

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1293

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of:

Application of Duke Energy Progress, LLC, for Approval of Renewable Energy and Energy Efficiency Portfolio Standard (REPS) Compliance Report and Cost Recovery Rider Pursuant to North Carolina General Statute § 62-133.8 and Commission Rule R8-67	)	
	)	
	)	ORDER APPROVING REPS AND
	)	REPS EMF RIDERS AND 2021
	)	REPS COMPLIANCE REPORTS
	)	

BEFORE: Commissioner Daniel G. Clodfelter, Presiding; Chair Charlotte A. Mitchell; and Commissioners ToNola D. Brown-Bland, Kimberly W. Duffley, Jeffery A. Hughes, Floyd B. McKissick, Jr., and Karen Kemerait.

APPEARANCES:

For Duke Energy Progress, LLC:

Robert W. Kaylor, Esq., Law Office of Robert W. Kaylor, P.A., 353 East Six Forks Road, Raleigh, North Carolina 27609

For Carolina Utility Customers Association, Inc.:

Marcus W. Trathen and Craig D. Schauer, Brooks, Pierce, McLendon, Humphrey & Leonard, LLP Suite 1700, Wells Fargo Capitol Center, 150 Fayetteville Street, P.O. Box 1800 (zip 27602), Raleigh, NC 27601

For the Carolina Industrial Group for Fair Utility Rates III:

Christina D. Cress, Bailey & Dixon, LLP, 434 Fayetteville Street, Suite 2500 P.O. Box 1351, (zip 27602), Raleigh, North Carolina 27601

For the Using and Consuming Public:

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

BY THE COMMISSION: On June 14, 2022, Duke Energy Progress, LLC (DEP or the Company), filed its 2021 REPS Compliance Report and 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 underrecovery or overrecovery of compliance costs. DEP's application was accompanied by the testimony and exhibits of Kimberly A. Presson, Renewable Compliance Manager, and Veronica I. Williams, Rates and Regulatory Strategy Manager. In its application and prefiled testimony, DEP sought approval of its proposed REPS Rider, which incorporated the Company's proposed adjustments to its North Carolina retail rates.

On June 7, 2022, DEP requested a waiver of Commission Rule R8-67(h)(11) which requires each electric power supplier or utility compliance aggregator to enter by June 1 its previous year's North Carolina retail electricity sales into the North Carolina Renewable Energy Tracking System (NC-RETS). DEP states that prior to June 1, it attempted to enter the data, but the functionality to add an aggregated electric power supplier was no longer available. After contacting the NC-RETS administrator, DEP requested a waiver of the June 1 deadline pending a solution to the functionality by NC-RETS. On June 30, DEP revised its request for a waiver notifying the Commission that the wholesale customer for which it intended to serve as a utility compliance aggregator would not be using DEP for its REPS compliance services and that on June 28, DEP entered its own 2021 annual North Carolina retail sales in NC-RETS and notified the administrator. The Commission granted DEP's requested waiver.

On July 8, 2022, the Commission issued an Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring Public Notice (July 8, 2022 Order), 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 Carolina Industrial Group for Fair Utility Rates II (CIGFUR) and Carolina Utility Customers Association, Inc. (CUCA) filed separate petitions to intervene in this docket, and the interventions were allowed by the Commission. The intervention and participation by the Public Staff are recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On August 18, 2022, DEP filed the supplemental testimony and Revised Exhibit No. 4 of DEP witness Williams.

On August 24, 2022, the Public Staff filed the affidavits of Charles A. Akpom, Financial Analyst II, Accounting Division and Scott J. Saillor, Engineer, Energy Division.

On August 29, 2022, DEP filed a motion to excuse all witnesses from the evidentiary hearing.

On September 2, 2022, DEP filed the required affidavits of publication for the public notice in accordance with the Commission's July 8, 2022 Order.

On September 9, 2022, the Commission issued an order granting DEP's motion to excuse all witnesses from the evidentiary hearing; cancelling the expert witness hearing; receiving into evidence all pre-filed testimony, affidavits, and exhibits from DEP and Public Staff witnesses; and directing that proposed orders be filed by October 14, 2022.

On October 14, 2022, DEP and the Public Staff filed a joint proposed order.

