361, and these costs were reasonably and prudently incurred. The Company’s projected incremental costs for REPS compliance for the Billing Period total \$43,246,220.

15. DEP’s Test Period REPS expense under-collection was \$1,288,029 for the residential class. DEP’s Test Period REPS expense over-collections, including interest, were \$(1,087,606) for the general service class and \$(55,585) for the industrial class. 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 \$(388,096) for residential, \$(348,680) for general service, and \$(21,224) for industrial. Total net Test Period cost, including an offsetting credit amount for contract-related receipts, is \$899,933 for the residential class. Total net Test Period credits, including credits for contract-related receipts, for the general service and industrial classes are \$(1,436,286) and \$(76,809), respectively. All amounts exclude the North Carolina regulatory fee (“regulatory fee”).

16. DEP’s North Carolina prospective Billing Period expenses for use in this proceeding are \$20,578,687, \$21,309,868, and \$1,357,665, for the residential, general service, and industrial classes, respectively, excluding regulatory fee.

17. The appropriate monthly REPS EMF riders, excluding regulatory fee, to be charged to / (credited to) customer accounts during the upcoming billing period are \$0.06

per month for residential accounts, \$(0.60) per month for general service accounts, and \$(3.57) per month for industrial accounts.

18. The appropriate prospective REPS riders per customer account, excluding regulatory fee, to be collected each month during the billing period are \$1.39 for residential accounts, \$8.84 for general service accounts, and \$63.07 for industrial accounts.

19. 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 \$1.45 for residential accounts, \$8.24 for general service accounts, and \$59.50 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 \$1.45 for residential accounts, \$8.25 for general service accounts, and \$59.58 for industrial accounts.

20. DEP'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. Gen. Stat. § 62-133.8(h)(4).

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-3

The evidence supporting these findings of fact appears in DEP's 2018 REPS Compliance Report, in the direct testimony and exhibits of DEP witnesses Payne and Williams, and in the affidavit of Public Staff witness Lawrence. These findings of fact are essentially informational, jurisdictional and procedural in nature and are not contested.

N.C. Gen. Stat. § 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; (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 2018, DEP must meet a total REPS requirement of 10% of its previous year's North Carolina retail electric sales by a combination of these measures.

N.C. Gen. Stat. § 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 2018 is 0.20%.

N.C. Gen. Stat. §§ 62-133.8(e) and (f) require DEP 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. 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, DEP's share of the aggregate State 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 2018 Delay Order, the Commission modified the 2018 Swine Waste Set-Aside requirement to be applicable to electric public utilities only, set the requirement at 0.02% of North Carolina retail sales, and delayed for one year the scheduled increases in the requirement. In addition, the 2018 Delay Order also modified the 2018 state-wide Poultry Waste Set-Aside requirement to 300,000 MWh, and delayed by one year the scheduled increases in the requirement.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 4-5

The evidence supporting these findings of fact appears in DEP's 2018 REPS Compliance Report, in the direct testimony and exhibits of DEP witness Payne, and in the affidavit of Public Staff witness Lawrence. In addition, the Commission takes judicial notice of the information contained in NC-RETS. DEP's 2018 REPS Compliance Report was admitted into evidence as Payne Exhibit No. 1 and Payne Exhibit No. 1, Revised Page 5, and provides information required by Commission Rule R8-67(c).

Witness Payne testified that DEP complied with the 2018 solar set-aside requirements by submitting for retirement 73,660 RECs procured or generated from solar electric facilities and metered solar thermal energy facilities. DEP also complied with the 2018 Poultry Waste Set-Aside requirement by submitting for retirement 66,987 poultry waste RECs and 8,789 SB 886 RECs (which count as 17,578 poultry waste RECs), for a total of 84,565 poultry waste RECs. The Company complied with the modified 2018 Swine

