NORTH CAROLINA
PUBLIC STAFF
UTILITIES COMMISSION

July 24, 2020

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

Re: Docket No. E-7, Sub 1231 - Application Pursuant to G.S. 62-110.8 and Commission Rule R8-71 for Approval of CPRE Compliance Report and CPRE Cost Recovery Rider

Dear Ms. Campbell:

Attached for filing in the above-referenced docket is the Proposed Additional Findings, Evidence, and Conclusions of the Public Staff, to be considered in conjunction with the Partial Joint Proposed Order of Duke Energy Carolinas, LLC and the Public Staff that was filed separately in this docket. The numbering used in the Additional Findings, Evidence, and Conclusions is intended to provide guidance to the Commission in its review, but does not reflect the placement of the provisions in the Partial Joint Proposed Order.

By copy of this letter, I am forwarding a copy to all parties of record by electronic delivery.

Sincerely,

Electronically submitted
s/ Layla Cummings
Staff Attorney
layla.cummings@psncuc.nc.gov

Attachment

Executive Director	Communications	Economic Research	Legal	Transportation
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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-7, SUB 1231

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Energy Carolinas, LLC, for Approval of CPRE Cost Recovery Rider Pursuant to N.C.G.S. § 62-110.8 and Commission Rule R8-71	))))))	PROPOSED ADDITIONAL FINDINGS, EVIDENCE, AND CONCLUSIONS OF THE PUBLIC STAFF

HEARD: Tuesday, June 9, 2020 at 9:30 a.m. in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina and via WebEx Video Conference.

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

APPEARANCES:

For Duke Energy Carolinas, LLC:

Jack E. Jirak, Associate General Counsel, Duke Energy Carolinas, LLC, 410 S. Wilmington Street, NCRH 20/P.O. Box 2551, Raleigh, NC 27601

For Carolina Industrial Group for Fair Utility Rates III:

Warren K. Hicks, Bailey & Dixon, LLP, Post Office Box 1351, Raleigh, North Carolina 27602-1351

For the North Carolina Sustainable Energy Association:

Benjamin Smith, Regulatory Counsel, 4800 Six Forks Road, Suite 300, Raleigh, North Carolina 27609

For the Using and Consuming Public:

Layla Cummings and Tim R. Dodge, Staff Attorneys, Public Staff – North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4300

BY THE COMMISSION: N.C. Gen. Stat. § 62-110.8(g) and Commission Rule R8-71 require the Commission to conduct an annual proceeding to review costs incurred or anticipated to be incurred by an electric public utility to comply with the Competitive Procurement of Renewable Energy (CPRE) Program pursuant to N.C. Gen. Stat. § 62-110.8 and an annual compliance report filed by the electric public utility pursuant to Rule R8-71(h).

On February 25, 2020, Duke Energy Carolinas, LLC (DEC or the Company), filed its application, 2019 Compliance Report, and the direct testimony and exhibits of Brian L. Sykes, Rates and Regulatory Manager, and Phillip H. Cathcart, Compliance Manager with the Business & Compliance Department. DEC requests Commission approval of the Rider CPRE to recover the Company's reasonable and prudent CPRE compliance costs and approval of its 2019 Compliance Report demonstrating compliance with CPRE Program requirements.

On March 17, 2020, the Commission issued an *Order Scheduling Hearing, Requiring Filing of Testimony, Establishing Discovery Guidelines, and Requiring Public Notice*, in which it set this matter for hearing; established deadlines for the submission of intervention petitions, intervenor testimony, and DEC's rebuttal testimony; required the provision of appropriate public notice; and mandated compliance with certain discovery guidelines.

Petitions to intervene in this docket were filed by Carolina Industrial Group for Fair Utility Rates, III (CIGFUR); North Carolina Sustainable Energy Association (NCSEA); and Carolina Utility Customers Association, Incorporated (CUCA). The Commission granted these petitions to intervene. The intervention and participation by the Public Staff is recognized pursuant to N.C. Gen. Stat. § 62-15.

On May 15, 2020, DEC filed the supplemental testimony and exhibits of witnesses Sykes and Cathcart.

On May 18, 2020, the Public Staff filed the testimony and exhibits of Michael C. Maness, Director of the Public Staff Accounting Division, and Jeff Thomas, an engineer in the Public Staff Electric Division.

On May 28, 2020, DEC filed the rebuttal testimony of witness Sykes.

