

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. E-2, SUB 1175

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of  
Application of Duke Energy Progress, LLC, )  
for Approval of Renewable Energy and ) ORDER APPROVING REPS AND  
Energy Efficiency Portfolio Standard Cost ) REPS EMF RIDER AND APPROVING  
Recovery Rider Pursuant to G.S. 62-133.8 ) REPS COMPLIANCE REPORT  
and Commission Rule R8-67 )

HEARD: Tuesday, September 18, 2018 at 9:40 a.m. in the Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner Daniel E. Clodfelter, Presiding, Chairman Edward S. Finley, Jr., and Commissioners ToNola D. Brown-Bland, Jerry C. Dockham, James G. Patterson, Lyons Gray and Charlotte A. Mitchell

APPEARANCES:

For Duke Energy Progress, LLC:

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For Carolina Utility Customers Association, Inc.:

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

For North Carolina Sustainable Energy Association:

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

For the Using and Consuming Public:

Tim R. Dodge, Staff Attorney and Robert B. Josey, Staff Attorney, Public Staff, North Carolina Utilities Commission 4326 Mail Service Center Raleigh, North Carolina 27699

BY THE COMMISSION: On June 20, 2018, Duke Energy Progress, LLC (DEP or the Company) filed its 2017 REPS Compliance Report and application seeking an adjustment to its North Carolina retail (NC Retail) rates and charges pursuant to N.C.G.S. § 62-133.8(h) and Commission Rule R8-67, which require the Commission to conduct an annual proceeding for the purpose of determining whether a rider should be established to permit the recovery of the incremental costs incurred to comply with the requirements of the Renewable Energy and Energy Efficiency Portfolio Standard (REPS), N.C.G.S. § 62-133.8(b), (d), (e) and (f), and to true up any under-recovery or over-recovery of compliance costs. 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 pre-filed testimony, DEP sought approval of its proposed REPS rider, which incorporated the Company's proposed adjustments to its North Carolina retail rates.

On July 2, 2018, the Commission issued an Order setting this matter for hearing, establishing deadlines for the submission of intervention petitions, intervenor testimony, and DEP rebuttal testimony, requiring the provision of appropriate public notice, and mandating compliance with certain discovery guidelines.

The Commission issued orders granting petitions to intervene filed by the North Carolina Sustainable Energy Association (NCSEA) and the Carolina Utility Customers Association, Inc. (CUCA), on June 29, and July 24, 2018, respectively. The intervention and participation by the Public Staff is recognized pursuant to N.C.G.S. § 62-15(d) and Commission Rule R1-19(e).

On August 29, 2018, the Public Staff filed the affidavits and exhibits of Jay B. Lucas, an engineer in the Public Staff Electric Division, and Michelle M. Boswell, an accountant in the Public Staff Accounting Division.

On September 12, 2018, DEP filed a motion requesting that all of its witnesses be excused from attending the evidentiary hearing and that the pre-filed testimony, exhibits, and affidavits of the witnesses and affiants be received into evidence and made a part of the record in this proceeding. On September 13, 2018, the Commission issued an order granting that motion.

This matter came on for hearing on September 18, 2018. DEP presented the testimony and exhibits of witnesses Jennings and Williams, and the Public Staff presented the affidavits of witnesses Boswell and Lucas. All pre-filed testimony, exhibits, and affidavits of the DEP and Public Staff's witnesses were received into evidence.

Based upon the foregoing, the testimony, exhibits, and affidavits introduced at the hearing, the records in the North Carolina Renewable Energy Tracking System (NC-RETS), and the entire record in this proceeding, the Commission 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 Commission as a public utility. DEP is also an electric power supplier as defined in N.C.G.S. § 62-133.8(a)(3). 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 purposes of DEP's annual rider established pursuant to N.C.G.S. § 62-133.8(h), the test period and billing period for this proceeding are, respectively, the twelve-month period beginning April 1, 2017, and ending March 31, 2018, and twelve-month period beginning December 1, 2018, and ending November 30, 2019.

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

4. For calendar year 2017, the Company was required to meet at least 6% 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 2017, energy in the amount of at least 0.14% of the previous year's total electric power sold by DEP to its North Carolina retail customers must be supplied by solar energy resources.

5. Beginning in 2012, N.C.G.S. §§ 62-133.8(e) and (f) require DEP and the other electric suppliers of North Carolina, in the aggregate, to procure a certain portion of their renewable energy requirements from electricity generated from swine and poultry waste, 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 North Carolina retail sales. The Commission further established the annual allocation of the state-wide poultry waste requirement applicable to 2016-2018 among electric power suppliers and utility compliance aggregators in its August 5, 2016, Order Establishing 2016, 2017, and 2018 Poultry Waste Set-Aside Requirement Allocation in Docket No. E-100, Sub 113 (2016 Poultry Allocation Order). In its Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief, issued on October 16, 2017, in

Docket No. E-100, Sub 113 (2017 Delay Order), the Commission modified the aggregate 2017 poultry waste set-aside requirement to remain at the same level as the 2016 requirement and delayed by one year the scheduled increases in the requirement. In the 2017 Delay Order, the Commission also postponed for one additional year the swine waste set-aside requirement, directing that the swine waste set-aside requirement would commence in 2018, rather than 2017.

