ANNUAL REPORT REGARDING RENEWABLE ENERGY AND ENERGY EFFICIENCY PORTFOLIO STANDARD IN NORTH CAROLINA

REQUIRED PURSUANT TO G.S. 62-133.8(j)

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THE GOVERNOR OF NORTH CAROLINA
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AND THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS

SUBMITTED BY
THE NORTH CAROLINA UTILITIES COMMISSION

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EXECUTIVE SUMMARY

In August 2007, North Carolina enacted comprehensive energy legislation, Session Law 2007-397 (Senate Bill 3), which, among other things, established a Renewable Energy and Energy Efficiency Portfolio Standard (REPS), the first renewable energy portfolio standard in the Southeast. Under the REPS, all electric power suppliers in North Carolina must meet an increasing amount of their retail customers' energy needs by a combination of renewable energy resources (such as solar, wind, hydropower, geothermal and biomass) and reduced energy consumption. Pursuant to G.S. 62-133.8(j), the Commission is required to report by October 1 of each year to the Governor, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations on the activities taken by the Commission to implement, and by electric power suppliers to comply with, the REPS requirement.

2013 Legislation

The 2013 General Assembly did not pass any legislation amending the REPS.

Commission Implementation

Rulemaking Proceeding

Immediately after Senate Bill 3 was signed into law, the Commission initiated a proceeding in Docket No. E-100, Sub 113, to adopt rules to implement the REPS and other provisions of the new law. On February 29, 2008, the Commission issued an Order adopting final rules implementing Senate Bill 3.

Since issuing this Order, the Commission has issued a number of orders interpreting various REPS provisions, including the following Orders issued since the 2012 report to the General Assembly:

- On September 17, 2012, in Docket No. E-100, Sub 113, the Commission issued an Order requesting comments on the following issues: 1) how the gain that an electric power supplier receives from a renewable energy certificate (REC) sale should be treated for ratemaking purposes; (2) how the RECs to be sold should be selected; (3) how the sales price for RECs should be established; and (4) how the original purchase price of such RECs should be recorded. The matter is pending before the Commission.

- On November 29, 2012, in Docket No. E-100, Sub 113, in response to a joint motion filed by several electric power suppliers, the Commission issued an Order Modifying the Poultry and Swine

Waste Set-Aside Requirements and Granting Other Relief. The Order found that the electric power suppliers made a reasonable effort to comply with the swine waste and poultry waste set-aside requirements in 2012, but will not be able to comply. Among the reasons the electric power suppliers would not be able to comply, the Commission found that the technology is in early stages of development, the REPS requirements have been modified, and that disagreements between developers and the Petitioners have delayed contracts. The Order concluded that it was in the public interest to eliminate the swine waste set-aside requirement in 2012 and to delay the implementation of the poultry waste set-aside requirement by one year until 2013. Additionally, the Order concluded, that as aggregate requirements with the majority of the electric power suppliers in non-compliance, it was appropriate to apply the delays to all electric power suppliers and to allow those who could have complied to bank their RECs for future compliance purposes. In addition to modifying the compliance schedules for the swine waste and poultry waste set-aside REPS requirements, the Order also required that Duke Energy Carolinas, LLC (Duke), and Duke Energy Progress, Inc. (DEP), file triannual progress reports on their compliance with, and efforts to comply with, the swine waste and poultry waste set-aside requirements. Finally, the Order required that Duke and DEP create a web based Information Sheet designed to provide developers relevant information regarding the provision and sale of electricity from swine or poultry waste-to-energy facilities.

Renewable energy facilities

Senate Bill 3 defines certain electric generating facilities as "renewable energy facilities" or "new renewable energy facilities." RECs associated with electric or thermal power generated at such facilities may be used by electric power suppliers to comply with the REPS requirement as provided in G.S. 62-133.8(b) and (c).

In its rulemaking proceeding, the Commission adopted rules providing for certification or report of proposed construction and registration of renewable energy facilities and new renewable energy facilities. As of September 1, 2013, the Commission has accepted registration statements filed by 938 facilities. A list of these facilities, along with other information, may be found on the Commission's website at: http://www.ncuc.net/reps/reps.htm.

The Commission has issued a number of orders since October 1, 2012, addressing issues related to the registration of a facility, such as the definition of "renewable energy resource," including the following:

- On March 11, 2013, in Docket No. E-100, Sub 130, the Commission issued an Order on Request for Declaratory Ruling.

The Commission held that, although the first 20 megawatts (MW) of biomass renewable energy facility generating capacity at a cleanfields renewable energy demonstration park remained eligible for the triple credit pursuant to S.L. 2010-195 (Senate Bill 886), only the first 10 MW of biomass renewable energy facility generating capacity was eligible to earn additional credits to meet the poultry waste set-aside requirements in G.S. 62-133.8(f). The Commission concluded that RECs eligible for triple credit pursuant to S.L. 2010-195, as amended by S.L. 2011-279, may be earned from the electric generation and the thermal energy produced from the capture and use of waste heat at a biomass fueled combined heat and power (CHP) facility located in a cleanfields renewable energy demonstration park; RECs eligible for triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, will be recorded in the North Carolinas Renewable Energy Tracking System (NC-RETS) as one of two unique fuel types, marked either as originating from the first 10 MW of generating capacity, or as originating from the second 10 MW of generating capacity; and that the additional credits assigned to the first 10 MW of biomass renewable energy facility generation capacity are eligible for use to meet the requirements of G.S. 62‑133.8(f).

- On June 18, 2013, in Docket No. SP-2285, Sub 1, the Commission issued an Order Accepting Registration as a Renewable Energy Facility, accepting registration of Weyerhaeuser NR Company's (Weyerhaeuser) biomass-fueled CHP facility as a "renewable energy facility", but not as a "new renewable energy facility". The Commission reviewed previous Orders that have discussed the issue of whether a facility that has undergone some sort of change or renovation should be classified as "new." The Commission determined that Weyerhaeuser's renovated CHP system, which originally began its operations in 1969, is a renewable energy facility pursuant to G.S. 62-133.8(a)(7). The Commission stated that the facility, which should be examined in its entirety, was capable of generating electricity from a renewable energy resource prior to the retrofit. Additionally, in contrast to the Commission's prior Order on incremental hydroelectric capacity, the Commission concluded that Weyerhaeuser's retrofit did not add additional capacity through the addition of a new boiler, but, rather, extended the useful life and increased the efficiency of an existing facility already capable of using a renewable energy source, and, thus, did not meet the definition of a new renewable energy facility.

- On July 16, 2013, in Docket No. SP-813, Sub 0, the Commission issued an Order Revoking Registration of Renewable Energy Facility, revoking Rocky Knoll Farm, LP's (Rocky Knoll),

registration. The Commission found that Rocky Knoll had not cooperated with the Public Staff in its efforts to audit the facility's books and records; that it was appropriate to revoke Rocky Knoll's registration as a renewable energy facility; and because it was not possible to ascertain with any confidence whether the RECs issued by NC-RETS relative to energy produced by Rocky Knoll are valid, that it was appropriate to require the NC-RETS Administrator to subject all RECs issued for Rocky Knoll to forced retirement, regardless of their current ownership.

- On August 28, 2013, in Docket No. E-100, Sub 130, the Commission issued an Order noticing its intent to revoke the registrations of 226 renewable energy facilities and new renewable energy facilities for failure to file their annual certifications as required by Commission Rule R8-66(b) if they did not do so by October 1, 2013. The matter is pending before the Commission.

