

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1251

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 2019 REPS COMPLIANCE REPORT
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HEARD: Tuesday, September 15, 2020, at 10 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina (Public Witness Hearing, Hearing Examiner Heather Fennell, Presiding)

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

APPEARANCES:

For Duke Energy Progress, LLC:

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For Carolina Utility Customers Association, Inc.:

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For Carolina Industrial Group for Fair Utility Rates II:

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For North Carolina Sustainable Energy Association:

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For the Using and Consuming Public:

Gina C. Holt, Staff Attorney and Nadia L. Luhr, Staff Attorney,  
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BY THE COMMISSION: On June 9, 2020, Duke Energy Progress, LLC (DEP or the Company), filed its 2019 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 Megan W. Jennings, 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 29, 2020, 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, the Carolina Industrial Group for Fair Utility Rates II, and the Carolina Utility Customers Association, Inc. filed separate petitions to intervene in this docket, and the interventions were allowed by the Commission. The intervention and participation by the Public Staff are recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On August 7, 2020, the Commission issued an Order Scheduling Remote Hearings for Expert Witness Testimony due to the COVID-19 pandemic. All parties subsequently filed their consent to a remote hearing.

On August 25, 2020, the Public Staff filed the affidavit of June Chiu, Staff Accountant in the Accounting Division, and the testimony of Jay B. Lucas, Manager, Electric Section – Operations and Planning in the Energy Division.

On September 4, 2020, DEP and the Public Staff filed a joint motion to excuse all witnesses from the evidentiary hearing. On September 11, 2020, the Commission issued an Order granting the joint motion; cancelling the expert witness hearing; receiving into evidence all prefiled testimony, affidavits, and exhibits from the DEP and Public Staff witnesses; and directing that proposed orders be filed by October 16, 2020.

On September 14, 2020, DEP filed the required affidavits of publication for the public notice in accordance with the Commission's June 29, 2020 Order.

The public witness hearing was held on September 15, 2020. No witnesses appeared.

On October 16, 2020, DEP and the Public Staff filed a joint proposed order.

Based upon the foregoing, including the testimony, exhibits, and affidavits 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 2019, 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 2019, 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.G.S. §§ 62-133.8(e) and (f) require DEP and 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, with the poultry waste requirement being based on each electric power supplier's

respective pro-rata share derived from the ratio of its North Carolina retail sales as compared to total statewide North Carolina retail sales. In its December 16, 2019 Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief, and its February 13, 2020 Errata Order, (2019 Delay Orders), issued in Docket No. E-100, Sub 113, the Commission modified the 2019 swine waste set-aside requirement for DEP, Duke Energy Carolinas, LLC (DEC) and Dominion Energy North Carolina to 0.04% of prior year North Carolina retail sales, and delayed for one year the scheduled increases to the requirement. In addition, the 2019 Delay Orders modified the 2019 statewide poultry waste set-aside requirement to 500,000 MWh, and delayed the subsequent scheduled increases by one year.

4. DEP complied with the 2019 solar set-aside requirement by submitting for retirement 77,375 renewable energy certificates (RECs) procured or generated from solar electric facilities and metered solar thermal energy facilities. DEP also complied with the 2019 poultry waste set-aside requirement by submitting for retirement 134,105 poultry waste RECs and 2,822 Senate Bill 886 RECs (SB 886 RECs), which are credited as 5,644 poultry waste RECs, for a total of 139,749 poultry waste RECs. The Company complied with the 2019 swine waste set-aside requirement by submitting for retirement 15,475 swine waste RECs. Finally, DEP submitted for retirement 3,636,128 general requirement RECs, representing the Company's total 2019 compliance requirement net of the set-aside requirements detailed above.

5. DEP met its total 2019 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 is positioned to comply with its poultry waste set-aside requirement for compliance year 2020. Compliance beyond 2020 is dependent on the performance of current poultry waste-to-energy contracts, including two that are expected to ramp up production over the next few years.

7. DEP's ability to comply with the 2020 swine waste set-aside requirement is uncertain, as current contracts have not been able to deliver expected production, and new contracts have not come online nor delivered expected production in the timeframes originally planned.

8. 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).

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, 2019 and ending March 31, 2020 (Test Period). The billing period for this proceeding is the 12-month period beginning December 1, 2020, and ending November 30, 2021 (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 are within the \$1 million annual limit established by the statute.