6. DEP has agreed to provide compliance services, including the procurement of renewable energy certificates (RECs), to the following electric power suppliers, pursuant to N.C.G.S. § 62-133.8(c)(2)(e): the Town of Black Creek, the Town of Lucama, the Town of Sharpsburg, the Town of Stantonsburg, and the Town of Winterville (collectively, Wholesale Customers). DEP's contractual obligation to provide REPS services to the Wholesale Customers ended December 31, 2017.

7. DEP has complied with the 2017 REPS compliance requirements, for itself and the Wholesale Customers, by submitting for retirement 2,210,451 RECs, including 16,358 Senate Bill 886 (SB 886) RECs, each of which counts for two poultry waste RECs and one general REC, to meet its overall total REPS requirement of 2,243,167 RECs. Within this total, the Company submitted for retirement 52,344 RECs to meet the solar set-aside requirement and 15,358 RECs, along with 16,358 SB 886 RECs (which count as 32,716 poultry waste set-aside RECs), to meet the poultry waste set-aside requirement.

8. DEP and the Wholesale Customers met their 2017 REPS obligations, including those the set-aside requirements as modified or delayed by the Commission's Orders issued in Docket No. E-100, Sub 113.

9. When DEP filed its application, DEP expressed uncertainty about its ability to meet the poultry and swine waste set-aside requirements for compliance year 2018. On October 8, 2018 (subsequent to the September 18 hearing date in this proceeding), the Commission issued its Order Modifying the Swine and Poultry Waste Set-Aside Requirements and Providing Other Relief in Docket No. E-100, Sub 113 (2018 Delay Order) which: modified the 2018 swine waste set-aside requirement by establishing that requirement for DEP and the other electric public utilities at 0.02% of prior year retail sales; delayed the 2018 swine waste set-aside requirements for electric membership corporations and municipalities until 2019; modified the 2018 poultry waste set-aside requirement by establishing that requirement at 300,000 MWh for all electric suppliers; and delayed by one year the future scheduled increases in the poultry and swine waste set-aside requirements.

10. The research activities funded by DEP during the test period are incremental costs reasonably and prudently incurred by DEP to fund research that encourages the development of renewable energy, energy efficiency, or improved air quality and are within the annual \$1-million limit established pursuant to N.C.G.S. § 62-133.8(h)(1)(b). It is appropriate to require DEP to continue to provide the results of its REPS-related research when these results are publicly available, and the

procedures for third parties to access the results when they are proprietary in its future applications for the recovery of costs incurred to comply with the REPS requirements.

11. DEP appropriately calculated its avoided costs and incremental REPS compliance costs for the test period and billing period. For purposes of establishing the REPS experience modification factor (EMF) rider in this proceeding, DEP's incremental costs for REPS compliance during the test period were \$42,744,260, including the costs incurred for its Wholesale Customers, and these costs were reasonably and prudently incurred. The Company's projected incremental costs for REPS compliance for the billing period total \$40,959,120 for DEP retail customers only, as DEP's agreement to provide REPS compliance services to the Wholesale Customers ended effective December 31, 2017.

12. It is appropriate to approve DEP's request to recover other incremental costs and the costs of incentives provided to customers and program administrative costs related to the solar rebate program established pursuant to N.C.G.S. § 62-155(f), as incremental costs reasonably and prudently incurred and authorized for recovery pursuant to N.C.G.S. § 62-133.8(h)(1)(a) and (d).

13. DEP complied with the conditions related to cost recovery for the solar photovoltaic (PV) electric generating facilities located in Fayetteville, Warsaw, Camp Lejeune, and Elm City, which are owned by the Company. DEP's compliance requirement associated with these conditions is complete.

14. It is appropriate to approve DEP's request to recover other incremental costs of compliance with REPS pursuant to G.S. 62-133.8(h)(1)(a), as incremental costs reasonably and prudently incurred to comply with the REPS requirements.

15. DEP's allocation of incremental REPS compliance costs among customer classes for the purposes of calculating its proposed REPS and EMF rider charges is appropriate for this proceeding.

16. DEP's test period REPS expense under-collections were \$2,124,217 for the residential class and \$196,787 for the industrial class. DEP's test period over-collection, including interest, was \$1,272,374 for the general service class. In addition, the Company appropriately credited to customers the following amounts received from REC suppliers during the test period related to contract amendments, penalties, and other conditions of the supply agreements: \$325,340 for residential customers, \$294,082 for general service customers, and \$18,500 for industrial customers. Total test period charges to customers' accounts, including the under-collections offset by contract-related credits, were \$1,798,877 for the residential class, and \$178,287 for the industrial class. The total test period credit to the general service class, including the over-collection and contract-related credits, was \$1,566,456. These amounts are exclusive of the regulatory fee.