On May 29, 2020, the Commission issued an *Order Scheduling Remote Hearing for Expert Witness Testimony*, which stated that because of the large number of persons who will be involved in the expert witness portion of the hearing, the expert witness portion of the hearing will be held by remote means on WebEx. All parties filed a statement consenting to the remote hearing.

On June 4, 2020, the Commission issued an *Order Granting Motion to Excuse Witnesses* to excuse the DEC and Public Staff witnesses from appearing at the expert witness hearing and to allow the introduction into evidence of the prefiled testimony and exhibits of each witness at the hearing.

On June 5, 2020 and June 25, 2020, DEC filed affidavits of publication.

The matter came on for hearing on June 9, 2020. No public witnesses appeared at the hearing. All pre-filed testimony and exhibits from the DEC and Public Staff witnesses were received into evidence.

On July 24, 2020, DEC and the Public Staff filed a partial joint proposed order. DEC and the Public Staff also both filed separate or additional findings of fact on the issue of cost allocation among the jurisdictions.

Below are the additional findings of fact of the Public Staff.

PUBLIC STAFF'S ADDITIONAL FINDINGS OF FACT

1. It is reasonable and appropriate to allocate system-level implementation costs to the North Carolina, South Carolina, and wholesale jurisdictions for purposes of calculating the rates for the Rider CPRE billing period and CPRE EMF test period, rather than directly assigning 100% of the system-level CPRE implementation costs to North Carolina retail customers.

2. DEC's experienced North Carolina retail under-recovery of costs for the extended initial test period, or EMF period, the 29-month period starting August 1, 2017, and ending December 31, 2019, amounts to $754,459, excluding the regulatory fee, as set forth on Maness Exhibit 1. DEC under-recovered its CPRE EMF costs for the extended initial test period by $294,856 for the Residential class, $305,678 for the General Service/Lighting class, and $153,926 for the Industrial class.

3. The appropriate monthly CPRE EMF rates to be charged to customers are 0.0013 cents per kilowatt-hour (kWh) for the Residential class, 0.0013 cents per kWh for the General Service/Lighting class, and 0.0012 cents per kWh for the Industrial class, excluding the regulatory fee.

4. The appropriate North Carolina retail prospective billing period expenses, as adjusted and set forth on Maness Exhibit 1, amounted to a total of $2,985,320. The appropriate prospective billing period expenses for use in this proceeding are $1,166,715 for the Residential class, $1,209,536 for the General Service/Lighting class, and $609,069 for the Industrial class.

5. The appropriate monthly prospective Rider CPRE rate to be charged to customers are 0.0054 cents per kWh for the Residential class, 0.0051 cents per kWh for the

General Service/Lighting class, and 0.0049 cents per kWh for the Industrial class, excluding the regulatory fee.

6. The appropriate combined monthly Rider CPRE and CPRE EMF rider charges to be collected during the billing period are 0.0067 cents per kWh for the Residential class, 0.0064 cents per kWh for the General Service/Lighting class, and 0.0061 cents per kWh for the Industrial class, excluding the regulatory fee.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 1

The evidence for this finding of fact is found in DEC's Application, DEC's direct, supplemental, and rebuttal testimony and exhibits of witness Sykes, and the testimony and exhibits of Public Staff witnesses Thomas and Maness.

Summary of the Evidence:

In its application and the testimony of witness Sykes, DEC proposed to allocate 100% of the implementation costs of the CPRE Program to North Carolina retail customers, rather than to all jurisdictional customers consistent with how it allocates CPRE energy and capacity costs. *See* Official Exhibits for Hearing Held via Videoconference on June 9, 2020, Sykes Revised Exhibits 3 and 4. In direct testimony, witness Sykes stated that the Company has directly assigned the reasonable and prudent implementation costs incurred and anticipated to be incurred to implement its CPRE Program and to comply with N.C. Gen. Stat. § 62-110.8 and Rule R8-71(j)(2) to its North Carolina Retail customers consistent with cost causation principles. T Vol.2 at 19.

Public Staff witnesses Thomas and Maness recommend an adjustment to DEC's proposed allocation of CPRE implementation costs incurred during the Company's Extended Initial Test Period and projected to be incurred in the Billing Period to include South Carolina

retail and wholesale customers. The CPRE Program implementation costs include internal labor and labor-related taxes and benefits, external consulting, independent administrator costs, and transmission and distribution (T&D) Sub-team labor and labor-related costs in excess of fees collected from market participants. *Id.* at 64.