Waste Set-Aside requirement, applicable only to electric public utilities, by submitting for retirement 7,366 swine waste RECs. Finally, witness Payne's testimony indicated DEP submitted for retirement 3,517,399 general requirement RECs, representing the Company's 2018 total compliance requirement, net of the set-aside requirements detailed above. Accordingly, DEP met its total 2018 REPS obligation of 3,682,990 RECs, as adjusted by previous Commission orders in Docket No. E-100, Sub 113, by submitting for retirement 3,665,412 RECs including 8,789 SB 886 RECs which also counted for an additional 17,578 poultry waste RECs. (T. at pp. 17-18)

The Billing Period for this Application covers two separate compliance reporting periods with different requirements for each period. Witness Payne testified the Company estimates that it will be required to submit for retirement 3,868,727 RECs to meet its total 2019 compliance year requirements of N.C. Gen. Stat. § 62-133.8(b). Within this estimated total, the Company expects to be required to retire the following: 77,375 solar RECs, 27,082 swine waste RECs, and 197,319 poultry waste RECs to meet the requirements set out in N.C. Gen. Stat. §§ 62-133.8(d), (e), and (f) respectively. In 2020, the Company estimates that it will be required to submit for retirement 3,796,477 RECs to meet its total requirement. Within this total, the Company projects that it will be required to retire approximately 75,930 solar RECs, 26,576 swine waste RECs, and 253,695 poultry waste RECs to meet the requirements set out in N.C. Gen. Stat. §§ 62-133.8(d), (e), and (f) respectively. (T. at p. 18)

Witness Payne testified that DEP met its Solar Set-Aside requirement for the 2018 compliance year by procuring and producing 73,660 solar RECs and that, pursuant to the NC-RETS Operating Procedures, the Company submitted these RECs for retirement by

transferring them from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. (T. at pp. 23-24)

Witness Payne testified that DEP met its 2018 Poultry Waste Set-Aside requirement of 84,565 RECs. Pursuant to NC-RETS Operating Procedures, the Company submitted for retirement 66,987 poultry RECs and 8,789 SB 886 RECs (which count as 17,578 poultry waste RECs). Accordingly, the equivalent of 84,565 RECs was submitted for retirement by transferring the RECs from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. (T. at p. 25)

Witness Payne testified that DEP met the modified 2018 Swine Waste Set-Aside requirement of 0.02%, or 7,366 swine waste RECs. Pursuant to NC-RETS Operating Procedures, the Company submitted these RECs for retirement by transferring them from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. (T. at p. 27)

Witness Payne further testified that the Company had complied with its General Requirement for 2018. Pursuant to NC-RETS Operating Procedures, the Company submitted for retirement 3,517,399 RECs to meet the General Requirement (DEP's total requirement, net of the Solar, Swine Waste, and Poultry Waste Set-Aside requirements). Specifically, the RECs to be used for 2018 compliance were transferred from the NC-RETS Progress Energy Electric Power Supplier account to the Progress Energy Compliance Sub-Account. (T. at pp. 18-19)

In his direct testimony, witness Payne testified that DEP expects to comply with its 2019 Poultry Waste Set-Aside requirement, but future compliance is dependent on the performance of poultry waste-to-energy developers on current contracts and new waste-

to-energy projects scheduled to come on line, including one scheduled to become operational during 2019. Witness Payne cited delayed projects or lower than expected facility REC production volume, and other facilities that have undergone extended outages to perform repairs, as challenges to meeting increased compliance levels. (T at p. 25) Witness Payne also enumerated in his testimony the numerous actions undertaken by the Company to develop or procure poultry waste REC supplies, including: continuing direct negotiations and executing contracts for new in-state or out-of-state supplies; helping developers identify and overcome operational risks and modifying expected contractual output if applicable; seeking increased REC output from existing facilities by adding poultry waste feedstock or thermal REC production capability; among other efforts. (T. at p. 26)

Regarding expected compliance with near-term future Swine Waste Set-Aside requirements, witness Payne reported that existing contracts have not been able to reach contractual production levels, and new swine waste-to-energy supplier facilities are not achieving operational status in the time frames originally expected. Witness Payne noted facility siting difficulty, swine waste feedstock scarcity, and project financing and operational challenges, as factors inhibiting continuing and new swine REC procurement at levels necessary to meet future Swine Waste Set-Aside requirements. (T at pp. 27-28) The Company has continued to engage in a variety of actions to procure or develop swine waste-to-energy resources to meet its future requirements, including: negotiating and executing contracts for in-state and out-of-state supplies; working extensively with potential suppliers to overcome production risks and/or amend contracts to accommodate

changing circumstances; and pursuing new biomass and biogas swine resource options; among other efforts. (T. at pp. 28-29)