17. DEP's North Carolina retail prospective billing period expenses for use in this proceeding are \$19,004,704 for the residential class, \$20,526,773, and \$1,427,643, for the residential, general service, and industrial classes, respectively, excluding regulatory fee.

18. The appropriate monthly REPS EMF rider charges per customer account, excluding regulatory fee, to be charged to customers during the billing period are \$0.12 for residential accounts and \$8.11 for industrial accounts, and the appropriate monthly REPS EMF rider credit to be refunded to customers during the billing period is \$(0.66) for general service accounts.

19. The appropriate monthly prospective REPS rider charges per customer account, excluding regulatory fee, to be charged to customers during the billing period are \$1.30 for residential accounts, \$8.61 for general service accounts, and \$64.96 for industrial accounts.

20. The combined monthly REPS and REPS EMF rider charges per customer account, excluding the regulatory fee, to be charged to customers during the billing period are \$1.42 for residential accounts, \$7.95 for general service accounts, and \$73.07 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 \$1.42 for residential accounts, \$7.96 for general service accounts, and \$73.17 for industrial accounts.

21. DEP's REPS rider charges, including the regulatory fee, to be charged to each customer account for the billing period is within the annual limits established for each class in N.C.G.S. § 62-133.8(h)(4).

#### EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NO. 1

This finding of fact is essentially informational, procedural, and jurisdictional in nature and is uncontested.

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

The evidence supporting these findings of fact is found in in the direct testimony and exhibits of DEP witnesses Jennings and Williams, including DEP's 2017 REPS Compliance Report that was sponsored as an exhibit to witness Jennings' testimony, and in the affidavit of Public Staff witness Lucas. These findings of fact are essentially informational, jurisdictional and procedural in nature and are not contested.

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 though 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 requirement 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 had no avoided cost component.”

Commission Rule R8-67(e)(1) provides that the Commission shall schedule an annual public hearing to review an electric utility’s REPS compliance costs. Subdivision (e)(3) of Rule R8-67 further provides that the test period for REPS rider proceedings shall be the same as that used by the utility in its fuel charge adjustment proceedings, which is specified in Commission Rule R8-55(c) for DEP to be the twelve months ending March 31 of each year. Commission Rule R8-67(e)(5) provides that “[t]he 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.” Commission Rule R8-67(e)(4) further provides that the REPS and REPS EMF riders shall be in effect for a fixed period, which “shall coincide, to the extent practical, with the recovery period for the cost of fuel and fuel-related cost rider established pursuant to Rule R8-55.” In its current fuel charge adjustment proceeding, Docket No. E-2, Sub 1173, and in this proceeding, DEP proposed that its rate adjustments take effect on December 1, 2018, and remain in effect for a twelve-month period.

The test period and the billing period proposed by DEP were not challenged by any party. The Commission concludes that the test period and billing period appropriate for this proceeding are the twelve months beginning April 1, 2017, and ending March 31, 2018, and the twelve months ending November 30, 2019, respectively.

Pursuant to N.C.G.S. § 62-133.8(b)(1), each electric public utility in the state is required to produce a certain percentage of its North Carolina retail electric sales from various renewable energy or EE resources. An electric public utility may meet these requirements from any one or more of the following compliance options listed in N.C.G.S. § 62-133.8(b)(2): (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 produced from in-State or out-of-state new renewable energy facilities; (f) using electric power that is supplied by a new renewable energy facility or saved due to the implementation of an EE 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 2017, an electric public utility must meet a total REPS requirement equal to at least six percent of its previous year’s North Carolina retail electric sales by a combination of these measures.

Subsection 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 2017 is 0.14%.

Subsections 62-133.8(e) and (f) require DEP and the other electric suppliers of North Carolina, in the aggregate, to procure a certain portion of their renewable energy requirements from electricity generated from swine and poultry waste. The swine waste energy requirement is based on a percentage of retail sales, similar to the solar energy requirement. The poultry waste energy requirement is based on each electric power supplier's respective pro-rata share derived from the ratio of its North Carolina retail sales as compared to the total North Carolina retail sales. Pursuant to the Commission's Order on Pro-Rata Allocation of Aggregate Swine and Poultry Waste Set-Aside Requirements and Motion for Clarification, issued on March 31, 2010, in Docket No. E-100, Sub 113, DEP's share of the aggregate State set-aside requirements for energy from swine and poultry waste is based on the ratio of its North Carolina retail kilowatt-hour sales for the previous year divided by the previous year's total North Carolina retail kilowatt-hour sales. The Commission's 2016 Poultry Allocation Order established DEP's allocation share of the state-wide poultry waste requirement to be effective for the 2017 compliance year. Subsequently, the Commission's 2017 Delay Order modified the 2017 state-wide poultry waste requirement to remain at 2016 levels. The 2017 Delay Order also postponed the swine waste requirement for one year, to commence in 2018 rather than 2017.