North Carolina Renewable Energy Tracking System (NC-RETS)

Pursuant to G.S. 62-133.8(k), enacted in 2009, the Commission was required to develop, implement, and maintain an online REC tracking system no later than July 1, 2010, in order to verify the compliance of electric power suppliers with the REPS requirements.

On February 2, 2010, after evaluating the bids received in response to a request for proposals (RFP), the Commission signed a Memorandum of Agreement (MOA) with APX, Inc. (APX), to develop and administer an online REC tracking system for North Carolina, NC-RETS. APX successfully launched NC-RETS on July 1, 2010, and by letter dated September 3, 2010, the Commission accepted the system and authorized APX to begin billing users pursuant to the MOA.

RECs have been successfully created by, and imported into, NC-RETS, and the electric power suppliers have used the system to demonstrate compliance with the 2010-2012 REPS solar set-aside requirements and the 2012 REPS general requirements. Lastly, the Commission has established an on-going NC-RETS stakeholder group, providing a forum for resolution of issues and discussion of system improvements.

The MOA with APX expires on December 31, 2013. On August 8, 2013, the Commission issued an Order in Docket No. E-100, Sub 121, scheduling a stakeholder meeting for September 24, 2013, and requesting that stakeholders come prepared to discuss the following: (1) satisfaction with NC-RETS, (2) changes to NC-RETS the Commission should consider, and (3) MOA terms in anticipation of potential legislative changes. The matter is pending before the Commission.

Environmental impacts

Pursuant to G.S. 62-133.8(j), the Commission was directed to consult with the North Carolina Department of Environment and Natural Resources (DENR) in preparing its report and to include any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of the REPS requirements of Senate Bill 3. The Commission has not identified, nor has it received from the public or DENR, any comments regarding direct, secondary, and cumulative environmental impacts of the implementation of the REPS provision of Senate Bill 3. DENR stated that there continues to be interest in the development of renewable energy resources, particularly wind farms. In addition to environmental concerns such as effects on avian and bat populations, DENR pointed specifically to concerns that coastal wind farms may conflict with low-level military training flights. DENR highlighted the passage this year by the General Assembly of House Bill 484, An Act to Establish a Permitting Program for the Siting and Operation of Wind Energy Facilities, which creates a permitting process within DENR for wind energy facilities to work in tandem with the Certificate of Public Convenience and Necessity (CPCN) requirement, as a direct legislative response to these concerns.

Electric Power Supplier Compliance

Pursuant to Senate Bill 3, electric power suppliers are required, beginning in 2012, to meet an increasing percentage of their retail customers' energy needs by a combination of renewable energy resources and energy reductions from the implementation of energy efficiency (EE) and demand-side management (DSM) measures. In addition, as of 2010, each electric power supplier must meet a certain percentage of its retail electric sales with solar RECs from certain solar facilities. Finally, starting in 2012, each electric power supplier must meet a certain percentage of its retail electric sales from swine waste resources and a specified amount of electricity provided must be derived from poultry waste resources.

Monitoring compliance with REPS requirements

Monitoring by the Commission of compliance with the REPS requirements of Senate Bill 3 is accomplished through the annual filing by each electric power supplier of a REPS compliance plan and a REPS compliance report. Pursuant to Commission Rule R8-67(b), on or before September 1 of each year, each electric power supplier is required to file with the Commission a REPS compliance plan providing specific information regarding its plan for complying with the REPS requirement of Senate Bill 3. Pursuant to Commission Rule R8-67(c), each electric power supplier is required to annually file with the Commission a REPS compliance report. The REPS compliance plan is a forward-looking forecast of an electric power supplier's REPS requirement and its plan for meeting that requirement. The REPS compliance report is an annual look back at the RECs earned or purchased and energy savings actually realized during the prior

calendar year, and the electric power supplier's compliance in meeting its REPS requirement.

Cost recovery rider

G.S. 62-133.8(h) authorizes each electric power supplier to establish an annual rider up to an annual cap to recover the incremental costs incurred to comply with the REPS requirement and to fund certain research. Commission Rule R8-67(e) establishes a procedure under which the Commission will consider approval of a REPS rider for each electric public utility. The REPS rider operates in a manner similar to that employed in connection with the fuel charge adjustment rider authorized in G.S. 62-133.2 and is subject to an annual true-up.

Electric public utilities

Duke Energy Progress, Inc. (DEP)

On June 4, 2012, in Docket No. E-2, Sub 1020, DEP filed its 2011 REPS compliance report and application for approval of its 2012 REPS cost recovery rider pursuant to G.S. 62-133.8 and Rule R8-67. By its application and testimony, DEP proposed to implement the following total REPS rates effective for service rendered on and after December 1, 2012: $0.42 per month for residential customers; $7.28 per month for general service/lighting customers; and $34.33 per month for industrial customers. A hearing was held on DEP's 2011 REPS compliance report and 2012 REPS cost recovery rider on September 18, 2012. On November 16, 2012, the Commission issued an Order approving DEP's REPS rider, concluding that the appropriate REPS rider is $0.41 per month for the residential class per customer account; $7.04 per month for the commercial class per customer account; and $33.18 per month for the industrial class per customer account. In the same Order, the Commission approved DEP's 2011 Compliance Report.

On June 12, 2013, in Docket No. E-2, Sub 1032, DEP filed its 2012 REPS compliance report and application for approval of its 2013 REPS cost recovery rider pursuant to G.S. 62-133.8 and Rule R8-67. By its application and testimony, DEP proposed to implement the following total REPS rates effective for service rendered on and after December 1, 2013: $0.19 per month for residential customers; $7.81 per month for general service/lighting customers; and $29.68 per month for industrial customers. In its 2012 REPS compliance report, DEP indicated that it acquired sufficient RECs to meet the 2012 requirement of 3.0% of its 2011 retail sales. Additionally, DEP indicated that it acquired sufficient solar RECs to meet the 2012 requirement of 0.07% of its 2011 retail sales. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, DEP was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. A hearing was held on DEP's 2012 REPS compliance report and 2013 REPS cost recovery rider on September 17, 2013. The matter is pending before the Commission.

On September 4, 2012, in Docket No. E-100, Sub 137, DEP filed its 2012 REPS compliance plan as part of its 2012 Integrated Resource Plan (IRP). In its plan, DEP indicated that its overall compliance strategy to meet the REPS requirements consisted of the following opportunities: (1) DEP ownership of, or purchases from, new renewable energy generation; (2) the use of renewable energy resources at generating facilities; (3) purchases of RECs; and (4) implementation of EE measures. DEP has agreed to provide REPS compliance services for the following wholesale customers, as allowed under G.S. 62-133.8(c)(2)(e): the towns of Black Creek, Lucama, Sharpsburg, Stantonsburg, and the city of Waynesville.