Public Staff witness Lawrence recommended that the Commission approve DEP's 2018 REPS Compliance Report. (T. at p. 82) Specifically, he testified that for 2018 compliance, DEP needed to obtain a sufficient number of RECs and energy efficiency certificates ("EECs") derived from eligible sources so that the total equaled 10% of the Company's 2017 North Carolina retail electricity sales. Additionally, DEP needed to pursue retirement of sufficient solar RECs to match 0.20% of 2017 retail sales, and sufficient poultry waste RECs to match its pro-rata share of the 300,000 poultry waste RECs required by N.C. Gen. Stat. § 62-133.8(f). The number of poultry waste RECs was determined by the Commission in its 2018 Delay Order. The 2018 Delay Order also modified the swine waste requirement under N.C. Gen. Stat. § 62-133.8(e) to lower the 2018 compliance requirement to 0.02% of 2017 retail sales for the investor-owned utilities only. (T. at p. 82)

No party disputed that DEP had fully complied with the applicable 2018 REPS requirements, or argued that DEP's REPS Compliance Report for 2018 should not be approved.

Based on the evidence presented and the entire record herein, the Commission finds and concludes that DEP fully complied with the REPS requirements for 2018, as modified by the Commission in its 2018 Delay Order, and that DEP's 2018 REPS Compliance Report should be approved. The Commission further concludes that the RECs and EECs in the related NC-RETS compliance sub-account should be permanently retired.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 6

The evidence supporting this finding of fact is found in the testimony of DEP witness Payne.

Witness Payne explained that under the current Net Metering for Renewable Energy Facilities Rider offered by DEP (Rider NM-4B), a customer receiving electric service under a schedule other than a time-of-use schedule with demand rates shall provide any RECs to DEP at no cost. He further stated the Company had complied with the measurement, verification, and reporting requirements set out by the Commission in its June 5, 2018 *Order Approving Rider and Granting Waiver Request* in Docket Nos. E-2, Sub 1106 and E-7, Sub 1113, and the RECs associated with these net metering facilities are currently in DEP's REC inventory and available for use in meeting future compliance requirements. (T. at pp. 20-21) No party to this proceeding contested this finding of fact.

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

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7-8

The evidence for these findings of fact is found in DEP's Application and in the testimony and exhibits of DEP witnesses Payne and Williams, as well as in the affidavits of Public Staff witnesses Boswell and Lawrence.

Witness Payne sponsored Confidential Payne Exhibit No. 3 as an exhibit to his testimony, wherein he identified the "Research," "Solar Rebate Program," and "Other Incremental" costs that the Company has incurred or projects to incur in association with REPS compliance. With respect to research costs, Confidential Payne Exhibit No. 3 shows

that the research costs are under the \$1 million per year cap established in N.C. Gen. Stat. § 62-133.8(h)(1)(b). Consistent with the Commission’s orders in prior REPS proceedings, witness Payne also provided testimony and exhibits on the results and status of various studies, the costs of which DEP is including for recovery in its incremental REPS cost for the Test Period. (T. at pp. 37-45)

Witness Payne described in his testimony “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 prescribed liquidated damages paid by sellers for failure to meet contractual milestones and amounts received for administrative contractual amendments requested by sellers. (T. at pp. 30-31)

Witness Payne also stated that, pursuant to N.C. Gen. Stat. § 62-155(f), each public utility required to offer a solar rebate program:

[S]hall be authorized to recover all reasonable and prudent costs of incentives provided to customers and program administrative costs by amortizing the total program incentives distributed during a calendar year and administrative costs over a 20-year period, including a return component adjusted for income taxes at the utility's overall weighted average cost of capital established in its most recent general rate case, which shall be included in the costs recoverable by the public utility pursuant to G.S. 62-133.8(h).