DEP witness Jennings testified that DEP submitted its 2017 REPS compliance report as Jennings Exhibit No. 1 and that this report contained all the information required by Commission Rule R8-67(c) in the aggregate for DEP and the Wholesale Customers for which DEP has contracted to provide REPS compliance services. In its 2017 compliance report, DEP stated that it provided energy resources and compliance reporting services for the Town of Black Creek, the Town of Lucama, the Town of Sharpsburg, the Town of Stantonsburg, and the Town of Winterville. Public Staff witness Lucas noted that DEP indicated in response to data requests that it no longer provides any REPS compliance services to the Wholesale Customers as of January 1, 2018.

#### EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 7-9

The evidence supporting these findings of fact is found in the direct testimony and exhibits of DEP witnesses Jennings and Williams, including DEP's 2017 REPS Compliance Report, which was admitted into evidence as Jennings Exhibit No.1, and in the affidavit of Public Staff witness Lucas. In addition, the Commission takes judicial notice of the information contained in NC-RETS.

Witness Jennings testified that DEP submitted for retirement 2,210,451 RECs, which included 16,358 Senate Bill 886 (SB 886) RECs, each of which counts for two poultry waste and one general REC, to meet its Total Requirement of 2,243,167 RECs. She defined the "Total Requirement" as DEP's overall REPS requirement. Within this total, the Company submitted for retirement 52,344 RECs to meet the solar set-aside requirement, along with 16,358 SB 886 RECs (which count as 32,716 poultry waste



set-aside RECs), to meet the poultry waste set-aside requirement. Witness Jennings' further testified that she estimates that, for compliance year 2018, the Company would be required to submit for retirement 3,682,990 RECs to meet its Total Requirement defined according to N.C.G.S. § 62-133.8(b). Within this total, the Company estimated it would retire the following: 73,660 solar RECs, 25,781 swine waste RECs, and 197,318 poultry waste RECs. For 2019, her testimony included estimates of 3,724,847 RECs for the Total Requirement and, within this total, estimates of the following set-aside requirements: 74,497 solar RECs, 26,074 swine waste RECs and 253,695 poultry waste RECs.

Witness Jennings next testified that the Company had complied with its "General Requirement" (DEP's Total Requirement, net of the Solar, Swine Waste and Poultry Waste requirements) for 2017. Pursuant to NC-RETS Operating Procedures, she testified that the Company has submitted for retirement 2,142,749 RECs to meet the General Requirement. Specifically, the RECs to be used for 2017 compliance have been transferred from the NC-RETS Progress Energy Electric Power Supplier account to the Progress Energy Compliance Sub-Account and the Sub-Accounts of the Wholesale Customers.

Witness Jennings also testified that DEP procured or produced sufficient RECs to meet its 2017 solar set-aside requirement of 52,344 RECs. In addition, she testified that the Company met its 2017 poultry waste requirement of 48,074 RECs, including 15,358 poultry waste RECs and 32,716 SB 886 bonus poultry RECs (generated from 16,358 general requirement SB 886 RECs). Pursuant to NC-RETS Operating Procedures, the Company submitted these solar RECs and poultry waste RECs for retirement. The RECs were transferred from the Progress Energy Electric Power Supplier Account to the Progress Energy Compliance Sub-Account and the Sub-Accounts of its Wholesale Customers.

In her direct testimony, Company witness Jennings testified DEP could comply with the then-current poultry waste set-side requirement in 2018, though future compliance was dependent on the performance of poultry waste-to-energy developers on current contracts. Witness Jennings' testimony also indicated that the Company did not expect to be able to meet its then-current swine waste requirement level for 2018, citing performance difficulties related to swine waste-to-energy developers on current contracts, and delays in swine waste-to-energy developers becoming commercially operational on new contracts. She noted difficulties, as understood by the Company, that are being experienced by current projects in achieving full REC output, related to: the inability to secure firm and reliable sources of swine waste feedstock from waste producers in North Carolina; difficulties securing project financing; and technological challenges encountered when ramping up production. As detailed in witness Jennings's direct testimony as well as in the Company's Joint Semiannual Progress Report, filed on May 31, 2018, in Docket No. E-100, Sub 113A, DEP continues to engage in numerous and diverse efforts to procure or develop resources to meet its swine waste set-aside requirements in a reasonable and prudent manner. The 2018 Delay Order modified DEP's swine waste requirement to 0.02% from 0.07%, modified the poultry waste requirement from 700,000

MWh to 300,000 MWh, and delayed the subsequent increases for an additional year, reflecting the Company's expectation of compliance difficulties as noted in her testimony.