Based upon the foregoing, including the testimony, affidavits, and exhibits of the parties' witnesses, the records in the North Carolina Renewable Energy Tracking System (NC-RETS), and the entire record in this proceeding, the Commission makes the following:

### **FINDINGS OF FACT**

1. 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.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 DEP 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 DEP and other North Carolina electric power suppliers in the aggregate to procure a certain portion of their renewable energy requirements from electricity generated from swine and poultry waste, 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 delayed the scheduled increase in the swine waste set-aside requirement and set the obligation for calendar year 2021 to 0.07% of prior year North Carolina retail sales for DEP, Duke Energy Carolinas, LLC, and Dominion Energy

North Carolina, and electric membership corporations and municipalities. In its March 4, 2022, Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief (2022 Delay Order) in Docket No. E-100, Sub 113, the Commission modified the statewide 2021 Poultry Waste Set-Aside Requirement to be 300,000 MWh and set the 2022 and 2023 requirements at 700,000 MWh and 900,000 MWh, respectively.

4. DEP complied with the 2021 solar set-aside requirement by submitting for retirement 72,352 renewable energy certificates (RECs) procured or generated from solar electric facilities and metered solar thermal energy facilities. DEP also complied with the 2021 poultry waste set-aside requirement by submitting for retirement 83,850 poultry waste RECs. The Company complied with the 2021 swine waste set-aside requirement by submitting for retirement 25,323 swine waste RECs. Finally, DEP submitted for retirement 4,340,418 general requirement RECs, representing the Company's 2021 Total Requirement of 4,521,943 RECs net of the solar set-aside requirement, swine waste set-aside requirement, and poultry waste set-aside requirement detailed in the preceding paragraphs.

5. DEP met its total 2021 REPS obligations, except for those from which it has been relieved under the Commission's Orders issued in Docket No. E-100, Sub 113.

6. The Company expects to comply with its poultry waste set-aside requirement for compliance year 2022. Compliance beyond 2022 is dependent on current poultry waste-to-energy contracts achieving projected deliveries and the extent to which new projects scheduled to come online meet expected production.

7. The Company's compliance with its swine waste set-aside requirement for 2022 and beyond is uncertain and will be difficult to meet as the swine waste obligation increases. Existing contracts have not reached contracted levels of production, and new contracts have failed to come online in the timeframe originally planned and have taken longer than expected to ramp up production.

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

9. For purposes of DEP's annual rider pursuant to N.C.G.S. § 62-133.8(h), the test period for this proceeding is the 12-month period beginning April 1, 2021, and ending March 31, 2022 (Test Period). The billing period for this proceeding is the 12-month period beginning December 1, 2022, and ending November 30, 2023 (Billing Period).

10. DEP'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.

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

12. Section 62-133.8(h) authorizes electric power suppliers 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.G.S. § 62-133.9." The term "avoided costs" includes both avoided energy costs and avoided capacity costs.

13. 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.

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

15. For purposes of establishing the REPS experience modification factor (EMF) rider in this proceeding, the Company's incremental REPS compliance costs for the Test Period were \$42,792,784, and these costs were reasonably and prudently incurred. The Company's total incremental REPS costs estimated to be incurred for the Billing Period are \$42,503,807 and are reasonable and appropriate.

16. DEP's method of allocating incremental REPS costs to each customer class for purposes of calculating REPS EMF riders and REPS riders for the Test Period and the Billing Period are reasonable and appropriate.

17. DEP's Test Period REPS expense undercollections by customer class were \$2,624,180 for residential, \$1,456,737 for general service, and \$63,031 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 \$80,995 for residential, \$72,284 for general service, and \$4,091 for industrial. Total net Test Period costs by customer class, including offsetting credit amounts for contract-related receipts, are \$2,543,185 for residential, \$1,384,453 for general service, and \$58,940 for industrial. All amounts exclude the North Carolina regulatory fee.

18. DEP's North Carolina prospective Billing Period costs for use in this proceeding are \$21,671,406, \$19,696,095, and \$1,136,306 for the residential, general service, and industrial classes, respectively, excluding the regulatory fee.

19. The appropriate monthly REPS EMF riders, excluding the regulatory fee, to be charged to customer accounts during the upcoming Billing Period are \$0.16 for

residential accounts, \$0.55 for general service accounts, and \$2.83 for industrial accounts.

20. The appropriate prospective monthly REPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$1.39 for residential accounts, \$7.86 for general service accounts, and \$54.51 for industrial accounts.

21. The combined REPS and REPS EMF rider charges per customer account proposed by DEP, excluding the regulatory fee, to be collected each month during the Billing Period are \$1.55 for residential accounts, \$8.41 for general service accounts, and \$57.34 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 \$1.55 for residential accounts, \$8.42 for general service accounts, and \$57.42 for industrial accounts.

22. 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.G.S. § 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 2021 REPS Compliance Report, in the direct testimony and exhibits of DEP witness Presson, and in the affidavit of Public Staff witness Saillor. These findings of fact are essentially informational, jurisdictional, and procedural in nature and are not contested.