N.C. Gen. Stat. § 62-133.8(h) provides for an electric power supplier’s cost recovery and customer charges under the REPS statute; North Carolina HB 589 amended it by adding a provision to allow for the recovery of incremental costs incurred to “provide incentives to customers, including program costs, incurred pursuant to N.C. Gen. Stat. § 62-155(f).” Therefore, DEP 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. As detailed on Confidential Payne Exhibit No. 3, these costs include the annual amortization of incentives paid to customers and program administration costs, which includes labor, information technology and marketing costs. (T. a pp. 32)

Research, 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 that the research activities funded by DEP during the Test Period are renewable research and development costs recoverable under N.C. Gen. Stat. § 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 the prior Commission orders requiring filing results of such research studies. In addition, the Commission finds that the research information DEP provided is helpful. Therefore, the Commission finds that DEP 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 Electric Power Research Institute, DEP 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.

The Commission also concludes the costs identified as Other Incremental and Solar Rebate Program are properly recoverable in the REPS EMF and REPS riders calculated in this proceeding.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 9

The evidence for this finding of fact is found in the direct testimony and rebuttal testimony of DEP witness Payne, and in the affidavit of Public Staff witness Lawrence.

In his direct testimony, witness Payne described how the CPRE program will affect DEP's future compliance with its general requirement, and how the program is reflected in compliance planning. He stated that because the Company will use the RECs acquired through the CPRE program for REPS compliance, CPRE program implementation costs could be recovered through the REPS rider. (T. at pp. 21-23) He also noted, however, that the Company intends to recover reasonable and prudently incurred costs to implement the CPRE program through the CPRE rider, as contemplated under Commission Rule R8-71(j). (T. at p. 23)

In his affidavit, witness Lawrence confirmed DEP is not requesting recovery of CPRE program costs in this current REPS proceeding. He further stated that, consistent with his testimony filed May 20, 2019 in the Duke Energy Carolinas, LLC ("DEC") REPS cost recovery docket No. E-7, Sub 1191, the Public Staff does not agree with DEP's conclusion that CPRE costs can be recovered through the REPS rider. (T. at p. 85) In his rebuttal testimony, DEP witness Payne disagreed with witness Lawrence's testimony that CPRE costs cannot be recovered in a REPS proceeding. (T. at p. 55) Witness Payne's rebuttal testimony also cited the Commission's conclusion in its August 15, 2019 *Order Approving REPS and REPS EMF Riders and 2018 Compliance Report*, in the recent DEC REPS rider proceeding in Docket No. E-7, Sub 1191: "the issue of whether the inclusion of any CPRE program implementation costs in the REPS rider is not ripe for determination in this proceeding, because DEC has not sought to retire RECs earned through the CPRE

Program against its 2018 REPS compliance requirements, nor sought to recover costs incurred to implement the CPRE Program through the rider established in this proceeding.” In his rebuttal testimony in this current proceeding, witness Payne submitted that the conclusion that the issue need not be decided now, as there are no CPRE costs included in the Company’s filing and no CPRE RECs have yet been generated or retired, also applies to DEP’s current REPS proceeding. (T. at p. 55) In his affidavit, witness Lawrence also stated the issue need not be addressed by the Commission unless DEP requests to recover CPRE costs in a future REPS proceeding. (T. at p. 85)

The Commission concludes that the matter of the inclusion of any CPRE program implementation costs in the REPS rider will be decided in a future CPRE rider or REPS rider proceeding, as no CPRE costs have yet been submitted for recovery in a CPRE rider or REPS rider.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence supporting this finding is procedural in nature, found in the testimony DEP witness Williams and the affidavits of Public Staff witnesses Boswell and Lawrence, 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 DEP to be the twelve months ending March 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 April 1, 2018 and ending March 31, 2019. (T. at p. 59) 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 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. (T. at p. 61) The costs incurred during the totality of the Test Period are presented in this filing to demonstrate their reasonableness and prudence as provided in Rule R8-67(e). (T. at p. 60) Witness Williams also testified that the Billing Period for the REPS rider requested in the Company’s application is the twelve months beginning on December 1, 2019 and ending on November 30, 2020. (T. at p. 59) 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. (T. at p. 61) The test period and the billing period proposed by DEP 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 April 1, 2018 through March 31, 2019.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 11-14

The evidence for these findings of fact is found in DEP’s Application and in the testimony and exhibits of DEP witnesses Payne and Williams, as well as in the affidavits of Public Staff witnesses Boswell and Lawrence.