Public Staff witness Lucas recommended that the Commission approve DEP's 2017 REPS Compliance Report. Specifically, he testified that for 2017 compliance, DEP needed to obtain a sufficient number of RECs and energy efficiency certificates (EECs) derived from eligible sources so that the total equaled 6% of the 2016 North Carolina retail electricity sales of itself and the Wholesale Customers. Additionally, he testified that DEP needed to pursue retirement of sufficient solar RECs to match 0.14% of retail sales in 2016 for itself and the Wholesale Customers, and of its pro-rata share of the 170,000 poultry waste RECs required by N.C.G.S. § 62-133.8(f). Further, he testified that the number of poultry waste RECs was established pursuant to the Commission's 2017 Poultry Allocation Order and 2017 Delay Order, and that the REPS requirement for swine waste, under N.C.G.S. § 62-133.8(e), was delayed until 2018 by the Commission's 2017 Delay Order.

No party disputed that DEP had fully complied with the applicable REPS requirements, or argued that DEP's REPS Compliance Report for 2017 should not be approved.

Based on the foregoing and the entire record herein, the Commission finds that DEP and the five Wholesale Customers for which it is providing REPS compliance services have complied with the REPS requirements for 2017, as modified by the Commission's 2017 Delay Order. Therefore, the Commission concludes that DEP's 2017 REPS Compliance Report should be approved, and that the RECs and EECs in the related NC-RETS compliance sub-accounts should be permanently retired. Finally, the Commission finds that, at the time DEP filed its application in this proceeding, it was uncertain whether it will be able to comply with the poultry and swine waste set-aside requirements for 2018, which have subsequently been modified pursuant to the Commission's 2018 Delay Order, and that this uncertainty persists as to future compliance years notwithstanding that the Company is committed to satisfying these requirements by continuing to pursue procurement of these resources in a reasonable and prudent manner.

#### EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 10

The evidence for this finding of fact is found in the testimony of DEP witnesses Jennings and Williams.

Witness Jennings identified in confidential Jennings Exhibit No. 3 the "Research," "Solar Rebate Program," and "Other Incremental" costs that the Company incurred or projects to incur in association with REPS compliance. With respect to research costs, 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).

In compliance with prior Commission Orders, witness Jennings supplied testimony and exhibits on the results and status of various studies, the costs of which DEP is seeking to recover in this docket.

No party disputed these costs or argued that the recovery of these costs through the REPS rider charges should be disallowed.

Based upon the foregoing and the entire record herein, the Commission finds that the research activities funded by DEP during the test period were reasonable and prudent costs incurred to fund research that encourages the development of renewable energy, energy efficiency, or improved air quality and do not exceed the one million dollar annual limit established pursuant to N.C.G.S. § 62-133.8(h)(1)(b). Therefore, the Commission concludes that DEP should be allowed to recover these costs through the REPS rider charges approved in this Order. In addition, the Commission finds that the research information DEP provided is helpful. Therefore, the Commission finds that it is appropriate to require DEP to continue filing this information with its future REPS compliance reports and applications to recover costs incurred to comply with the REPS Requirements, and to continue to provide procedures for third parties to access the results of studies that are subject to confidentiality agreements. For research projects sponsored by Electric Power Research Institute, DEP should provide the overall program number and specific project number for each project, as well as an internet address or mailing address that will enable third parties to inquire about the terms and conditions for access to any portions of the study results that are proprietary.

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

The evidence for these findings of fact is found in testimony and exhibits of DEP witnesses Jennings and Williams, and in the affidavits of Public Staff witnesses Boswell and Lucas.

DEP witness Williams testified regarding the calculation of DEP's avoided costs and its incremental costs of compliance with REPS requirements, based on incurred and projected costs provided by witness Jennings. 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. Gen Stat. § 62-133.9." For purchased power agreements with a renewable energy facility, DEP subtracted its avoided cost from the total cost associated with the renewable energy purchase to arrive at the incremental cost for that renewable energy purchase during the period in question. Consistent with Commission Rule R8-67(e)(2), which provides that the cost of an unbundled REC is an incremental cost with no avoided cost component, witness Williams included in incremental costs the total amount of costs incurred during the test period for unbundled REC purchases. In addition to costs incurred or projected to be incurred for bundled or unbundled RECs, Williams Exhibit No. 1, Pages 1 and 2 identified the "Other Incremental," "Solar Rebate Program" and "Research" costs that DEP has incurred or projects to incur in association with REPS compliance.

Williams Exhibit No. 1, Page 1 showed total NC Retail and Wholesale Customer incremental REPS compliance costs incurred during the test period as \$42,744,260 (\$42,645,949 for NC Retail only), and Williams Exhibit No. 1, Page 2 showed comparable projected incremental costs for the billing period as \$40,959,120 (applicable to NC Retail only as compliance services for Wholesale Customers ended effective December 31, 2017).