12. No costs associated with the implementation of DEP's Competitive Procurement of Renewable Energy (CPRE) Program are included for recovery in this REPS proceeding. DEP's costs associated with procurement of CPRE renewable energy resources and for the implementation of the Company's CPRE Program were submitted for recovery in its pending CPRE rider in Docket No. E-2, Sub 1254.

13. 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 G.S. 62-133.9." The term "avoided costs" includes both avoided energy costs and avoided capacity costs.

14. Under Commission Rule R8-67(e)(2), the total costs reasonably and prudently incurred during the Test Period to purchase unbundled RECs constitute incremental costs. The projected costs to purchase such RECs during the Billing Period constitute forecasted incremental costs.

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

16. 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 \$39,775,219, and these costs were reasonably and prudently incurred. The Company's projected incremental costs for the Billing Period are \$39,413,260. DEP's Test Period REPS expense undercollection was \$55,386 for the residential class. DEP's overcollections, including interest, were \$(1,748,915) for the general service class and \$(139,328) 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 \$(48,478) for residential, \$(43,376) for general service, and \$(2,646) for industrial. Including credits for contract-related receipts, the net Test Period cost was \$6,908 for the residential class, and net Test Period credits were \$(1,792,291) for the general service class and \$(141,974) for the industrial class. All amounts exclude the North Carolina regulatory fee (regulatory fee).

17. DEP's North Carolina prospective Billing Period expenses for use in this proceeding are \$19,596,968, \$18,656,884, and \$1,159,408, for the residential, general service, and industrial classes, respectively, excluding the regulatory fee.

18. The appropriate monthly REPS EMF riders, excluding the regulatory fee, to be (credited to) or charged to customer accounts during the upcoming Billing Period are \$0.00 for residential accounts, \$(0.74) for general service accounts, and \$(6.67) for industrial accounts.

19. The appropriate prospective REPS riders per customer account, excluding the regulatory fee, to be collected during the Billing Period are \$1.29 for residential accounts, \$7.71 for general service accounts, and \$54.49 for industrial accounts.

20. 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 \$1.29 for residential accounts, \$6.97 for general service accounts, and \$47.82 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 \$1.29 for residential accounts, \$6.98 for general service accounts, and \$47.88 for industrial accounts.

21. DEP's REPS incremental cost rider, including the regulatory fee, to be charged to each customer account for the 12-month Billing Period is within the annual cost cap established for each class in N.C.G.S. § 62-133.8(h)(4).

22. As approved or modified by the Commission, the REC sales price calculation proposed by DEC and the Public Staff in DEC's REPS rider proceeding in Docket No. E-7, Sub 1229, shall also be applicable to any animal waste REC sales made by DEP to other electric power suppliers. Continued annual review of the calculation is appropriate.

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

The evidence supporting these findings of fact appears in DEP's 2019 REPS Compliance Report, in the direct testimony and exhibits of DEP witnesses Jennings and Williams, in the testimony of Public Staff witness Lucas, and in the affidavit of Public Staff witness Chiu. These findings of fact are essentially informational, jurisdictional, and procedural in nature and are not contested.

Section 62-133.8(b)(1) establishes a REPS requirement for all electric power suppliers in the State. The statute requires each electric public utility to provide a certain percentage of its North Carolina retail sales from various renewable energy or energy efficiency resources, including the following: (a) generating electric power at a new renewable energy facility; (b) using a renewable energy resource to generate electric power at a generating facility other than the generation of electric power from waste heat derived from the combustion of fossil fuel; (c) reducing energy consumption through the

implementation of energy efficiency measures; (d) purchasing electric power from a new renewable energy facility; (e) purchasing RECs from a new renewable energy facility; (f) using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an energy efficiency measure that exceeds the requirements of the REPS in any calendar year as a credit toward the requirements of the REPS in the following calendar year; or (g) electricity demand reduction. Each of these measures is subject to additional limitations and conditions. For 2019, DEP was required to meet a total REPS requirement of 10% 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 2019 is 0.20%.