When asked why the Company did not allocate the costs between North Carolina and South Carolina retail and wholesale customers, witness Thomas stated that that the Company provided a response to a data request stating "the CPRE Program was mandated by the General Assembly of North Carolina, and as such, the Company believes it reasonable that its implementation costs should be directly assigned to its NC Retail customers," and comparing its treatment of the costs as similar to how it treats costs incurred to comply with the North Carolina Renewable Energy and Energy Efficiency Portfolio Standards (REPS) Program and the South Carolina Distributed Energy Resource Program (SC DERP). *Id.*

Witness Thomas disagreed with the Company's rationale for the proposed allocation and recommended that the implementation costs be allocated to North Carolina and South Carolina retail and wholesale customers in same manner as energy and capacity costs. *Id.* at 65. Witness Thomas argued that there are significant differences between the CPRE Program, and the REPS and SC DERP programs. The CPRE Program provides system power to all jurisdictions at or below avoided costs. Meanwhile the REPS Program, pursuant to N.C. Gen. Stat. § 62-133.8(h), authorizes a utility to recover the incremental costs of compliance, including all reasonable and prudent costs *in excess* of the utility's avoided costs, from its North Carolina retail customers. The SC DERP similarly authorizes the utility to recover the incremental costs above avoided costs resulting from implementation of the SC DERP from its South Carolina retail customers. *Id.* at 66.

Additionally, witness Thomas noted that the CPRE Program expressly requires renewable energy to be competitively procured from within the utilities' respective balancing authority areas, "whether located inside or outside the geographic boundaries of the State," while taking into consideration factors that are designed to ensure the most cost-effective projects are selected across each utility's service area. *Id.* at 66, citing N.C. Gen. Stat. § 62-110.8(c).

Witness Thomas testified that to date the CPRE Program has selected the most cost-effective facilities in both North Carolina and South Carolina. According to the Independent Administrator's report, Tranche 1 projects are estimated to save DEC customers over $200 million relative to DEC's avoided cost over the next 20 years. *Id.* at 66-67. In comparison, both North Carolina's REPS Program and SC DERP procures renewable energy at prices above avoided cost, imposing a premium on DEC customers.

Witness Thomas further argued that in past proceedings the Commission has assigned costs that arise from North Carolina specific statutory or regulatory actions to all retail and wholesale jurisdictions, including costs associated with both the Clean Smokestacks Act (CSA) and the Coal Ash Management Act (CAMA). The CSA is a North Carolina law that imposed costs on DEC to reduce certain emissions from its coal generating plants. At the time the law was passed, 100% of the incremental costs of implementing the CSA were recovered from North Carolina retail customers. After January 1, 2008, however, the costs were allocated to the North Carolina and South Carolina retail and wholesale jurisdictions. In testimony supporting the allocation of these compliance costs among all jurisdictions and customer classes, the Public Staff stated that "[this] method of cost recovery will recognize the co-benefits that will be shared by all jurisdictions regarding compliance with emissions limitations

under the CSA and compliance with federal emissions limitations, as described by Public Staff witness Floyd." *Id.* at 69, citing *Agreement and Partial Settlement*, filed October 5, 2007, Docket Nos. E-7, Sub 828, E-7, Sub 829, and E-100, Sub 112.

With regard to the costs associated with CAMA compliance, witness Thomas cited to the Commission's decision in the most recently completed Duke Energy Progress (DEP) general rate case, wherein the Commission made the following findings:

> [Public Staff] [w]itness Maness recommended two adjustments to the jurisdictional allocation factors used by the Company to allocate system-level CCR costs to the North Carolina retail jurisdiction. The first such adjustment was to allocate the costs DEP identified as "CAMA-only" costs by a comprehensive allocation factor, rather than DEP's proposed factor, which did not allocate costs to the South Carolina retail jurisdiction. Company witness Bateman stated in her testimony that there is a small portion of CCR management costs that under CAMA that are unique to North Carolina and appropriate for direct assignment to North Carolina. Company witness Kerin stated that these costs include groundwater wells used specifically for CAMA purposes and permanent water supplies provided to North Carolina customers pursuant to North Carolina law. Consequently, the Company utilized North Carolina retail allocation factors for its CAMA-only costs that did not allocate any of the system level costs to South Carolina retail operations. However, witness Maness stated that even though some of the costs incurred by DEP are being incurred pursuant to North Carolina law, it is still fair and reasonable to allocate those costs to the entire DEP system because the coal plants associated with the costs are being or were operated to serve the entire DEP system. (Tr. Vol. 18, pp. 305-06.)
>
> In rebuttal, Company witness Bateman testified that in general she agreed with witness Maness that the costs of a system should be borne by all of the users of the system. However, she stated that the Company had identified very specific cost categories, groundwater wells used specifically for CAMA purposes and permanent water supplies provided to North Carolina customers pursuant to North Carolina law, and that they should be treated as an exception to this general rule, due to their nature as being unique to North Carolina. She stated that this unique treatment would be consistent with other examples where the Commission had allowed direct assignment to North Carolina, including the incremental costs associated with the North Carolina Renewable Energy and Energy Efficiency Standard (REPS) and the costs to comply with the North Carolina Clean Smokestacks Act. (Tr. Vol. 6, pp. 142-43.)
>
> After consideration of this issue, the Commission finds and concludes that the adjustment recommended by Public Staff witness Maness to allocate all system-level CCR costs by a comprehensive allocation factor produces a more

> reasonable and appropriate outcome than the proposal by the Company to allocate a portion of these costs in a manner that does not allocate them to the South Carolina retail jurisdiction. Although the costs in question were required pursuant to North Carolina law, the costs are inherently related to the burning of coal to provide electricity to the entire DEP system, including the South Carolina retail jurisdiction. The fact that these particular costs are associated with plants that are geographically located in North Carolina is no more relevant with regard to the proper allocation of these costs than it is to the proper allocation of other costs, such as fuel expense and other variable O&M expenses, which are allocated to the entire DEP system.
>
> Further, the Commission concludes that these CAMA compliance costs are distinguishable from the examples of REPS and Clean Smokestacks costs cited by the Company. With regard to REPS costs, it is important to note that those costs are by their very nature in excess of the normal level of costs that would otherwise need to be incurred to provide an equivalent amount of energy to the Company's customers. Thus, it is appropriate that the Commission allocates the REPS costs to North Carolina customers. With regard to Clean Smokestacks costs, the Commission notes that those costs were closely related to a rate freeze that was instituted by the General Assembly for North Carolina retail purposes. However, the legislature could not require a similar freeze to be established with regard to South Carolina retail customers.

Id. at 70-71, citing *Order Accepting Stipulation, Deciding Contested Issues, and Granting Partial Rate Increase,* Docket No. E-2, Sub 1142 (Sub 1142 Final Order), at 218-19 (February 23, 2018). The Commission made a consistent finding in the DEC rate case *Order Accepting Stipulation, Deciding Contested Issues, and Requiring Revenue Reduction,* Docket No. E-7, Sub 1146 (Sub 1146 Final Order), at 325-26 (June 22, 2018).

Witness Thomas provided an additional example of a regulatory action in which the costs are allocated among the jurisdictions – the Certificate of Public Convenience and Necessity (CPCN) granted to utility-owned solar facilities built to satisfy the requirements of the REPS law. For DEC's Monroe, Mocksville, and Woodleaf solar facilities, the Commission has issued the CPCNs on the condition that only the incremental portion of the facility costs attributable to REPS are recovered through the REPS rider, and from North Carolina retail customers, whereas the remainder of the costs that are recovered in base rates should be

allocated among jurisdictions and customer classes in the same manner as any other plant in DEC's generation portfolio. *Id.* at 72.

In rebuttal testimony, DEC witness Sykes stated that the Company's proposal to allocate implementation costs to North Carolina retail customers is consistent with both general cost causation principles and the manner in which program implementation costs have historically been allocated in connection with North Carolina REPS and SC DERP. *Id.* at 26.

With regard to energy and capacity costs, witness Sykes testified that renewable energy resources procured through the CPRE Program will be supply-side system resources and will be used to supply electricity to the Company's retail and wholesale customers. Thus, it is appropriate to allocate those costs to all customers. In contrast, witness Sykes argued, the CPRE Program implementation costs should be allocated to North Carolina retail customers because they are costs caused solely by the Company's obligation to comply with N.C. Gen. Stat. § 62-110.8 and Commission Rule R8-71. Witness Sykes testified further, "[s]tated differently, the implementation costs would not have been incurred 'but for' the requirements of N.C. Gen. Stat. § 62-110.8 and Commission Rule R8-71, in contrast with the energy and capacity costs which would have incurred on a system basis even in the absence of the CPRE program." *Id.* at 27.