On August 28, 2013, the Commission issued an Order in Docket No. E-100, Sub 137, which, among other things, granted a motion by Duke and DEP to extend their compliance plan filing deadline until October 1, 2013. Thus, at the time of the preparation this report, DEP's 2013 REPS compliance plan has not been filed with the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, DEP, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Duke Energy Carolinas, LLC (Duke)

On March 13, 2013, in Docket No. E-7, Sub 1034, Duke filed its 2012 REPS compliance report and an application for approval of a REPS rider to be effective September 1, 2013. The application requested a REPS rider of ($.01) per month for residential customers (a credit on customer's bills); $3.27 per month for general customers (the Duke equivalent of commercial class customers); and $12.40 per month for industrial customers; each of which is below the incremental per-account cost cap established in G.S. 62-133.8(h). In its 2012 REPS compliance report, Duke indicated that it acquired sufficient RECs to meet the 2012 requirement of 3.0% of its 2011 retail sales. Additionally, DEP indicated that it acquired sufficient solar RECs to meet the 2012 requirement of 0.07% of its 2011 retail sales. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Duke was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. A hearing was held on Duke's 2012 compliance report and 2013 REPS cost recovery rider on June 4, 2013. On August 20, 2013, the Commission issued an Order approving a REPS rider of ($0.04) per month for residential customers (a credit on customer's bills); $3.14 per month for general service accounts; and $10.73 per month for industrial customers, each of which is below the incremental per-account cost cap. The approved changes to the REPS rider result in a decrease in the current REPS rates (excluding gross receipts taxes and regulatory fee) of $0.25 per month for residential customers; an increase of $0.04 per month for general service/lighting customers; and a decrease of $8.88 per month for industrial customers when compared to the

previous year's rider. In the same Order, the Commission approved Duke's 2012 compliance report and retired the RECs in Duke's 2012 compliance sub account.

On September 4, 2012, in Docket No. E-100, Sub 137, Duke filed its 2012 REPS compliance plan as part of its 2012 IRP. In its plan, Duke stated that it is pursuing REPS compliance by building a diverse portfolio of cost-effective renewable energy and EE resources. The key components of Duke's plan include: (1) introduction of EE programs; (2) purchases of unbundled RECs; (3) continued operations of company-owned renewable facilities; and (4) research studies to enhance its ability to comply in the future. Duke believes that the implementation of these strategies will yield a diverse portfolio of cost-effective qualifying resources and a flexible mechanism for REPS compliance. Duke has agreed to provide REPS compliance services for the following wholesale customers, as allowed under G.S. 62-133.8(c)(2)(e): Rutherford Electric Membership Cooperative (EMC); Blue Ridge EMC; the cities of Concord, Dallas, Forest, and Kings Mountain; and the Town of Highlands. Approval of Duke's 2012 compliance plan is still pending before the Commission.

On August 28, 2013, the Commission issued an Order in Docket No. E-100, Sub 137, which, among other things, granted a motion by Duke and DEP to extend their compliance plan filing deadline until October 1, 2013. Thus, at the time of the preparation this report, Duke's 2013 compliance plan has not been filed with the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, Duke, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Dominion North Carolina Power (Dominion)

On August 10, 2012, in Docket No. E-22, Sub 487, Dominion filed its 2011 REPS compliance report. The report included compliance status for the Town of Windsor. Dominion stated that it met its 2010 REPS solar set-aside requirement by purchasing unbundled out-of-state solar RECs. For the Town of Windsor's requirement, at least 75% of the RECs purchased were in-State RECs, as required by G.S. 62-133.8(b)(2)(e). Dominion stated that it has entered into contracts to purchase enough solar RECs to satisfy its compliance requirements through 2014. Dominion stated that it will not be able to meet the swine waste set-aside requirements in G.S. 62-133.8(e) and doubts that any swine waste renewable energy facilities will be in operation by 2013. Dominion further stated that because it can acquire out-of-state state poultry RECs, it would be able to fulfill its poultry waste set-aside requirement in G.S. 62-133.8(f), and would be able to fulfill 25% of that requirement for the Town of Windsor through out-of-state RECs. A hearing was held on Dominion's 2011 compliance report on November 20, 2012. On December 11, 2012, the Commission issued an Order approving Dominion's 2011 compliance report and retired the RECs in Dominion's 2011 compliance sub account. Pursuant to the Commission's

November 29, 2012 Order in Docket No. E-100, Sub 113, Dominion was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Dominion did not file an application for approval of a REPS rider in 2012.

On August 29, 2013, in Docket No. E-22, Sub 503, Dominion filed an application for approval of a 2012 REPS recovery rider and its 2012 compliance report. The report included compliance status for the Town of Windsor. Dominion stated that it met its 2012 general REPS requirement by purchasing unbundled out-of-state solar and wind RECs and the Town of Windsor's requirement with additional solar and biomass RECs from within the State. Dominion stated that it met is 2012 solar set-aside requirement and the Town of Windsor's requirement by purchasing solar RECs. Dominion stated that it will not be able to meet the 2013 swine waste set-aside requirements in G.S. 62-133.8(e) for either itself or the Town of Windsor, despite the fact that Dominion can satisfy its entire requirement through the purchase of out-of-state RECs. Dominion further stated that because it can acquire out-of-state state poultry RECs, it would be able to fulfill its 2013 poultry waste set-aside requirement in G.S. 62-133.8(f), and would be able to fulfill 25% of that requirement for the Town of Windsor through out-of-state RECs. Dominion has requested approval of two riders, an RPE rider to recover historical compliance costs, and an RP Rider to recover future projected 2014 compliance costs. The requested RPE rider is $0.15 for residential accounts, $3.03 for commercial accounts, and $22.40 for industrial accounts. The requested RP rider is $0.20 for residential accounts, $2.58 for commercial accounts, and $17.61 for industrial accounts. A hearing has been scheduled by the Commission for November 13, 2013, to consider Dominion's REPS Rider request and its 2012 compliance report.

On August 31, 2012, in Docket No. E-100, Sub 137, Dominion filed its 2012 REPS compliance plan as part of its 2012 IRP. In its plan, Dominion stated that it intends to meet its general REPS requirements through the use of new company-generated renewable energy where economically feasible, EE, and unbundled RECs. Approval of Dominion's 2012 compliance plan is still pending before the Commission.

On August 30, 2013, in Docket No. E-100, Sub 137, Dominion filed its 2013 REPS compliance plan as part of its 2013 IRP. In its plan, Dominion stated that it intends to meet its general REPS requirements in 2013 through 2015 through the use of new company-generated renewable energy where economically feasible, EE, and RECs. Dominion reiterated its responsibility to meeting the REPS requirements for its wholesale customer the Town of Windsor. Dominion stated that it has contracted for enough solar RECs to satisfy its solar set-aside requirement in 2013 and 2014. Dominion stated that it is unclear if it will be able to comply with the swine waste set-aside in future years. Further, Dominion stated that it has entered two poultry waste REC contracts with enough volume to comply with its out-of-state requirements for 2013 through 2015.

Dominion stated it will be able to meet its 2013-2015 poultry waste REPS requirements and will be able to meet 25% of the Town of Windsor's. Approval of Dominion's 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, Dominion, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

EMCs and municipally-owned electric utilities

There are thirty-one EMCs serving customers in North Carolina, including twenty-six that are headquartered in the state. Twenty-five of the EMCs are members of North Carolina EMC (NCEMC), a generation and transmission (G&T) services cooperative that provides wholesale power and other services to its members. In addition, there are seventy-four municipal and university-owned electric distribution systems serving customers in North Carolina. Fifty-one of the North Carolina municipalities are participants in either North Carolina Eastern Municipal Power Agency (NCEMPA), or North Carolina Municipal Power Agency Number 1 (NCMPA1), municipal power agencies that provide wholesale power to their members. The remaining municipally-owned electric utilities purchase their electric power from wholesale electric suppliers.