Public Staff witness Lucas stated in his affidavit that DEP's proposed REPS rider charges are based on the projected costs and projected number of accounts subject to the REPS charge in the billing period. He further testified that the REPS EMF charges are based on the incremental costs in the test period and the average number of accounts subject to the REPS charge during the billing period, as more fully discussed in the affidavit of Public Staff witness Boswell. In addition, he testified that the Public Staff has reviewed the costs that produce the REPS and REPS EMF rider charges proposed by DEP in this proceeding, and that the Public Staff takes no issue with them. Accordingly, he further testified that the Public Staff recommends approval of the proposed rider charges as filed.

Pursuant to Ordering Paragraph No. 7 of the Commission's Order Approving REPS and REPS EMF Rider and Approving REPS Compliance Report, issued on November 17, 2017, in Docket No. E-2, Sub 1144 (2017 DEP REPS Order), DEP is required to "continue to file a worksheet explaining the discrete costs it includes as 'other incremental costs' in all future REPS proceedings." Witness Jennings's Exhibit No. 3 is a worksheet that is intended to meet this requirement by detailing the "Other Incremental Cost," "Solar Rebate Program Cost," and "Research Cost" that DEP is seeking to recover in this proceeding. Witness Jennings testified that "Other Incremental Cost" includes labor costs associated with REPS compliance activities and non-labor costs associated with administration of REPS compliance; however witness Jennings further testified that, as required by the Commission's Order Approving REPS and REPS EMF Rider REPS Compliance Report, issued on January 17, 2017, in Docket No. E-2, Sub 1109, no internal interconnection-related labor costs and non-labor costs have been included DEP's application for cost recovery in this proceeding. Witness Williams included the other incremental and research costs that were incurred in the Test Period in the EMF calculation. She explained that these costs are estimated for the Billing Period and included in the proposed REPS riders. She also testified that an amount equal to the annual amortization of Solar Rebate Program costs incurred pursuant to N.C.G.S. § 62-155(f) applicable to the billing period is also included for recovery in the proposed REPS rider.

Witness Jennings provided additional detail on the inclusion of Solar Rebate Program costs for recovery in the proposed REPS rider. As required by N.C.G.S. § 62-155(f), DEP filed an application for approval of its Solar Rebate Program in Docket Nos. E-7, Sub 1166 and E-2, Sub 1167. On April 3, 2018, in Docket Nos. E-7, Sub 1166 and E-2 Sub 1167, the Commission issued its Order Modifying and Approving Riders Implementing Solar Rebate Program. Witness Jennings testified in this current proceeding DEP's Solar Rebate Program offers reasonable incentives to residential and nonresidential customers for the installation of small customer-owned or leased solar

energy facilities participating in the Company's net metering tariff. Witness Jennings explained that, consistent with N.C.G.S. §§ 62-155(f) and 62-133.8(h), the Company had included labor and non-labor costs projected to be incurred in the billing period related to implementation of the Solar Rebate Program. Witness Jennings identified these costs, which include the annual amortization of incentives paid to customers and program administration costs, including labor, information technology, and marketing costs, in Jennings Confidential Exhibit No. 3.

The Commission notes that this is the first REPS rider proceeding in which DEP has included costs associated with its Solar Rebate Program for recovery through the REPS rider. Subsection 62-155(f) authorizes DEP to recover through the REPS rider charges all reasonable and prudent costs of incentives provided to customers and program administrative costs by amortizing the total program incentives distributed during a calendar year and administrative costs over a 20-year period, including a return component adjusted for income taxes at the utility's overall weighted average cost of capital established in its most recent general rate case. Additionally, N.C.G.S. § 62-133.8(h), as amended by House Bill 589, provides that an electric power supplier's cost recovery and customer charges under the REPS rider may include incremental costs incurred to "provide incentives to customers, including program costs, incurred pursuant to N.C.G.S. § 62-155(f)."

No party challenged DEP's calculation of its avoided costs or incremental costs to comply with the REPS requirements, or otherwise disputed whether these costs were reasonable and prudently incurred.

Witness Williams also testified regarding the Company's Fayetteville, Warsaw, Camp Lejeune, and Elm City solar photovoltaic electric generating facilities (DEP Solar PV Facilities), which were in service for the duration of the test period. She testified that the Commission included two conditions related to cost recovery for the DEP Solar PV Facilities in its December 16, 2014, orders approving the transfer of each Certificate of Public Convenience and Necessity (CPCN) in Docket No. E-2, Subs 1054, 1055, 1056, respectively, and in its April 14, 2015, order issuing a CPCN in Docket No. E-2, Sub 1063 (collectively, CPCN Orders). The first condition addressed the avoided cost values to be used by the Company in subsequent calculations of the avoided and incremental components of total cost for each of the facilities. The Company agreed that, in the appropriate REPS rider and general rate case proceedings, it would determine the levelized avoided cost per MWh for each facility by using the same avoided energy and capacity cost values included in the Company's analysis of the revenue requirements for each facility, as presented during the CPCN proceedings. The second condition relates to DEP's ability to realize certain tax benefits included in the Company's revenue requirements analysis for each facility as presented during the CPCN proceedings. The condition provides that, in the appropriate REPS rider and general rate case proceedings, DEP will separately itemize the actual monetization of the tax benefits listed in the Commission's orders within its calculation of the levelized revenue requirement per MWh for each facility, so that it may be compared with the monetization of such tax benefits included in the Company's revenue requirement analysis of each facility presented during the CPCN proceedings. To the extent the Company fails to fully realize the tax benefits it