Witness Sykes testified that the cost recovery provision in REPS, N.C. Gen. Stat. § 62-133.8(h)(1), allows "incremental costs" incurred in excess of avoided costs to be recovered from North Carolina retail customers and this approach follows cost causation principles in that the renewable attribute that results in a premium above avoided cost is directly associated with achieving the objective of the REPS program, whereas the portion of the cost up to

avoided cost is allocated to all retail and wholesale customers because it is "caused" by the need to meet all such customers' needs. *Id.* at 28.

Witness Sykes added that the Company's allocation of implementation costs has not historically been based on assessment of whether those costs should be considered as part of the portion of energy and capacity costs that are above or below avoided costs. Further, the existence of costs above avoided costs associated with a particular program should not take precedence over cost causation principles and become the determinative factor for assignment of implementation costs. In conclusion, witness Sykes testified that the Company continues to believe that incremental costs that are specific to the statutory requirements of a particular state are appropriately assigned to that state's retail customers.

Conclusions:

After consideration of this issue, the Commission finds and concludes that the adjustment recommended by Public Staff witnesses Thomas and Maness to allocate CPRE implementation costs to all jurisdictional customers produces a more reasonable and appropriate outcome than the proposal by the Company to allocate the implementation costs solely to North Carolina retail customers. Although the costs in question were incurred pursuant to North Carolina law establishing the competitive procurement of renewable resources, the costs are inherently related to the procurement of renewable energy and capacity to serve the entire DEC system, including South Carolina and wholesale customers, at or below avoided cost.

In enacting House Bill 589, the General Assembly intended to foster competition among utilities and small power producers to achieve cost savings in procuring renewable energy in each utility's respective balancing authority area, whether located in North Carolina

or South Carolina, compared to Commission-determined PURPA avoided cost rates. Specifically, N.C. Gen. Stat. § 62-110.8(c) provides:

> [T]he electric public utilities shall take the following factors in consideration in determining the location and allocated amount of the competitive procurement across their respective balancing authority areas whether located inside or outside the geographic boundaries of the State, taking into consideration:
>
> (i) the State's desire to foster diversification of siting of renewable energy resources throughout the State;
> (ii) the efficiency and reliability impacts of siting of additional renewable energy facilities in each public utility's service territory; and
> (iii) the potential for increased delivered cost to a public utility's customers as a result of siting additional renewable energy facilities in a public utility's service territory, including additional costs of ancillary services that may be imposed due to the operational or locational characteristics of a specific renewable energy resource technology, such as nondispatchability, unreliability of availability, and creation or exacerbation of system congestion that may increase redispatch costs.

T Vol. 2 at 66, fn 8.

The CPRE Program was developed and approved by the Commission, pursuant to N.C. Gen. Stat. § 62-110.8, with the objective of procuring renewable energy to provide system benefits to customers at the lowest cost. To date, those projects have resulted in significant cost savings compared to the avoided cost. Through the completion of Tranche 1, the winning projects are estimated to save all DEC customers over $200 million relative to DEC's avoided costs. *Id.* at 67, citing Final IA Tranche 1 Report, filed July 23, 2019, in Docket Nos. E-2, Sub 1159 and E-7, Sub 1156, Figure 1.

The Company argues that the costs of implementation of the CPRE Program should be directly assigned to North Carolina customers because they are a result of North Carolina law. While the CPRE Program was developed and implemented pursuant to North Carolina law and Commission Rule, the Commission agrees with the Public Staff that it would be inequitable

and unreasonable to assign all the implementation costs to North Carolina retail customers, as the CPRE Program provides benefits to South Carolina and wholesale customers from direct renewable energy investments, low-cost power, and the experience gained by DEC in establishing a robust competitive procurement program. *Id.* at 67.

The Commission is not persuaded by DEC's argument that all costs that are the result of a specific state statute or regulatory action are properly assigned to that state's customers if those costs would not have existed "but for" the state action. As the Public Staff notes in the testimony of witness Thomas, the Commission recently concluded to the contrary in the most recently completed DEC and DEP rate cases, Docket Nos. E-7, Sub 1146 and E-2, Sub 1142, respectively, regarding the proper jurisdictional allocation of Coal Combustion Residuals (CCR) costs under the North Carolina Coal Ash Management Act (CAMA).