By Orders issued August 27, 2008, the Commission allowed twenty-three EMCs to file their REPS compliance plans on an aggregated basis through GreenCo Solutions, Inc. (GreenCo), and the fifty-one municipal members of the power agencies to file through NCEMPA and NCMPA1.

GreenCo Solutions, Inc. (GreenCo)

On September 3, 2013, in Docket No. E-100, Sub 139, GreenCo filed its 2012 REPS compliance report and its 2013 compliance plan with the Commission on behalf of its member EMCs, as well as Mecklenburg Electric Cooperative and Broad River Electric Cooperative. In its plan, GreenCo stated that it intended to use its members' allocations from the Southeastern Power Administration (SEPA), RECs purchased from both in-State and out-of-state renewable energy facilities, and EE savings from eleven approved EE programs to meet its members' REPS requirements. GreenCo submitted a measurement and verification (M&V) plan for the EE programs in both its 2012 compliance plan, as well as its 2011 compliance report, which is still pending Commission approval. Additionally, in its 2013 compliance plan GreenCo stated that M&V plans for additional programs are currently being developed and will be submitted as soon as they become available. GreenCo stated that it intends to join with other electric power suppliers to request a delay to the 2013 swine waste and poultry waste set-aside REPS requirements, noting that the prospect of complying in 2014 and 2015 did not seem likely. In its 2012 REPS compliance report, GreenCo stated that it secured adequate resources to meet its members' general REPS requirement and the solar set-aside requirement for 2012. Lastly, for 2012, GreenCo stated that the

incremental costs incurred by its members were significantly less (around one-fifth) than the costs allowed under the per-account cost cap in G.S. 62-133.8(h). Approval of GreenCo's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, GreenCo, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

EnergyUnited Electric Membership Corporation (EnergyUnited)

On August 27, 2013, in Docket No. E-100, Sub 139, EnergyUnited filed its 2013 REPS compliance plan and its 2012 REPS compliance report with the Commission. In its report, EnergyUnited stated that it met its 2012 general REPS requirement through its SEPA allocations, EE programs, and the purchase of RECs. EnergyUnited stated that it met its solar set-aside requirement by purchasing solar RECs. EnergyUnited noted in its report that its incremental costs of compliance were about one-third of the per-account cost cap. In its 2013 compliance plan, EnergyUnited stated that it planned to fulfill its general REPS requirement in 2013 and beyond through the use of landfill gas generation, RECs from its SEPA allocation, the purchase of RECs, and its two approved EE programs. EnergyUnited stated that it had already accumulated enough general RECs to meet its 2013 requirement and anticipates accumulating enough RECs to meet its requirement for many years into the future. Further, EnergyUnited stated that it intends to meet its 2013 solar set-aside requirement through the purchase of RECs. EnergyUnited stated that it had participated with other electric utilities to jointly procure RECs to satisfy the swine waste set-aside requirements, however, it anticipates joining other utilities to request that the 2013 swine waste set-aside requirement be waived. EnergyUnited also stated that it is participating with other electric utilities to jointly procure RECs to satisfy the poultry waste set-aside requirements, however, citing a lack of sufficient resources; EnergyUnited stated that it anticipates joining other utilities to request that the 2013 poultry waste set-aside requirement be waived. Approval of EnergyUnited's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, EnergyUnited, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Tennessee Valley Authority (TVA)

On August 30, 2013, in Docket No. E-100, Sub 139, TVA filed its 2013 REPS compliance plan and 2012 REPS compliance report with the Commission. In its plan, TVA indicated its intent to fulfill the general REPS requirement in 2013 through 2015 with its SEPA allocations, purchase of out-of-state wind RECs, and the purchases of various in-State RECs. With regard to its cooperatives' solar set-aside requirement in years 2013 through 2015, TVA reiterated its plans to

meet the requirement by generating the energy at its own facilities. In its report, TVA stated it had satisfied its cooperatives' 2012 general REPS requirement with their SEPA allocations, purchase of out-of-state wind RECs, and the purchases of various in-State RECs and had satisfied its cooperatives' 2012 solar set-aside requirement through the generation of solar energy. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, TVA's cooperatives were relieved of their 2012 swine waste set-aside requirement and their 2012 poultry waste set-aside requirement was delayed until 2013. TVA indicated that it intends to seek relief from its cooperatives 2013 swine and poultry waste set-aside requirements within the month. Additionally, TVA indicated that it is attempting to procure swine and poultry waste RECs to satisfy its cooperatives 2014 and 2015 swine and poultry waste set-aside requirements. Approval of TVA's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, TVA, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Halifax Electric Membership Corporation (Halifax)

On September 3, 2013, in Docket No. E-100, Sub 139, Halifax filed its 2013 REPS compliance plan and its 2012 REPS compliance report with the Commission. In its compliance plan, Halifax stated that it intends to meet its REPS requirements with a combination of SEPA allocations, EE programs, solar energy production, solar and wind RECs, and additional resources to be determined on an ongoing basis. Halifax noted that it participated in the collaborative effort of electric power suppliers to meet the swine waste and poultry waste set-aside requirements, but that the groups' futures were uncertain, thus, Halifax individually has contracted to satisfy the 2013 and 2014 swine waste set-aside requirement. Halifax stated that compliance with its 2013 poultry waste set-aside requirement is uncertain at this time. According to its 2012 compliance report, Halifax met its 2012 general REPS requirement utilizing its SEPA allocations, various EE programs, and REC purchases. With regard to its 2012 solar set-aside requirement, Halifax met the requirement by generating solar energy on its 98.56 kW solar photovoltaic (PV) system and purchasing solar RECs. Halifax noted that its incremental costs of compliance were well below that established by the per-account cost cap. Approval of Halifax's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, Halifax, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

North Carolina Eastern Municipal Power Agency (NCEMPA)

On August 26, 2013, in Docket No. E-100, Sub 139, NCEMPA filed with the Commission, on behalf of its members, a 2013 REPS compliance plan and 2012 REPS compliance report. NCEMPA stated that its members would meet their REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. NCEMPA stated that it had entered into contracts to purchase various types of RECs and will continue to investigate the market for unbundled RECs as a cost-effective means of REPS compliance. In its compliance report NCEMPA stated that it met its 2012 general REPS requirement through the purchase of bundled renewable energy and the purchase of solar, biomass, and wind RECs. Additionally, NCEMPA stated in its report that it met its 2012 solar set-aside requirement by purchasing solar RECs. In its compliance plan, NCEMPA stated that it has entered into contracts for enough RECs to satisfy the solar set-aside requirement through 2015. NCEMPA stated that, despite its continued collaborative efforts with other electric power suppliers to meet the swine waste set-aside REPS requirements and the issuance of its own RFP, that it did not anticipate complying in 2013, 2014, or 2015. Additionally, NCEMPA stated it had entered into contracts for both in-State and out-of-state poultry RECs to satisfy its requirements for 2013 through 2015, but, that due to several outstanding issues, including lack of certainty in the delivery of RECs and the revocation of the registration of one of its suppliers, NCEMPA did not anticipate complying with the 2013, 2014, or 2015 poultry set-aside requirements. Finally, NCEMPA stated in its report that its 2012 incremental costs were about one-ninth of the per-account cost cap and estimated in its compliance plan that the incremental costs for REPS compliance will be significantly less than its per-account cost cap in 2013 through 2015. Approval of NCEMPA's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 20, 2013, in Docket No. E-100, Sub 113, NCEMPA, along with NCMPA1, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

North Carolina Municipal Power Agency No. 1 (NCMPA1)

On August 26, 2013, in Docket No. E-100, Sub 139, NCMPA1 filed with the Commission on behalf of its members a 2013 REPS compliance plan and 2012 REPS compliance report. NCMPA1 stated that its members would meet their REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. In its compliance report, NCMPA1 stated that it met its 2012 general REPS requirement by purchasing renewable energy and through the purchase of solar, biomass, and wind RECs. Additionally, NCMPA1 stated in its report that it met its 2012 solar set-aside requirement by purchasing electricity from solar generating facilities and through the purchase of solar RECs. In its compliance plan, NCMPA1 stated that it had entered into contracts for enough RECs to satisfy the solar set-aside requirement through 2015.