Section 62-133.8 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, DEP 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.

Section 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%.

Section 62-133.8(e) and (f) require DEP 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, 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 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 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 5-7.

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 4-7**

The evidence supporting these findings of fact appears in DEP's 2021 REPS Compliance Report, which was admitted into evidence as Presson Exhibit No. 1; in the direct testimony and exhibits of DEP witness Presson; and in the affidavit of Public Staff witness Saillor. In addition, the Commission takes judicial notice of the information contained in NC-RETS. DEP's 2021 REPS Compliance Report provided the information required by Commission Rule R8-67(c).

Witness Presson testified that the Company submitted for retirement 4,521,943 RECs to meet its 2021 Total Requirement. Within this total, the Company submitted for retirement: 72,352 RECs to meet the solar set-aside requirement; 83,850 RECs to meet the poultry waste set-aside requirement; and 25,323 RECs to meet the swine waste set-aside requirement. Presson Direct at 8.

Witness Presson's testimony states that the Billing Period for this application spans two separate calendar years with different requirements in each year. In 2022, the Company estimates that it will be required to submit for retirement 4,572,269 RECs to meet its Total Requirement. Within this total, the Company estimates that it will be required to retire 73,157 solar RECs, 51,210 swine waste RECs, and 195,649 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 4,836,674 RECs to meet its Total Requirement. Within this total, the Company

expects to be required to retire 77,387 solar RECs, 54,171 swine waste RECs, and 251,548 poultry waste RECs to meet the requirements set out in N.C.G.S. §§ 62-133.8(d), (e), and (f), respectively. Presson Direct at 8-9.

Witness Presson testified that DEP met its 2021 solar set-aside requirement by procuring and producing 72,352 solar RECs and that, pursuant to the NC-RETS Operating Procedures, the Company submitted these RECs for retirement by transferring these RECs from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. Presson Direct at 13.

Witness Presson testified that DEP met its 2021 poultry set-aside requirement by procuring 83,850 poultry RECs and that, pursuant to the NC-RETS Operating Procedures, the Company submitted these RECs for retirement by transferring these RECs from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. Presson Direct at 14.

Witness Presson testified that DEP met its 2021 swine waste set-aside requirement of 25,323 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. Presson Direct at 16.

Witness Presson further testified that the Company complied with its general requirement for 2021 by submitting 4,340,418 RECs for retirement by transferring them from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. Presson Direct at 9.

Witness Presson testified that DEP is in a position to comply with its 2022 poultry waste set-aside requirement, and that future-year compliance appears achievable, but is dependent on the performance of poultry waste-to-energy developers under current contracts, particularly achievement of projected delivery requirements and commercial operation milestones. She further testified that one new poultry waste-to-energy project is expected to come online in 2022 and another in 2024. She 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 and executing contracts; working with developers to overcome technological, permitting, and operating risks, and amending existing contracts to reflect more realistic outcomes; exploring expansion of the use of poultry waste resources to produce thermal, multi-fuel, or directed biogas RECs; and searching the broker market for out-of-state RECs. Presson Direct at 14-16.

Witness Presson testified that the Company's compliance with the swine waste set-aside for 2022 and beyond is uncertain and will be difficult to meet as the swine waste obligation increases. She reported that existing contracts have not been able to reach contracted levels of production, and projects associated with new contracts have not come online in the timeframes originally planned and have taken longer than expected to



ramp up production. She further testified that the degree to which DEP will be able to comply with the swine waste set-aside requirement in the near term is dependent on two new swine waste-to-energy facilities coming online as scheduled and on all facilities producing REC quantities at fully contracted levels. Presson Direct at 16-17.

Public Staff witness Saillor recommended that the Commission approve DEP's 2021 REPS Compliance Report. Specifically, witness Saillor stated in his affidavit that for 2021 compliance, DEP needed to pursue retirement of a sufficient number of eligible RECs and energy efficiency certificates (EECs) so that the total equaled 12.5% of its 2020 North Carolina retail electricity sales. Witness Saillor stated that DEP needed to pursue retirement of sufficient solar RECs to match 0.20% of its retail sales in 2020, sufficient swine waste RECs to match 0.07% of its retail sales in 2020, and sufficient poultry waste RECs to match its pro-rata share of the state-wide 300,000 MWh poultry waste RECs required by the poultry waste set-aside compliance requirement. In addition, he stated that the swine waste and poultry waste REC requirements were determined by the Commission in its 2019 Delay Orders and its 2022 Delay Order. Saillor Affidavit at 2.