Sections §§ 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 modified the 2019 swine waste set-aside requirement to require only the electric public utilities to comply, set the requirement at 0.04% of North Carolina retail sales, and delayed for one year the scheduled increases in the requirement for all electric power suppliers. In addition, the 2019 Delay Orders also modified the 2019 statewide poultry waste set-aside requirement to 500,000 MWh and delayed by one year the scheduled increases in the requirement. (Jennings Direct at 6)

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

The evidence supporting these findings of fact appears in DEP's 2019 REPS Compliance Report, which was admitted into evidence as Jennings Exhibit No. 1, in the direct testimony and exhibits of DEP witness Jennings, and in the testimony of Public Staff witness Lucas. In addition, the Commission takes judicial notice of the information contained in NC-RETS.

Witness Jennings testified that the 2019 REPS Compliance Report provided the information required by Commission Rule R8-67(c) for the calendar year 2019. (Jennings Direct at 8)

Witness Jennings further testified that the Company submitted for retirement 3,863,083 RECs, which includes 2,822 SB 886 RECs, each of which counts for two poultry waste and one general REC, to meet its total compliance requirement of 3,868,727 RECs. Within this total, the Company submitted for retirement: 77,375 RECs to meet the solar set-aside requirement; 134,105 RECs, along with 2,822 SB 886 RECs (which count as 5,644 poultry waste set-aside RECs), to meet the poultry waste set-aside requirement of 139,749 RECs; and 15,475 RECs to meet the swine waste set-aside requirement. (Jennings Direct at 8)

Witness Jennings' testimony states that the Billing Period for this Application covers two separate compliance reporting periods with different requirements for each period. In 2020, the Company estimates that it will be required to submit for retirement 3,793,823 RECs to meet its total compliance requirement. Within this total, the Company expects to be required to retire the following: 75,877 solar RECs, 26,557 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 2021, the Company estimates that it will be required to submit for retirement 4,690,561 RECs to meet its total compliance requirement. Within this total, the Company expects to be required to retire the following: 75,049 solar RECs, 26,268 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. (Jennings Direct at 8)

Witness Jennings testified that DEP met its 2019 solar set-aside requirement by procuring and earning 77,375 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. (Jennings Direct at 14-15)

Witness Jennings testified that DEP met the modified 2019 poultry waste set-aside requirement of 139,749 RECs. Pursuant to NC-RETS Operating Procedures, the Company submitted for retirement 134,105 poultry RECs and 2,822 SB 886 RECs (which count as 5,644 poultry waste RECs). Accordingly, the equivalent of 139,749 RECs were submitted for retirement by transferring them from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. (Jennings Direct at 15-16)

Witness Jennings testified that DEP met the modified 2019 swine waste set-aside requirement of 15,475 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. (Jennings Direct at 16-17)

Witness Jennings further testified that the Company complied with its general requirement for 2019 by submitting 3,636,128 RECs for retirement by transferring them from the NC-RETS Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account. (Jennings Direct at 9)



Witness Jennings testified that DEP is in position to comply with its 2020 poultry waste set-aside requirement, and that future-year compliance is dependent on the performance of energy developers on current contracts. Two such contracts are expected to ramp up production over the next few years. 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 use of poultry waste resources to produce thermal, multi-fuel, or directed biogas RECs; and searching the broker market for out-of-state RECs. (Jennings Direct at 16-17)

Witness Jennings testified that the Company's compliance with the swine waste set-aside requirement is uncertain, as existing contracts have not been able to reach contracted levels of production, and new contracts have not come online in the timeframes originally planned and have taken longer than expected to ramp up production. She stated that the degree to which DEP will be able to meet its established near-term future compliance requirements is dependent on a new facility coming online as scheduled, and all facilities producing REC quantities at fully contracted levels. Witness Jennings further cited circumstances currently creating challenges for suppliers in meeting contracted swine waste REC production levels, including: local opposition to facility siting, lack of firm and reliable feedstock quantities that were anticipated to deliver contracted RECs, and the various negative effects of the COVID-19 pandemic further interrupting the availability of swine waste resources. 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, among other efforts: negotiations for in-state and out-of-state supplies; working extensively with potential suppliers to overcome production risks or amend contracts to accommodate changing circumstances, or both; and pursuing new biomass and biogas swine resource options. (Jennings Direct at 18-20)