NCMPA1 stated that despite its continued work in collaborative efforts with other electric power suppliers to meet the swine waste set-aside REPS requirements, and the issuance of its own RFP, that it did not anticipate complying in 2013. Additionally, NCMPA1 stated it had entered into contracts for both in-State and out-of-state poultry RECs to satisfy its requirements for 2013 through 2015, but that several outstanding issues, including lack of certainty in the delivery and eligibility of RECs, made it unclear if it would be able to comply with the 2013 poultry set-aside requirement. Finally, NCMPA1 stated in its report that its 2012 incremental costs were about one-sixth of the per-account cost cap and estimated in its compliance plan that the incremental costs for REPS compliance will be significantly less than its per-account cost cap in 2013 through 2015. Approval of NCEMPA's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 20, 2013, in Docket No. E-100, Sub 113, NCMPA1, along with NCEMPA, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Fayetteville Public Works Commission (FPWC)

On August 30, 2013, in Docket No. E-100, Sub 139, FPWC filed its 2012 compliance report and 2013 compliance plan. In its compliance plan, FPWC stated that it intended to meet its REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. In its amended compliance report, FPWC stated that it met its 2012 general REPS requirement through the purchase of in-State and out-of-state RECs. Additionally, FPWC stated that it met its solar set-aside requirement through the purchase of solar RECs. In its compliance plan, FPWC stated that it would be unable to meet its 2013 swine waste and poultry waste set-asides and that it intended to join with other electric power suppliers in requesting an additional delay of those requirements. Finally, FPWC stated that its incremental costs for REPS compliance are projected to be less than its per-account cost cap in 2013 through 2015. Approval of FPWC's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, FPWC, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Oak City

In its 2012 compliance report, GreenCo indicated that it had included Oak City in its calculation of Edgecombe Martin EMC's (EMEMC) REPS requirements. EMEMC is the wholesale provider to Oak City.

Winterville

On August 30, 2013, in Docket No. E-100, Sub 139, Winterville filed its 2013 REPS compliance plan and 2012 REPS compliance report. Winterville stated that it will only continue to implement its existing CFL Lighting program and will cease its other EE programs due to inefficiency and the difficulty and cost of verification. Winterville indicated that it would be primarily purchasing RECs due to lower than anticipated REC costs and the expense of EE programs. Winterville explained that in the last quarter of 2013 it anticipated entering into an agreement with DEP to provide REPS compliance services. Winterville requested that any delay granted as a result of other electric power suppliers potential request for delay of both the swine waste and poultry waste set-aside requirements until 2014, also apply to Winterville. In its compliance report, Winterville stated that it met its 2012 solar set-aside requirement by purchasing solar RECs. Additionally, Winterville stated that it met its 2012 general requirement by purchasing RECs and earning EE RECs. Finally, Winterville stated that its incremental costs were below the per-account cost cap for compliance in 2012. Approval of Winterville's 2012 compliance report and 2013 compliance plan is pending before the Commission.

Town of Fountain (Fountain)

On August 19, 2013, in Docket No. E-100, Sub 139, Fountain filed its 2013 compliance plan and 2012 compliance report. Fountain noted in its compliance plan that it would look into EE programs, but that the bulk of its compliance with the general REPS requirement for 2013 through 2015 would be satisfied through the purchase of RECs. Fountain indicated that it currently has enough solar RECs to satisfy both its 2013 and 2014 solar set-aside requirements, but, that it will need to contract the purchase of all other remaining requirements. In its compliance report, Fountain stated that its 2012 general REPS requirement and its solar set-aside requirement were satisfied through the purchase of RECs. Further, Fountain noted that its incremental costs were about two-thirds of the allowed per-account cost cap. Approval of Fountain's 2012 compliance report and 2013 compliance plan is pending before the Commission.

Wholesale Providers Meeting REPS Requirements

DEP, as the wholesale provider, has agreed to meet the REPS requirements for the towns of Black Creek, Lucama, Sharpsburg, Stantonsburg, and the city of Waynesville. Similarly, Duke has agreed to meet the REPS requirements for Rutherford EMC, Blue Ridge EMC, the cities of Concord, Dallas, Forest and Kings Mountain, and the town of Highlands. Dominion has agreed to meet the REPS requirements for the Town of Windsor. The towns of Macclesfield, Pinetops, and Walstonburg have previously filed letters stating that the City of Wilson, as their wholesale provider, has agreed to include their loads with its own for reporting to NCEMPA for REPS compliance. Oak City has

indicated that EMEMC, its wholesale provider, has agreed to include its loads with its own for reporting to GreenCo for REPS compliance.

Recommendation

The Commission recommends that G.S. 62-300 be amended to add a $25.00 filing fee for applications for registration of renewable energy facilities. The Commission has received more than 2,500 reports of proposed construction and registration applications since the implementation of Senate Bill 3. A reasonable fee for registration applications will help defray the cost of processing the applications and issuing orders of registration.

Conclusions

All of the electric power suppliers have met the 2011, and appear to have met the 2012, solar set-aside requirement of Senate Bill 3. All of the electric power suppliers have met, or appear on track to meet, the general REPS requirements that came into effect in 2012. However, none of the electric power suppliers met the poultry waste and swine waste set-asides for 2012, an Amended Joint Motion to delay implementation of that section of the REPS was granted in part, delaying the implementation of the poultry waste set-aside by one year and eliminating the swine waste set-aside requirement in 2012. Despite this action, most electric power suppliers do not appear on track to meet the poultry waste and swine waste set-asides for 2013 and have requested a further delay to these requirements. In addition, as stated in the 2012 Report, and as highlighted again in this report, numerous issues continue to arise in the implementation of Senate Bill 3 that have required interpretation by the Commission of the statutory language: e.g., the definition of new renewable energy facility, the electric power suppliers' requirements under the set-aside provisions, the eligibility of renewable energy facilities and resources to meet the set-aside provisions, etc. If the plain language of the statute was ambiguous, the Commission attempted to discern the intent of the General Assembly in reaching its decision on the proper interpretation of the statute.

BACKGROUND

In August 2007, North Carolina enacted comprehensive energy legislation, Session Law 2007-397 (Senate Bill 3), which, among other things, established a Renewable Energy and Energy Efficiency Portfolio Standard (REPS), the first renewable energy portfolio standard in the Southeast. Under the REPS, all electric power suppliers in North Carolina must meet an increasing amount of their retail customers' energy needs by a combination of renewable energy resources (such as solar, wind, hydropower, geothermal and biomass) and reduced energy consumption. Beginning at 3% of retail electricity sales in 2012, the REPS requirement ultimately increases to 10% of retail sales beginning in 2018 for the State's EMCs and municipally-owned electric providers and 12.5% of retail sales beginning in 2021 for the State's electric public utilities.