originally assumed in its estimated revenue requirements, costs associated with the increased revenue requirements (with a limited exception) will be presumed to be imprudent and unreasonably incurred. The condition further provides that DEP may rebut this presumption with evidence supporting the reasonableness and prudence of its actual monetization of the tax credits.

Witness Williams testified that, in the Company's 2016 annual REPS rider filing in Docket No. E-2, Sub 1109 and its 2017 annual REPS rider filing in Docket No. E-2, Sub 1144, the Company updated its original models of estimated annual revenue requirements to reflect its actual experience to date with regard to each of the specified tax-related benefits, and that the Company updated its estimates of the timing of realization of the relevant tax benefits in future tax years. In addition, she testified that the avoided cost components of the revenue requirement calculations updated in these REPS rider dockets were fixed at the levels included in the original CPCN revenue requirement calculations, as required by the CPCN Orders. In each docket, the updated annual levelized revenue requirement for each project remained below the annual levelized avoided cost, and no incremental REPS cost was included for recovery in the respective REPS rider.

Witness Williams further testified that, on June 1, 2017, DEP filed its Application for Adjustment in Rates and Request for Accounting Order in Docket No. E-2, Sub 1142, the Company's only general rate case proceeding since the issuance of the CPCN Orders. The DEP Solar PV Facilities costs were included in total in the revenue requirement calculated and subject to recovery in base rates in the general rate case docket. The Commission issued its final order in that general rate case proceeding on February 23, 2018, in which the Commission accepted DEP's conclusion that the facility costs included in its proposed base rates were prudently incurred and approved recovery through base rates. Witness Williams explained that the Company included no recovery of costs related to the DEP Solar PV Facilities in its current REPS rider filing, and submitted that it has now met in full the cost recovery conditions of the CPCN Orders, and its compliance requirement is completed.

No party disputed whether DEP had complied with the required treatment of the costs related to the DEP Solar PV Facilities.

Based upon the foregoing and the entire record herein, the Commission finds that DEP appropriately calculated its avoided costs and incremental REPS compliance costs for the test period and the billing period. The Commission further finds that for the purpose of establishing the REPS EMF rider in this proceeding, DEP's incremental costs for REPS compliance during the test period were \$42,744,260, including the costs incurred for DEP's Wholesale Customers, and that these costs were reasonable and prudently incurred. The Commission further finds that DEP appropriately projected incremental costs for REPS compliance for the billing period totaling \$40,959,120, representing costs of compliance based on DEP's retail sales only, because DEP's obligation to provide REPS compliance services to the Wholesale Customers ended December 31, 2017. Therefore, the Commission concludes that DEP's request for recovery of these costs should be approved. In addition, the Commission finds that DEP has complied with the

requirements of the CPCN Orders, as relevant to this proceeding. Therefore, the Commission concludes that DEP's compliance obligation related to the conditions detailed above is complete.

#### EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 15

The evidence for this finding of fact is found in DEP's Application and in the direct testimony and exhibits of DEP witness Williams, as well as in the affidavits of Public Staff witnesses Boswell and Lucas.

Witness Williams' direct testimony explained that incremental costs assigned to DEP retail customers are separated into two categories: costs related to solar, poultry and swine waste compliance requirements, and research, solar rebate program and other incremental costs (Set-Aside and Other Incremental Costs); and costs related to the General Requirement (General Incremental Costs). Set-Aside and Other Incremental Costs are allocated to customer class based on per-account cost caps, and General Incremental Costs are allocated among customer classes to give credit for EE RECs (EECs), for which there are no General Incremental Costs according to the relative energy reduction contributed by each customer class.

In his affidavit, Witness Lucas noted that the Commission, in its 2017 DEP REPS Order, required DEP and the Public Staff to evaluate the inputs and methods used to allocate credits for EECs by class, and file a report of the results. On April 12, 2018, the Public Staff and DEP filed the joint report as required in Docket No. E-2, Sub 1144. Witness Lucas stated in his affidavit in this current proceeding that the Public Staff reviewed the allocation method used by DEP in this rider proceeding, and agreed that it is consistent with the method agreed to by the Public Staff and DEP in the April 12, 2018, joint report. In her affidavit, Witness Boswell indicated the Public Staff recommended no adjustments to DEP's proposed allocation among customer classes for credits for EECs.