In those cases, the Companies identified certain "CAMA-only" costs that it assigned directly to North Carolina retail customers. The Public Staff argued that although some of those costs are being incurred pursuant to North Carolina law, it is still fair and reasonable to allocate those costs to the entire DEC system, because the coal plants associated with those costs are being, or were, operated to serve the entire DEC system. The Commission agreed with the Public Staff, finding that:

> to allocate all system-level CCR costs by a comprehensive allocation factor produces a more reasonable and appropriate outcome than the proposal by the Company to allocate a portion of these costs in a manner that does not allocate them to the South Carolina retail jurisdiction. Although the costs in question were required pursuant to North Carolina law, the costs are inherently related to the burning of coal to provide electricity to the entire DEP system, including the South Carolina retail jurisdiction.

Id. at 71, citing the Sub 1142 Final Order, at 219.

Similarly in this proceeding, the Commission finds and concludes that although CPRE costs were incurred as a result of a program established under North Carolina law, the costs are inherently related to the procurement of renewable energy at or below avoided cost to provide electricity to the entire DEC system.

In the previous DEP and DEC rate cases discussed above, and also in this proceeding, the Company asserted that the jurisdictional allocation of costs to North Carolina retail customers is consistent with the way similar costs are allocated in the REPS Program. The Company also asserts that the treatment of costs in South Carolina for the SC DERP supports its position, as those implementation costs are directly assigned to South Carolina retail customers. Witness Sykes testified that that the Company has not historically based its allocation for REPS or SC DERP on whether the costs were or were not above the avoided costs, but rather based it on cost causation principles.

For REPS, N.C. Gen. Stat. § 62-133.8(h) authorizes a utility to recover the "incremental costs" of compliance, including all reasonable and prudent costs incurred that are in excess of the utility's avoided costs. The Company argues that this approach follows cost causation principles because the premium above avoided cost is directly associated with achieving the objectives of the REPS program, while the portion of the cost up to the avoided costs is allocated to all retail and wholesale customers because it is "caused" by the need to meet all customers' needs.

The Commission agrees that cost recovery from one state's customers is appropriate in certain circumstances. With regard to REPS costs, as the Commission stated in its DEP Sub 1142 Final Order, "it is important to note that those costs are by their very nature in excess of the normal level of costs that would otherwise need to be incurred to provide an equivalent

amount of energy to the Company's customers. Thus, it is appropriate that the Commission allocates the REPS costs to North Carolina customers."

The Commission finds and concludes that CPRE implementation costs are distinguishable from the other program costs cited by the Company. In the case of REPS and SC DERP, those programs incur cost premiums above avoided cost to achieve specific state policy goals in North and South Carolina, respectively. The CPRE Program, on the other hand, procures renewable energy below the avoided cost, which benefits all customers. It is inequitable for South Carolina and wholesale customers to benefit from the procurement of low-cost power without being assigned their jurisdictional share of the implementation costs necessary to secure those benefits, whether or not those benefits are the result of North Carolina law.

The Commission has made similar findings on the appropriate treatment of costs incurred in excess of avoided costs to comply with REPS in its conditions granting a CPCN for utility-owned solar facilities built to satisfy the requirements of REPS for DEC's Monroe, Mocksville, and Woodleaf facilities. In those cases, the Commission conditions required only the incremental portion of the facility costs attributable to REPS compliance be solely recovered from North Carolina customers through the REPS rider, whereas the remainder of the costs that were recovered in base rates should be allocated among jurisdictions and customer classes in the same manner as any other plant in DEC's generation portfolio.

The Commission also finds and concludes that certain costs associated with the Clean Smokestacks Act (CSA) are also distinguishable from CPRE implementation costs. The CSA is a North Carolina law that imposed costs on DEC to reduce emissions from coal generating plants. The incremental costs of implementation of the CSA were initially directly assigned to

North Carolina retail ratepayers through December 31, 2007. As the Commission noted in its DEP Sub 1142 Final Order, "those costs [CSA compliance costs] were closely related to a rate freeze that was instituted by the General Assembly for North Carolina retail purposes. However, the legislature could not require a similar freeze to be established with regard to South Carolina retail customers." As a result of the DEC general rate case Docket No. E-7, Sub 828, once the rate freeze was lifted, the incremental CSA compliance costs incurred on and after January 1, 2008, were properly allocated to all jurisdictional customers cost as compliance with emissions limitations benefits all jurisdictions.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 2-6

The evidence supporting these findings of fact appears in DEC's Application, in the direct and supplemental testimony and exhibits of DEC witness Sykes, and in the testimony and exhibits of Public Staff witnesses Thomas and Maness.