Public Staff witness Lucas recommended that the Commission approve DEP's 2019 REPS Compliance Report. (Lucas Testimony at 3) Specifically, he testified that for 2019 compliance, DEP needed to pursue retirement of a sufficient number of eligible RECs and energy efficiency certificates (EECs) so that the total equaled 10% of its 2018 North Carolina retail electricity sales. Witness Lucas stated that DEP needed to pursue retirement of sufficient solar RECs to match 0.20% of its retail sales in 2018. In addition, he testified that the 2019 Delay Orders modified the requirements for swine and poultry energy established in N.C.G.S. §§ 62-133.8 (e) and (f), requiring retirement of a quantity of swine waste-derived RECs equal to 0.04% of DEP's 2018 retail sales, and retirement of an amount of poultry waste-derived RECs matching the pro-rata share of the 500,000 MWh (or the thermal equivalent) statewide requirement allocated to DEP. (Lucas Testimony at 2-3)

No party disputed that DEP had fully complied with the applicable REPS requirements or argued that DEP's 2019 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 2019, as modified by the Commission's 2019 Delay Orders, and that DEP's 2019 REPS Compliance Report should be approved. The Commission further concludes that the RECs and EECs in the related NC-RETS compliance sub-accounts should be permanently retired.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 8**

The evidence supporting this finding of fact is found in the testimony of DEP witness Jennings. In addition, the Commission takes judicial notice of its November 19, 2019 Order Approving REPS and REPS EMF Riders and 2018 REPS Compliance Report issued in Docket No. E-2, Sub 1205.

Witness Jennings 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 the Company performed site visits and complied with the other 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. (Jennings Direct at 10-12) 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 FINDINGS OF FACT NO. 9**

The evidence supporting this finding is procedural in nature, found in the testimony and exhibits of DEP witness Williams, the testimony of Public Staff witness Lucas, and the affidavit of Public Staff witness Chiu, 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 12-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 12 months beginning on April 1, 2019 and ending on March 31, 2020. (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 12 months beginning on December 1, 2020, and ending on November 30, 2021. (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 4-5) The Test Period and the Billing Period proposed by DEP were not challenged by any party.

## **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 witnesses Jennings and Williams, the testimony of Public Staff witness Lucas, and the affidavit of Public Staff witness Chiu.

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 12 months beginning on April 1, 2019, and ending on March 31, 2020.

Witness Jennings sponsored Confidential Jennings Exhibit Nos. 2 and 3 to her testimony, wherein she identified the renewable energy and REC costs, as well as "Other Incremental," "Solar Rebate Program," and "Research" costs that the Company has incurred or projects to incur in association with REPS compliance. With respect to research costs, Confidential Williams Exhibit No. 1 shows that the research costs are under the \$1 million per year cap established in N.C.G.S. § 62-133.8(h)(1)(b). Consistent with the Commission's orders in prior REPS proceedings, witness Jennings 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. (Jennings Direct at 25-33)

In his testimony, witness Lucas discussed the research costs submitted by the Company and stated the costs were within the \$1,000,000 maximum annual limit allowed, and met the definition of costs qualified to be incurred for research as defined by N.C.G.S. § 62-133.8(h)(1)(b). (Lucas Testimony at 4)

Witness Jennings describes in her 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 by agreed-upon liquidated damages paid by sellers for failure to meet contractual milestones, and amounts paid for administrative contractual amendments requested by sellers. (Jennings Direct at 21-22)

Witness Jennings also testified that, pursuant to N.C.G.S. § 62-155(f), DEP developed a Solar Rebate Program, and she discussed the processes in place to pay rebates, and the resulting effect on the payments made each year. (Jennings Direct at 22-23) 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. (Jennings Direct at 24)

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 based on the foregoing and the entire record herein 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 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 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. Finally, 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 FINDINGS OF FACT NO. 12**

The evidence for this finding of fact is found in the testimony of DEP witness Jennings and in the testimony of Public Staff witness Lucas.