N.C. Gen. Stat. § 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. Gen. Stat. § 62-133.8 though an annual rider. N.C. Gen. Stat. § 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. Gen. Stat. § 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."

DEP witness Williams testified regarding the calculation of DEP's various incremental costs of compliance with REPS requirements, based on detailed incurred and projected costs provided by witness Payne. (T. at pp. 60-62) Confidential Revised Williams Exhibit No. 1, page 1, identified total incremental REPS compliance costs incurred during the Test Period as \$37,201,361, and Confidential Williams Exhibit No. 1, page 2 showed estimated incremental costs for the Billing Period as \$43,246,220.

In their affidavits, witnesses Boswell and Lawrence described the Public Staff's investigation and review of the Company's filing, including its evaluation of costs submitted by DEP for recovery in the REPS rider. (T. at pp. 81, 83-84, and 90-91) Pursuant to their review, witnesses Boswell and Lawrence took no issue with incremental REPS costs presented for recovery in this proceeding, and recommended approval of the REPS and REPS EMF components of the riders (excluding the regulatory fee) incorporating these costs, as requested by the Company. (T. at pp. 84, 91)

Witness Lawrence further commented that Confidential Payne Exhibit No. 2 serves to provide detail for actual and forecasted REPS compliance costs, by resource type and individual supplier. The exhibit typically lists a supplier multiple times if, for instance, the supplier provided both thermal and electric RECs of a particular resource type. He noted

an example of purchases from one supplier of both thermal and non-thermal poultry RECs being combined on one line on the exhibit, which does not affect the costs included for recovery, but also does not allow for as efficient a review process as practicable. Witness Lawrence stated that the Public Staff recommended a requirement to separately list each REC type on the applicable compliance cost exhibit, in addition to the current breakdown of purchases by resource type and supplier within resource type.

Based on the foregoing, the Commission concludes that the correct incremental costs for the EMF period of April 1, 2018 through March 31, 2019 is \$37,201,361. The Commission further concludes the estimated incremental costs for the Billing Period are \$43,246,220. The Commission adopts the Public Staff's recommendation to provide the requested detail on its compliance cost exhibit in future DEP REPS cost recovery proceedings.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 15-20

The evidence for these findings of fact is found in DEP's Application and in the direct testimony and exhibits of DEP witnesses Payne and Williams, as well as in the affidavits of Public Staff witnesses Boswell and Lawrence.

Revised Williams Exhibit No. 2, Page 2 shows a Test Period under-collection of \$1,288,029 for the residential class, and Test Period over-collections including interest of \$(1,087,606) for the general service class and \$(55,585) for the industrial class. 2nd Revised Williams Exhibit No. 4 shows additional credits for contract receipts by customer class of \$(388,096) for residential, \$(348,680) for general service, and \$(21,224) for industrial. The total EMF period under-collection net of contract-related credits for the residential class is \$899,933. The EMF period over-collections including interest and

contract-related credits are \$(1,436,286) for the general service class, and \$(76,809) for the industrial class. As reflected on 2nd Revised Williams Exhibit No. 4, witness Williams calculated a monthly per-account REPS EMF charge (excluding regulatory fee) of \$0.06 for residential accounts, and monthly per-account REPS EMF credits (excluding regulatory fee) of \$(0.60) for general service accounts and \$(3.57) for industrial accounts. Also on 2nd Revised Williams Exhibit No. 4, she calculated the projected REPS costs for the Billing Period of \$20,578,687 for the residential class, \$21,309,868 for the general service class, and \$1,357,665 for the industrial class. 2nd Revised 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 \$1.39 for residential accounts, \$8.84 for general service accounts, and \$63.07 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 \$1.45 for residential accounts, \$8.24 for general service accounts, and \$59.50 for industrial accounts.