The Commission finds that DEP's allocation of incremental REPS compliance costs among customer classes for the purposes of calculating its proposed REPS and EMF rider components is appropriate for this proceeding.

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

The evidence for these findings of fact is found in the direct testimony and exhibits of DEP witnesses Jennings and Williams, including DEP's application for cost recovery, and in the affidavits of Public Staff witnesses Boswell and Lucas.

Williams Exhibit No. 2 demonstrates that DEP's total NC Retail test period under-collections were \$2,124,217 for the residential class and \$196,787 for the industrial class, and an over-collection, including interest, of \$1,272,374 for the general service class. Williams Exhibit No. 4 shows additional credits for contract receipts by customer class of \$325,340 for residential, \$294,082 for general service, and \$18,500 for industrial. Total under-collections net of contract-related credits by class for the EMF period are \$1,798,877 for residential and \$178,287 for industrial. The total over-collection including

contract-related credits is \$1,566,456 for the general service class. As reflected in Williams Exhibit No. 4, witness Williams calculated proposed NC Retail monthly per-account REPS EMF charges (excluding regulatory fee) of \$0.12 for residential accounts and \$8.11 for industrial accounts, and a monthly REPS EMF credit (excluding regulatory fee) of \$(0.66) for general service accounts. Also in Williams Exhibit No. 4, she calculated the projected NC Retail REPS costs for the billing period of \$19,004,704 for the residential class, \$20,526,773 for the general service class, and \$1,427,643 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 \$1.30 for residential accounts, \$8.61 for general service accounts, and \$64.96 for industrial accounts. The combined monthly REPS and REPS EMF rider charges per customer account, excluding regulatory fee, to be collected during the billing period are thus \$1.42 for residential accounts, \$7.95 for general service accounts, and \$73.07 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 \$1.42 for residential accounts, \$7.96 for general service accounts, and \$73.17 for industrial accounts. As further illustrated on Williams Exhibit No. 4, the Company's REPS incremental cost rider to be charged to each customer account for the 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 Boswell stated in her affidavit that as a result of its investigation, the Public Staff recommended that the Company's proposed annual REPS EMF increment/(decrement) amounts and monthly EMF riders for each customer class be approved. Witness Boswell also stated that, excluding the regulatory fee, the annual increment/(decrement) REPS EMF riders are \$1.47, \$(7.88) and \$97.35 and the monthly increment/(decrement) REPS EMF riders are \$0.12, \$(0.66), and \$8.11, per retail customer account, for residential, general service, and industrial customers, respectively.

Public Staff witness Lucas stated that the Public Staff had reviewed the costs that produced the proposed, revised rates and that it took no issue with them. He recommended approval of the Company's proposed monthly per account REPS rider charges for the combined REPS and EMF billing components for the billing period (including regulatory fee), as follows: \$1.42 for residential accounts, \$7.96 for general service accounts, and \$73.17 for industrial accounts.

Based upon the foregoing and the entire record herein, the Commission finds that DEP's calculation of its incremental costs for compliance with the REPS requirements during the test period and incremental costs projected during the billing period, and the resulting monthly per-account REPS rider and REPS EMF rider charges as set out in Revised Williams Exhibit No. 4, are reasonable and appropriate. The Commission further finds that the total of these charges are well below the respective annual per-account cost limits of \$34.00, \$150.00, and \$1,000.00, for residential, commercial/general service, and industrial customers, as established in G.S. 62-133.8(h)(4). Therefore, the Commission concludes that DEP's total over-collection amounts incurred during the Test Period and the costs projected to be incurred during the billing period and the resulting REPS EMF and REPS rider charges should be approved.



IT IS, THEREFORE, ORDERED as follows:

1. That DEP shall establish a REPS rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a twelve-month period beginning on December 1, 2018, and expiring on November 30, 2019;
2. That DEP shall establish an EMF rider as described herein, in the amounts approved herein, and that this rider shall remain in effect for a twelve-month period beginning on December 1, 2018, and expiring on November 30, 2019;
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 (10) days after the date that the Commission issues orders in this docket and in Docket Nos. E-2, Sub 1173 and E-2, Sub 1176;
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 1173 and E-2, Sub 1176, and the Company shall file such notice for Commission approval as soon as practicable, but not later than ten (10) days after the Commission issues orders in both dockets;
5. That DEP's 2017 REPS compliance report shall be, and is hereby, approved and the RECs in DEP's 2017 compliance sub-accounts in NC-RETS and those of the Wholesale Customers shall be retired;
6. That DEP shall file in all future REPS rider applications the results of studies the costs of which were or are proposed to be recovered through the REPS rider charges 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.

ISSUED BY ORDER OF THE COMMISSION.

This the 8<sup>th</sup> day of November, 2018.

NORTH CAROLINA UTILITIES COMMISSION



Janice H. Fulmore, Deputy Clerk