In G.S. 62-133.8(j), the General Assembly required the Commission to make the following annual report:

> No later than October 1 of each year, the Commission shall submit a report on the activities taken by the Commission to implement, and by electric power suppliers to comply with, the requirements of this section to the Governor, the Environmental Review Commission, and the Joint Legislative Commission on Governmental Operations. The report shall include any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of the requirements of this section. In developing the report, the Commission shall consult with the Department of Environment and Natural Resources.[1]

On October 1, 2008, the Commission made its first annual report pursuant to G.S. 62-133.8(j),[2] and last year, on September 27, 2012, the Commission made its fifth annual report.[3] The remaining sections of this report detail, as required by the General Assembly, developments related to Senate Bill 3, activities undertaken by the Commission during the past year to implement Senate Bill 3, and actions by the electric power suppliers to comply with G.S. 62-133.8, the REPS provisions of Senate Bill 3.

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[1] G.S. 62-133.8(j) was amended by Session Law 2011-291 to require that the annual REPS Report be submitted to the Joint Legislative Commission on Governmental Operations, rather than the Joint Legislative Utility Review Committee.

[2] Annual Report of the North Carolina Utilities Commission to the Governor of North Carolina, the Environmental Review Commission and the Joint Legislative Utility Review Committee Regarding Energy and EE Portfolio Standard, October 1, 2008 (2008 REPS Report).

[3] Annual Report of the North Carolina Utilities Commission to the Governor of North Carolina, the Environmental Review Commission and the Joint Legislative Utility Review Committee Regarding Energy and EE Portfolio Standard, September 27, 2012 (2012 REPS Report).

2013 LEGISLATION

The 2013 General Assembly did not pass any legislation amending the REPS. Summaries of REPS related legislation from previous sessions of the General Assembly are available in previous reports.

COMMISSION IMPLEMENTATION

Rulemaking Proceeding

As detailed in the Commission's 2008 REPS Report, after Senate Bill 3 was signed into law the Commission initiated a proceeding in Docket No. E-100, Sub 113, to adopt rules to implement the REPS and other provisions of the new law. On February 29, 2008, the Commission issued an Order adopting final rules implementing Senate Bill 3. The rules, in part, require each electric power supplier to file an annual REPS compliance plan and an annual REPS compliance report to demonstrate, respectively, reasonable plans for, and actual compliance with, the REPS requirement.

In its 2012 REPS Report, the Commission noted that it had issued a number of orders interpreting various provisions of Senate Bill 3, in which it made the following conclusions:

- Tennessee Valley Authority's (TVA) distributors making retail sales in North Carolina and electric membership corporations (EMCs) headquartered outside of North Carolina that serve retail electric customers within the State must comply with the REPS requirement of Senate Bill 3, but the university-owned electric suppliers, Western Carolina University and New River Light & Power Company, are not subject to the REPS requirement.

- Each electric power supplier's REPS requirement, both the set-aside requirements and the overall REPS requirements, should be based on its prior year's actual North Carolina retail sales.

- An electric public utility cannot use existing utility-owned hydroelectric generation for REPS compliance, but may use power generated from new small (10 megawatts (MW) or less) increments of utility-owned hydroelectric generating capacity.

- The solar, swine waste and poultry waste set-aside requirements should have priority over the general REPS requirement where both cannot be met without exceeding the per-account cost cap established in G.S. 62-133.8(h).

- The set-aside requirements may be met through the generation of power, purchase of power, or purchase of unbundled renewable energy credits (RECs).

- The 25% limitation on the use of out-of-state RECs applies to the general REPS requirement and each of the individual set-aside provisions.

- The electric power suppliers are charged with collectively meeting the aggregate swine waste and poultry waste set-aside requirements and may agree among themselves how to collectively satisfy those requirements.

- RECs associated with the electric power generated at a biomass-fueled combined heat and power (CHP) facility located in South Carolina and purchased by an electric public utility in North Carolina would be considered as in-State pursuant to G.S. 62-133.8(b)(2)(d), but RECs associated with out-of-state renewable generation not delivered to and purchased by an electric public utility in North Carolina and RECs associated with out-of-state thermal energy would not be considered to be in-State RECs pursuant to G.S. 62-133.8(b)(2)(d).

- Only RECs associated with the percentage of electric generation that results from methane gas that was actually produced by poultry waste or swine waste may be credited toward meeting the swine waste and poultry waste set-aside requirements. Thus, not all of the methane gas produced by the anaerobic digestion of swine or poultry waste, as well as "other organic biodegradable material," would qualify toward the set-aside requirements because the other material described as mixed with the poultry waste or swine waste is responsible for some percentage of the resulting methane gas.

- In response to a Joint Motion filed by Duke Energy Progress, Inc. (DEP), Duke Energy Carolinas, LLC (Duke), Dominion North Carolina Power (Dominion), North Carolina EMC (NCEMC), North Carolina Eastern Municipal Power Agency (NCEMPA), and North Carolina Municipal Power Agency Number 1 (NCMPA1) (jointly, the Electric Suppliers), in Docket No. E-100, Sub 113, the Commission concluded that issuance of a joint request for proposals (RFP) by the Electric Suppliers is a reasonable means for the Electric Suppliers to work together collectively to meet the swine waste set-aside requirement.

- In response to a motion filed in Docket No. E-100, Sub 113, by DEP on behalf of Dominion, Duke, NCEMC, GreenCo Solutions, Inc., North Carolina Sustainable Energy Association (NCSEA), North Carolina Pork Council, Fibrowatt LLC, Green Energy Solutions NV, Inc., Attorney General and Public Staff, the Commission approved a Pro Rata Mechanism (PRM) as a reasonable and appropriate means for the State's electric power suppliers to meet the aggregate swine

waste and poultry waste set-aside requirements of G.S. 62-133.8(e) and (f). The PRM provides that (1) the statewide aggregate swine waste and poultry waste set-aside requirements should be allocated among all of the electric power suppliers based upon the ratio of each electric power supplier's prior year's retail sales to the State's total retail sales; (2) an electric power supplier shall be deemed to be in compliance with the swine waste or poultry waste set-aside requirement once it has satisfied its allocated share of the statewide aggregate requirement or has reached its incremental per-account cost cap pursuant to G.S. 62-133.8(h); (3) no electric power supplier shall be obligated to satisfy more than its allocated share of the statewide aggregate swine waste or poultry waste set-aside requirement; and (4) electric power suppliers may jointly procure renewable energy resources in order to satisfy their individual allocated shares of the statewide aggregate swine waste or poultry waste set-aside requirements. As it had earlier done with regard to the aggregate swine waste set-aside requirement, the Commission approved the joint procurement of RECs from energy produced by poultry waste, the sharing of poultry waste generation bids among electric suppliers, and other collaborative efforts proposed by DEP, Dominion, NCEMC, NCEMPA, NCMPA1, EnergyUnited EMC (EnergyUnited), Halifax EMC (Halifax), GreenCo Solutions, Inc. (GreenCo), and the Fayetteville Public Works Commission (FPWC) as a reasonable means for the State's electric suppliers to work together to meet the poultry waste set-aside requirement.