In her direct testimony, witness Jennings describes how the CPRE Program will affect DEP’s future compliance with its general requirement, and how the program is reflected in compliance planning. She states 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. She also notes, however, that the Company has elected to recover reasonable and prudently incurred costs incurred to implement the CPRE Program through the CPRE rider in Docket No. E-2, Sub 1254, as contemplated under Commission Rule R8-71(j). (Jennings Direct at 13-14)

In his testimony, witness Lucas confirms DEP is not requesting recovery of CPRE Program costs in this current REPS proceeding. He states that he does not agree with

the recovery of any CPRE costs in a REPS rider, but notes that it is difficult to definitively make such a conclusion before the Commission fully considers CPRE costs in CPRE Program rider filings or other proceedings. Witness Lucas further cites comments filed jointly by DEC and DEP in Docket No. E-100, Sub 150 (page 13) specifically addressing cost recovery of bundled CPRE Program RECs through the CPRE Program rider mechanism, and reflecting CPRE Program-generated RECs used for REPS compliance at zero cost in REPS proceedings. Witness Lucas confirmed the Public Staff's position that it is appropriate to recover CPRE Program implementation costs in a CPRE Program rider filing pursuant to Commission Rule R8-71(j). (Lucas Testimony at 5-6)

The Commission concludes that the matter of the inclusion of any CPRE Program implementation costs in the REPS rider is more appropriately considered in the current CPRE Program cost recovery proceeding currently in process in Docket No. E-2, Sub 1254.

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

The evidence for these findings of fact is found in DEP's Application and in the testimony and exhibits of DEP witnesses Jennings and Williams, the testimony of Public Staff witness Lucas, and the affidavit of Public Staff witness Chiu.

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 through an annual rider. N.C.G.S. § 62-133.8(h)(1) provides that "incremental costs" means all reasonable and prudent costs incurred by an electric power supplier to comply with the REPS requirements that are in excess of the electric power supplier's avoided costs other than those costs recovered pursuant to N.C.G.S. § 62-133.9. The term "avoided costs" includes both avoided energy and avoided capacity costs. Commission Rule R8-67(e)(2) provides that the "cost of an unbundled renewable energy certificate to the extent that it is reasonable and prudently incurred is an incremental cost and has no avoided cost component."

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 Jennings. Witness Williams also described in detail 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 5-6)

In her affidavit, witness Chiu 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. (Chiu Affidavit at 2-3) Based on her review of costs submitted for recovery, witness Chiu recommended approval of DEP's proposed monthly and annual REPS EMF increment rider for the residential customer class, and DEP's proposed EMF decrement riders for the general service and industrial customer classes. (Chiu Affidavit at 3) In his testimony,

witness Lucas stated that the Public Staff agreed with the EMF and REPS monthly riders requested by DEP in its application filed with the testimonies of Company witnesses Jennings and Williams on June 9, 2020. (Lucas Testimony at 11)

Based on the foregoing and the entire record herein, the Commission concludes that DEP's total incremental costs incurred during the Test Period are \$39,775,219, and that DEP's estimated incremental costs for the Billing Period are \$39,413,260.

### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 16-21**

The evidence supporting these findings of fact appears in DEP's Application, in the testimony and exhibits of DEP witnesses Jennings and Williams, the testimony of Public Staff witness Lucas, and the affidavit of Public Staff witness Chiu.

Williams Exhibit No. 2, Page 2 shows an EMF Period undercollection of \$55,386 for the residential class, and EMF overcollections including interest of \$(1,748,915) for the general service class and \$(139,328) for the industrial class. Williams Exhibit No. 4 shows additional credits for contract receipts by customer class of \$(48,478) for residential, \$(43,376) for general service, and \$(2,646) for industrial. The EMF period undercollection net of contract-related credits is \$6,908 for the residential class. The total EMF period overcollections including interest and contract-related credits, by customer class, are \$(1,792,291) for general service and \$(141,974) for industrial. As reflected on Williams Exhibit No. 4, witness Williams calculated a monthly per-account REPS EMF amount (excluding the regulatory fee) of \$0.00 for residential accounts, and monthly per-account REPS EMF credits (excluding the regulatory fee) of \$(0.74) for general service accounts and \$(6.67) for industrial accounts. Also on Williams Exhibit No. 4, she calculated the projected REPS costs for the Billing Period of \$19,596,968 for the residential class, \$18,656,884 for the general service class, and \$1,159,408 for the industrial class. 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 \$1.29 for residential accounts, \$7.71 for general service accounts, and \$54.49 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 \$1.29 for residential accounts, \$6.97 for general service accounts, and \$47.82 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 \$1.29 for residential accounts, \$6.98 for general service accounts, and \$47.88 for industrial accounts. Witness Williams testified that the Company's REPS incremental cost rider to be charged to each customer account for the 12-month Billing Period is within the annual cost cap established for each customer class in N.C.G.S. § 62-133.8(h)(4). (Williams Direct at 10)

Public Staff witness Chiu stated in her affidavit that as a result of its investigation, the Public Staff is recommending annual REPS EMF increment or decrement riders of \$0.01, \$(8.89), and \$(80.08) per customer account for DEP's residential, general service, and industrial customers, respectively, excluding the North Carolina regulatory fee.