In his affidavit, witness Lawrence noted the Commission reduced the utility regulatory fee established in N.C. Gen. Stat. § 62-302 by its June 18, 2019 *Order Decreasing Regulatory Fee Effective July 1, 2019* in Docket No. M-100, Sub 142, and recommended DEP make a supplemental filing to update Revised Williams Exhibit No. 4 to reflect the current fee. The Company filed additional supplemental testimony of witness Williams and incorporated the updated 0.13% regulatory fee in 2nd Revised Williams Exhibit No. 4. Including the regulatory fee, the combined monthly REPS and REPS EMF rider charges per customer account to be collected during the billing period are \$1.45 for residential accounts, \$8.25 for general service accounts, and \$59.58 for industrial accounts.

As further illustrated on 2nd Revised Williams Exhibit No. 4, 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. Gen. Stat. § 62-133.8(h)(4).

Public Staff witness Boswell stated in her affidavit that as a result of its investigation, the Public Staff is recommending annual REPS EMF increment/(decrement) riders of \$0.73, \$(7.15), and \$(42.81), per customer account for DEP's residential, general service, and industrial customers, respectively, excluding the North Carolina regulatory fee. The corresponding monthly rider amounts are \$0.06, \$(0.60), and \$(3.57), per customer account (T. at p. 91)

Public Staff witness Lawrence recommended the Company's proposed prospective monthly REPS rider amounts per customer account, excluding regulatory fee, of \$1.39 for residential accounts, \$8.84 for general service accounts, and \$63.07 for industrial accounts be approved. Combined with the monthly EMF rider amounts recommended by witness Boswell, witness Lawrence recommended approval of the following total monthly REPS charge per customer account, excluding regulatory fee: \$1.45 for residential accounts, \$8.24 for general service accounts, and \$59.50 for industrial accounts. (T. at pp. 83-84)

Public Staff witness Lawrence stated that the Public Staff had reviewed the costs that produced the proposed, revised rates and that it took no issue with them. He recommended approval of the Company's proposed monthly charges per account for the combined REPS and EMF billing components of the REPS riders for the Billing Period, reflecting the updated regulatory fee, as shown on 2nd Revised Williams Exhibit No. 4, as

follows: \$1.45 for residential accounts, \$8.25 for general service accounts, and \$59.58 for industrial accounts, all including the regulatory fee. (T. at pp. 83-84)

The Commission concludes that DEP'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 on 2nd Revised 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. Gen. Stat. § 62-133.8(h)(4).

IT IS, THEREFORE, ORDERED as follows:

1. That DEP shall establish a REPS rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a twelve-month period beginning on December 1, 2019, and expiring on November 30, 2020;
2. That DEP shall establish an EMF rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a twelve-month period beginning on December 1, 2019, and expiring on November 30, 2020;
3. That DEP shall file the appropriate rate schedules and riders with the Commission to implement the provisions of this Order as soon as practicable, but not later than ten (10) days after the date that the Commission issues orders in this docket and in Docket Nos. E-2, Sub 1204 and E-2, Sub 1207;
4. That DEP 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-2, Sub 1204 and E-2, Sub 1207, and the Company shall file such notice for

Commission approval as soon as practicable, but not later than ten (10) days after the Commission issues orders in all three dockets;

5. That DEP's 2018 REPS compliance report is hereby approved and the RECs in DEP's 2018 compliance sub-accounts in NC-RETS and those of the Wholesale Customers shall be retired;

6. That DEP 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 DEP shall continue to file a worksheet explaining the discrete costs it includes as "other incremental costs" in all future REPS Rider proceedings. DEP shall also include detail on its primary compliance cost exhibit of its renewable energy and REC purchases by REC type (e.g., thermal, electric), in addition to the established resource type and supplier breakdown.

ISSUED BY ORDER OF THE COMMISSION.

This the __ day of _____, 2019.

NORTH CAROLINA UTILITIES COMMISSION

Kimberley A. Campbell, Chief Clerk