- The Commission found that the term "allocations made by the Southeastern Power Administration" (SEPA), is used as a term of art in G.S. 62-133.8(c)(2)(c). The Commission, therefore, concluded that a municipal electric power supplier or EMC will be permitted to use the total annual amount of energy supplied by SEPA to that municipality or EMC to comply with its respective REPS requirement, subject to the 30% limitation provided in G.S. 62-133.8(c)(2)(c).

- In response to a petition filed by Peregrine Biomass Development Company, LLC (Peregrine), in Docket No. E-100, Sub 113, requesting that the Commission exercise its discretionary authority pursuant to G.S. 62-133.8(i)(2) (the off-ramp) to allow RECs associated with the thermal energy output of a CHP facility which uses poultry waste as a fuel to meet the poultry waste set-aside requirement under G.S. 62-133.8(f) the Commission issued an Order on October 8, 2010. The Order denied Peregrine's request to allow RECs associated with the thermal heat output of a CHP facility that uses poultry waste as fuel to meet the poultry waste set-aside requirement. The Commission reasoned that the legislature's inclusion of the phrases "or an equivalent amount of energy" and "new metered solar thermal energy

facilities" in subsection (d), coupled with the lack of similar express language in subsection (f), demonstrated a clear legislative intent to allow solar thermal RECs to meet the solar set-aside requirement, but not to allow thermal RECs to meet the poultry waste set-aside requirement. The Commission suggested that Peregrine and parties supporting Peregrine's position could seek an amendment to G.S. 62-133.8(f) by the General Assembly. Session Law 2011-309 (Senate Bill 710) became law on June 27, 2011, adding the phrase "or an equivalent amount of energy" to G.S. 62-133.8(f).

- In response to a motion filed on September 14, 2010, in Docket No. E-100, Sub 113, by DEP, Duke, Dominion, NCEMC, NCEMPA, NCMPA1 and GreenCo, the Commission issued an Order on November 23, 2010, holding that an electric public utility can recover through its fuel cost rider the total delivered cost of the purchase of energy generated by a swine or poultry waste-to-energy facility where the RECs associated with the production of the energy are purchased by another North Carolina electric power supplier to comply with the REPS statewide aggregate swine waste and poultry waste set-aside requirements.

- On January 31, 2011, the Commission issued an Order amending Rules R8-64 through R8-69, adopting final NC-RETS Operating Procedures, and approving an application form for use by owners of renewable energy facilities in obtaining registration of a facility under Rule R8-66. The amendments to Rules R8-64 through R8-69 clarify and streamline the application procedures, registration, record keeping, and other requirements for renewable energy facilities.

- On May 14, 2012, the Commission issued an Order in Docket No. E-100, Sub 113, revising Commission Rules R8-67(b), R8-67(c), and R8-67(h). The amendment added a requirement that REPS compliance plans contain a list of planned and implemented demand-side management (DSM) measures and include a measurement and verification (M&V) plan if one is not already filed with the Commission. Additionally, the amendment added reporting requirements to the REPS Compliance Reports for EMCs regarding EE and implementation of M&V plans. The Order also required all electric power suppliers to review the number of energy efficiency (EE) certificates they have reported to date and submit any changes necessitated by the Order.

- On July 30, 2012, the Commission issued an Order in Docket No. E-100, Sub 134, amending Commission Rules R8-61, R8-63, and R8-64. The amendments added to the previously existing requirement that an application for a certificate of public convenience and necessity

(CPCN) contain a map and location of the facility. The amendments require additional information including: 1) the proposed site layout relative to the map; 2) all major equipment, including the generator, fuel handling equipment, plant distribution system, and start up equipment; 3) the site boundary; 4) planned and existing pipelines, planned and existing roads, planned and existing water supplies, and planned and existing electric facilities.

Since the October 1, 2012 report was finalized, the Commission has issued a number of additional Orders interpreting various provisions of Senate Bill 3 and seeking additional information to aid the Commission in future interpretations. The following Orders are of particular interest.

Order Requesting Comments Regarding Accounting Treatment for Transfers of Renewable Energy Certificates, Docket No. E-100, Sub 113 (September 17, 2012).

On August 16, 2012, in Docket No. E-7, Sub 1008, the Commission issued an Order Approving REPS and REPS EMF Riders and 2011 REPS Compliance. The Order involved Duke's application for a REPS cost recovery rider pursuant to G.S. 62-133.8 and Commission Rule 8-67. In the Order, the Commission concluded, among other things, that it is appropriate and necessary to address in a generic docket issues related to REC sales. In that proceeding, witnesses testified that REC sales raise the following questions: (1) how the gain that an electric power supplier receives from a REC sale should be treated for ratemaking purposes; (2) how the RECs to be sold should be selected; (3) how the sales price for RECs should be established; and (4) how the original purchase price of such RECs should be recorded.

On September 17, 2012, in Docket No. E-100, Sub 113, the Commission issued an Order concluding that the above issues could affect all electric power suppliers and their customers. The Commission requested comments and reply comments from interested parties addressing the four issues described above. The matter is still pending before the Commission.

Order Modifying the Poultry and Swine Waste Set-Aside Requirements and Granting Other Relief, Docket No. E-100, Sub 113 (November 29, 2012).

On May 16, 2012, the Commission issued an Order in Docket No. E-100, Sub 113, requiring that all electric power suppliers that serve retail customers in North Carolina submit an update regarding their plans for meeting the swine waste and poultry waste set-asides. On June 1, 2012, DEP, Duke, Dominion, GreenCo, FPWC, EnergyUnited, Halifax, TVA, NCEMPA, and NCMPA1 (hereinafter referenced collectively as Petitioners), filed a motion to modify and delay the swine waste and poultry waste set-aside requirements in G.S. 62-133.8(e) and (f). The motion stated that, despite the Petitioners best

efforts, the aggregate requirements of the poultry waste and swine waste set-asides cannot be achieved in 2012. The Petitioners requested that the Commission issue an Order that: 1) delayed the Petitioners need to comply with the swine waste and poultry waste set-asides, 2) allowed the Petitioners to bank swine and poultry RECs previously acquired for use in future years, and 3) allowed the Petitioners to replace compliance with the swine waste and poultry waste set-asides with compliance measures that satisfy the general REPS requirements established in G.S. 62-133.8(b), (c), and (d). On June 21, 2012, the Commission issued an Order scheduling a hearing on the matter, requesting testimony from the petitioners to support their position and answer the Commission's questions provided in the Order, and allowing intervenors to file testimony.

On July 17, 2012, the Petitioners filed an amended motion. The amended motion requested that the Commission issue an Order that delayed the Petitioners swine waste and poultry waste set-aside REPS requirements until 2014, a two year delay. On July 25, 2012, DEP, Duke, Dominion, NCEMPA, NCMPA1, GreenCo, TVA, EnergyUnited, and FPWC filed testimony in response to the Commission's June 21, 2012 Order. On July 31, 2012, Duke and DEP filed a settlement agreement between them and NCSEA, the North Carolina Farm Bureau (NCFB), the North Carolina Pork Council (NCPC), and the North Carolina Poultry Federation (NCPF). In the settlement agreement, Duke and DEP agreed to, among other things, retire additional solar RECs during 2012 and 2013 than required by the solar set-aside in the REPS (0.09% rather than 0.07%). In exchange, the other parties of the settlement agreed not to oppose the relief requested by Duke, DEP and the other Petitioners in the Amended Joint Motion. Additionally, Duke and DEP represented in the settlement agreement that they will seek to meet their swine waste and poultry waste set-aside requirements outside of a collaborative agreement with other electric suppliers, a change from previous statements. On August 6, 2012, the Commission issued an Order requesting information from Duke and DEP in response to the settlement agreement provision that Duke and DEP would seek to meet their requirements outside of a collaborative agreement. The Commission received testimony and rebuttal testimony from several other parties and intervenors. A hearing was held by the Commission on August 28, 2012.