Excluding the regulatory fee, the corresponding monthly REPS EMF increment or decrement rider amounts are \$0.00, \$(0.74), and \$(6.67) per customer account for DEP's residential, general service, and industrial customers, respectively. (Chiu Affidavit at 3)

Public Staff witness Lucas recommended that the Company's proposed prospective monthly REPS rider amounts per customer account, excluding the regulatory fee, of \$1.29 for residential accounts, \$7.71 for general service accounts, and \$54.49 for industrial accounts be approved. Combined with the monthly EMF rider amounts recommended by witness Chiu, witness Lucas recommended approval of the following total monthly REPS charge per customer account, excluding the regulatory fee: \$1.29 for residential accounts, \$6.97 for general service accounts, and \$47.82 for industrial accounts. (Lucas Testimony at 11)

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 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).

#### **EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 22**

The evidence supporting this finding of fact appears in the testimony of Public Staff witness Lucas and the affidavit of Public Staff witness Chiu.

Witness Lucas testified that, over the past four years, DEC has sold set-aside RECs to other electric power suppliers to assist them with their REPS compliance. He further described the sales price calculation and noted the Public Staff's concern with an aspect of the method used to determine the sales prices. Witness Lucas referred to productive discussions held between DEC and the Public Staff, resulting in an agreement between DEC and the Public Staff on the method to calculate the price of RECs for such sales. The method was proposed for Commission approval in DEC's recent REPS rider proceeding in Docket No. E-7, Sub 1229. Witness Lucas reiterated in this current DEP REPS proceeding that the Public Staff agrees with this proposal, and recommends that any decision by the Commission on DEC's REC sales also apply to DEP. (Lucas Testimony at 7-9)

Witness Chiu also testified that the Public Staff recommends that approval of the same sales price calculation as proposed by DEC and the Public Staff in DEC REPS Docket No. E-7, Sub 1229, apply to any sales of RECs by DEP to other electric suppliers to assist in their compliance with the requirements of N.C.G.S. §§ 62-133.8(e) and (f). She further testified that the Public Staff recommends continued annual review of the calculation to verify it is working as designed. (Chiu Affidavit at 3-4)

Based on the foregoing and the entire record herein, the Commission concludes the REC sales price calculation proposed by DEC and the Public Staff in DEC's REPS rider proceeding in Docket No. E-7, Sub 1229, as approved or modified by the Commission, shall also be applicable to any animal waste REC sales made by DEP to other electric power suppliers. The Commission also determines that annual review of the calculation is appropriate.

IT IS, THEREFORE, ORDERED as follows:

1. That DEP shall establish the following monthly REPS riders per account (excluding the regulatory fee) that shall remain in effect for a 12-month period beginning on December 1, 2020, and expiring on November 30, 2021: \$1.29 for residential, \$7.71 for general service, and \$54.49 for industrial;

2. That DEP shall establish the following monthly EMF riders per account (excluding the regulatory fee) that shall remain in effect for a 12-month period beginning on December 1, 2020, and expiring on November 30, 2021: \$0.00 for residential class, \$(0.74) for general service, and \$(6.67) for industrial;

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 date that the Commission issues orders in this docket as well as in Docket Nos. E-2, Sub 1250; E-2, Sub 1253; and E-2, Sub 1254;

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 1250; E-2, Sub 1253; and E-2, Sub 1254, and the Company shall file such notice for Commission approval as soon as practicable, but not later than ten days after the Commission issues orders in all four dockets;

5. That DEP's 2019 REPS Compliance Report is hereby approved, and the RECs in DEP's 2019 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 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 30th day of November, 2020.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in black ink that reads "Kimberley A. Campbell". The signature is written in a cursive, slightly slanted style.

Kimberley A. Campbell, Chief Clerk