No party disputed that DEP has fully complied with the applicable REPS requirements or argued that DEP'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 DEP has fully complied with the REPS requirements for 2021, as modified by the Commission's 2019 Delay Orders and 2022 Delay Order, and that DEP'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 FINDING OF FACT NO. 8**

The evidence supporting this finding of fact is found in the testimony and exhibits of DEP witness Presson.

Witness Presson 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. 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, DEP 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 DEP's REC inventory and available for use in meeting future compliance requirements. Presson Direct at 10-11. No party to this proceeding contested this testimony.

Based on the foregoing and the entire record herein, 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 FINDING OF FACT NO. 9**

The evidence supporting this finding is procedural in nature, found in the testimony and exhibits of DEP witness Williams and the affidavits of Public Staff witnesses Akpom and Saillor, 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-month period 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, 2021 and ending on March 31, 2022. 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 4-5. Witness Williams also testified that the Billing Period for the REPS Rider requested in the Company's application is the twelve months beginning on December 1, 2022 and ending on November 30, 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 DEP were not challenged by any party.

Based on the foregoing and the entire record herein, the Commission concludes that, consistent with Commission Rule R8-67(e)(3), the Test Period for this proceeding is the twelve months beginning on April 1, 2021 and ending on March 31, 2022. The Commission also concludes that the Billing Period for this proceeding is the twelve months beginning on December 1, 2022 and ending on November 30, 2023.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 10-11**

The evidence for these findings of fact can be found in the testimony and exhibits of DEP witness Presson and the affidavits of Public Staff witnesses Akpom and Saillor.

Witness Presson sponsored redacted 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, redacted Presson Exhibit No. 2 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).

Witness Presson identifies total Other Incremental costs of REPS compliance in Confidential Presson Exhibit Nos. 2 and 3 and states in her testimony that these amounts comprise 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, with such costs reduced by agreed-upon liquidated damages paid by sellers for failure to meet contractual milestones and amounts paid by sellers for administrative contractual amendments requested by them. Presson Direct at 20. Other Incremental costs included for recovery in the REPS EMF, and REPS riders in this proceeding were not contested by any party.

Witness Presson also testified that, pursuant to N.C.G.S. § 62-155(f), DEP developed a Solar Rebate Program. She discussed details of the annual customer rebate application process, the rebate amounts offered, enrollment processes and resulting participation by customer class, and recent Commission orders modifying program provisions and procedures. Presson Direct at 21-25. She further testified that the incremental costs incurred to "provide incentives to customers, including program costs, incurred pursuant to N.C.G.S. § 62-155(f)" are allowed to be recovered under N.C.G.S. § 62-133.8(h). 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. 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 25-28. Solar Rebate Program costs included for recovery in the REPS EMF, and REPS riders in this proceeding were not contested by any party.

Consistent with the Commission's orders in prior REPS rider proceedings, witness Presson provided testimony and exhibits on the results and status of various studies, the costs of which DEP is including for recovery as research in its incremental REPS cost for the Test Period. Presson Direct at 28-37. Research 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 costs identified as Other Incremental and Solar Rebate Program costs are properly recoverable in the REPS EMF, and REPS riders calculated in this proceeding. The Commission also concludes that the research activities funded by DEP 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 the filing of the 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 the 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.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 12-15**

The evidence for these findings of fact is found in DEP's application, the testimony and exhibits of DEP witnesses Presson and Williams, and the affidavits of Public Staff witnesses Akpom and Saillor.

Section 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(b)-(f) through an annual rider. Section 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 set forth in N.C.G.S. § 62-133.8(b)-(f) 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."

DEP witness Williams testified regarding the calculation of DEP's various incremental costs of compliance with REPS requirements, which were based on detailed incurred and projected costs provided by DEP witness Presson. Williams Direct at 5. Witness Williams also described the methods used by the Company to determine the appropriate avoided cost to apply to REPS compliance purchased power agreements and the Company's biogas purchases used to produce renewable energy at its generating stations. Williams Direct at 5. Redacted Williams Exhibit No. 1, page 1, identified total Test Period incremental costs incurred of \$42,792,784, and redacted Williams Exhibit No. 1, page 2, showed estimated Billing Period incremental costs of \$42,503,807.

In his affidavit, witness Akpom described the Public Staff's investigation and review of the Company's filing, including its evaluation of DEP's per books incremental costs and revenues, as well as the annual revenue cap for REPS requirements, for the Test Period. Based on his review of costs submitted for recovery, witness Akpom recommended approval of DEP's proposed monthly and annual REPS EMF decrement riders (excluding the regulatory fee) for the residential, general service, and industrial customer classes. Akpom Affidavit at 3.