Witness Sykes' revised exhibits show a total $1,138,297 under-recovery of CPRE costs for the EMF period, the initial test period starting August 1, 2007, and ending December 31, 2019. The prospective for the billing period CPRE costs, as shown through witness Sykes' revised exhibits, amounted to a total of $3,114,986.

In supplemental testimony, witness Sykes revised the components of the CPRE Program rider to be effective September 1, 2020, and to remain in effect for the twelve-month Billing Period ending August 31, 2021, as follows, excluding the regulatory fee:

DEC's Rider Request Filed on May 15, 2020 (cents per kWh)			
Customer Class	**EMF Rate**	**CPRE Rider Rate**	**Total CPRE Rate**
Residential	0.0020	0.0056	0.0076
General Service/Lighting	0.0019	0.0054	0.0073
Industrial	0.0019	0.0051	0.0070

Public Staff witnesses Thomas and Maness testified that they had reviewed and analyzed the CPRE costs for which DEC has requested recovery in this proceeding, and, with the exception of the CPRE implementation costs discussed in the previous section, found them to be appropriate.

Witness Maness testified that the Public Staff's investigation included procedures intended to evaluate whether the Company properly determined its per books CPRE Program implementation costs and revenues during the test period. He stated that these procedures included a review of the Company's filing and other Company data provided to the Public Staff. Witness Maness testified that performing the Public Staff's investigation required the review of numerous responses to written and verbal data requests, as well as discussions with the Company. *Id.* at 89.

After reviewing all of DEC's testimony and exhibits, the Public Staff, through the testimony of witnesses Thomas and Maness, recommended that DEC allocate CPRE implementation costs to its North Carolina and South Carolina retail and wholesale customers, and refile its witness Sykes exhibits reflecting this change. The Public Staff did not recommend

any adjustments to the system-level Extended Initial Test Period or Billing Period costs sought for recovery. *Id.* at 81, 90.

Based on the discussion in the previous section, the Commission agrees with the Public Staff's proposed adjustments to DEC's CPRE EMF and prospective billing period costs, as presented in Maness Exhibit 1, to allocate CPRE implementation costs to North Carolina and South Carolina retail and wholesale customers.

Thus, the Commission finds it appropriate to calculate the CPRE EMF using the North Carolina retail portion of the CPRE Program implementation costs, which total $754,459 under-recovery for costs in the EMF period, as set forth on Maness Exhibit 1. Witness Maness testified that DEC under-recovered its CPRE EMF costs for the extended initial test period by $294,856 for the Residential class, $305,678 for the General Service/Lighting class, and $153,926 for the Industrial class.

The Commission finds it appropriate to calculate the Rider CPRE using the North Carolina retail portion of the CPRE Program implementation costs. The prospective for the billing period CPRE costs, as adjusted and set forth on Maness' Exhibit 1, amounted to a total of $2,985,320. Witness Maness testified that the prospective billing period expenses for use in this proceeding are $1,166,715 for the Residential class, $1,209,536 for the General Service/Lighting class, and $609,069 for the Industrial class.

As presented in Public Staff witness Thomas' testimony and supported by witness Maness Exhibit 1, the combined monthly CPRE and CPRE EMF rider charges per customer account, excluding the regulatory fee are as follows:

Public Staff's Recommended Rates (cents per kWh)			
Customer Class	**EMF Rate**	**CPRE Rider Rate**	**Total CPRE Rate**
Residential	0.0013	0.0054	0.0067
General Service/Lighting	0.0013	0.0051	0.0064
Industrial	0.0012	0.0049	0.0061

The Commission finds the Public Staff's recommended adjustment to rates just and reasonable for purposes of this proceeding. The total costs DEC seeks to recover in this proceeding, with the Public Staff's adjustment to re-allocate certain jurisdictional costs, does not exceed the cost cap established by N.C. Gen. Stat. § 62-110.8(g). Based on the Commission's findings in this proceeding, it is appropriate that DEC file with the Commission updated CPRE rates consistent with the rulings in this Order.

IT IS, THEREFORE, ORDERED as follows:

1. DEC shall file with the Commission updated CPRE rates consistent with the findings and conclusions in this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the __ day of_____, 2020.

NORTH CAROLINA UTILITIES COMMISSION

Kimberley A. Campbell, Chief Clerk