Based on the foregoing and the entire record herein, the Commission concludes that DEP's total incremental costs incurred during the Test Period are \$42,792,784, as filed by the Company and that DEP's estimated incremental costs for the Billing Period are \$42,503,807.

## **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 16-22**

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

In her testimony, witness Williams described the method used by the Company to allocate incremental REPS costs among customer classes, including an adjustment to the allocation accepted by the Commission in its November 18, 2021, Order Approving REPS and REPS EMF Riders and 2020 REPS Compliance Report in Docket No. E-2, Sub 1276. Witness Williams further testified that any deviation from allocating costs according to the statutory per-account cost cap ratios creates the potential for the resulting charges computed for one or more classes to exceed the per-account cost cap(s). She stated that, if that occurs, the Company would continue to reallocate the costs in excess of the cap for the affected customer class to the other customer classes to the extent required to produce charges for all classes that do not exceed the respective caps. Williams Direct at 6-7.

Williams Exhibit No. 2, page 2, shows EMF Period undercollections by customer class of: \$2,624,180 for residential, \$1,456,737 for general service, and \$63,031 for industrial. On August 18, 2022, DEP filed the supplemental testimony and Revised Exhibit No. 4 of witness Williams for the sole purpose of updating the regulatory fee applied to noncompetitive jurisdictional revenues from 0.13% to 0.14% as approved in the Commission's June 30, 2022, Order Increasing Regulatory Fee Effective July 1, 2022, issued in Docket No. M-100, Sub 142.

Revised Williams Exhibit No. 4 shows additional credits for contract receipts by customer class of \$80,995 for residential, \$72,284 for general service, and \$4,091 for industrial. The EMF period undercollections net of contract-related credits by customer class are: \$2,543,185 for residential, \$1,384,453 for general service, and \$58,940 for industrial. As reflected in Revised Williams Exhibit No. 4, witness Williams calculated monthly per-account REPS EMF charges (excluding regulatory fee) by customer class of \$0.16 for residential, \$0.55 for general service, and \$2.83 for industrial. Also, in Revised Williams Exhibit No. 4, witness Williams calculated projected REPS costs for the Billing Period of \$21,671,406 for the residential class, \$19,696,095 for the general service class, and \$1,136,306 for the industrial class. Revised Williams Exhibit No. 4 shows that the proposed monthly prospective per-account REPS riders, excluding the regulatory fee, to be collected during the Billing Period are \$1.39 for residential accounts, \$7.86 for general service accounts, and \$54.51 for industrial accounts.

The combined monthly REPS and REPS EMF rider charges per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$1.55 for residential accounts, \$8.41 for general service accounts, and \$57.34 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 \$1.55 for residential accounts, \$8.42 for general service accounts, and \$57.42 for industrial

accounts. Revised 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 recommends annual REPS EMF increment riders of \$1.95, \$6.63, and \$33.93 per customer account, respectively, for DEP's residential, general service, and industrial customers, excluding the regulatory fee. Excluding the regulatory fee, the corresponding monthly REPS EMF increment rider amounts are \$0.16, \$0.55, and \$2.83 for residential, general service, and industrial customers, respectively. Akpom Affidavit at 3.

Public Staff witness Saillor recommended that the Company's proposed prospective monthly REPS rider amounts per customer account, excluding regulatory fee, of \$1.39 for residential accounts, \$7.86 for general service accounts, and \$54.51 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: \$1.55 for residential accounts, \$8.41 for general service accounts, and \$57.34 for industrial accounts. Including the regulatory fee, witness Saillor recommended approval of the following total monthly REPS charge per customer account: \$1.55 for residential accounts, \$8.42 for general service accounts, and \$57.42 for industrial accounts. Saillor Affidavit at 3.

Based on the foregoing and the entire record herein, 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 in 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.G.S. § 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 12-month period beginning on December 1, 2022, and expiring on November 30, 2023;
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 12-month period beginning on December 1, 2022, and expiring on November 30, 2023;

3. That DEP 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 issuance of this Order;

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 1292, E-2, Sub 1295, and E-2, Sub 1296, and that 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 DEP's 2021 REPS Compliance Report is hereby approved, and the RECs in DEP's 2021 compliance sub-accounts in NC-RETS 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 REPS 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 continue to include detail on its primary compliance cost exhibits 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 16th day of November, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Tamika D. Conyers". The signature is written in black ink and is positioned above the printed name of the signatory.

Tamika D. Conyers, Deputy Clerk