On November 29, 2012, in Docket No. E-100, Sub 113, the Commission issued an Order Modifying the Poultry and Swine Waste Set-Aside Requirements and Granting Other Relief. The Commission's Order was based on the evidence and testimony of the Petitioners; NCSEA; NCFB; NCPC; NCPF; TVA; Recovered Energy Investments I, LLC; Green Energy Solutions NV, Inc.; and the Community Groups. The Order found that the Petitioners made a reasonable effort to comply with the swine waste and poultry waste set-aside REPS requirements in 2012, but will not be able to comply. Among the reasons the Petitioners would not be able to comply, the Commission found that the technology is in early stages of development, the REPS requirements have been

modified; and that disagreements between developers and the Petitioners have delayed contracts. The Order concluded that it was in the public interest to eliminate the swine waste set-aside requirement in 2012, and to delay the implementation of the poultry waste set-aside requirement by one year until 2013. Additionally, the Order concluded that as aggregate requirements with the majority of the electric power suppliers in non-compliance it was appropriate to apply the delays to all electric power suppliers and to allow those who could have complied to bank their RECs for future compliance purposes.

The November 29, 2012 Order resulted in the following updated compliance schedules for the swine waste and poultry waste set-aside REPS requirements:

Calendar Year	Requirement for Swine Waste Resources
2013-2014	0.07%
2015-2017	0.14%
2018 and thereafter	0.20%

Calendar Year	Requirement for Poultry Waste Resources
2013	170,000 megawatt hours
2014	700,000 megawatt hours
2015 and thereafter	900,000 megawatt hours

In addition to modifying the compliance schedules for the swine waste and poultry waste set-aside REPS requirements, the Order also required that Duke and DEP file tri-annual progress reports on their compliance with, and efforts to comply with, the swine waste and poultry waste set-aside requirements. Finally, the Order required that Duke and DEP create a web based Information Sheet designed to provide developers relevant information regarding the provision and sale of electricity from swine or poultry waste-to-energy facilities.

On September 16, 2013, in Docket No. E-100, Sub 113, DEP, Duke, Dominion, GreenCo, FPWC, EnergyUnited, Halifax, and TVA filed a motion to delay the 2013 swine and poultry waste set-aside requirements. On September 20, 2013, in the same docket, NCMPA1 and NCEMPA filed a motion on their behalf making the same request. The Commission has scheduled the matter for hearing on November 6, 2013.

Renewable Energy Facilities

Senate Bill 3 defines certain electric generating facilities as renewable energy facilities or new renewable energy facilities. RECs associated with electric or thermal power generated at such facilities may be used by electric power suppliers for compliance with the REPS requirement as provided in G.S. 62-133.8(b) and (c). In its rulemaking proceeding, the Commission adopted

rules providing for a report of proposed construction, certification or registration of renewable energy facilities and new renewable energy facilities.

Pursuant to G.S. 62-110.1(a), no person, including any electric power supplier, may begin construction of an electric generating facility in North Carolina without first obtaining from the Commission a CPCN. Two exemptions from this certification requirement are provided in G.S. 62-110.1(g): (1) self-generation, and (2) nonutility-owned renewable generation under 2 MW. Any person exempt from the certification requirement must, nevertheless, file a report of proposed construction with the Commission pursuant to Rule R8-65.

To ensure that each renewable energy facility from which electric power or RECs are used for REPS compliance meets the particular requirements of Senate Bill 3, the Commission adopted Rule R8-66 to require that the owner, including an electric power supplier, of each renewable energy facility or new renewable energy facility register with the Commission if it intends for RECs it earns to be eligible for use by an electric power supplier for REPS compliance. This registration requirement applies to both in-State and out-of-state facilities. As of September 1, 2013, the Commission has accepted registration statements filed by 938 facilities.

As detailed in the 2012 REPS Report, the Commission has issued a number of orders addressing issues related to the registration of a facility, including the definition of "renewable energy resource," as summarized below.

- Accepted registration as a new renewable energy facility a 1.6-MW electric generating facility to be located near Clinton in Sampson County, North Carolina, and fueled by methane gas produced from anaerobic digestion of organic wastes from a Sampson County pork packaging facility and from a local swine farm.

- Issued a declaratory ruling that: (1) the percentage of refuse-derived fuel (RDF) that is determined by testing to be biomass, and the synthesis gas (Syngas) produced from that RDF is a "renewable energy resource" as defined in G.S. 62-133.8(a)(8); (2) the applicant's delivery of Syngas from a co-located gasifier to an electric utility boiler would not make the company a "public utility" as defined in G.S. 62-3(23); and (3) the applicant's construction of a co-located gasifier and the piping connection from the gasifier to an existing electric utility boiler would not require a CPCN under G.S. 62-110(a) or under G.S. 62-110.1(a).

- Issued an Order amending existing CPCNs for two electric generating facilities in Southport and Roxboro, North Carolina, that were being converted to burn a fuel mix of coal, wood waste, and tire-derived fuel (TDF). The Commission concluded that the portion of TDF derived from natural rubber, an organic material, meets the definition of

biomass, and is eligible to earn RECs, but required the applicant to submit additional information to demonstrate the percentage of TDF that is derived from natural rubber. In addition, the Commission accepted registration of the two facilities as new renewable energy facilities.

- Accepted registration as a new renewable energy facility a 1.6-MW CHP facility to be located in Darlington County, South Carolina, that will generate electricity using methane gas produced via anaerobic digestion of poultry litter from a chicken farm mixed with other organic, biodegradable materials, and use the waste heat from the electric generators to provide temperature control for the methane-producing anaerobic digester as well as the chicken houses. The Commission concluded that the thermal energy used as an input back into the anaerobic digestion process effectively increases the efficiency of the electric production from the facility; but is not used to directly produce electricity or useful, measureable thermal or mechanical energy at a retail electric customer's facility pursuant to G.S. 62-133.8(a)(1); and is not eligible for RECs. However, the thermal energy that is used to heat the chicken houses is eligible to earn RECs.

- Issued a declaratory ruling that: (1) biosolids, the organic material remaining after treatment of domestic sewage and combusted at the applicant's wastewater treatment plant, are a "renewable energy resource" as defined by G.S. 62-133.8(a)(8); and (2) the applicant, a county water and sewer authority organized in 1992 pursuant to the North Carolina Water and Sewer Authorities Act, is specifically exempt from regulation as a public utility pursuant to G.S. 62-3(23)(d).

- Accepted for registration as a new renewable energy facility a solar thermal hot water heating facility located in Mecklenburg County, North Carolina, used to heat two commercial swimming pools. The Commission concluded, however, that as an unmetered solar thermal facility, RECs earned based on the capacity of the solar panels are not eligible to meet the solar set-aside requirement of G.S. 62-133.8(d). However, the Commission allowed the applicant to earn general thermal RECs based upon an engineering analysis of the energy from the unmetered solar thermal system that is actually required to heat the pools, which was determined to be substantially less than the capacity of the solar thermal panels.

- Issued an Order concluding that primary harvest wood products, including wood chips from whole trees, are "biomass resources" and "renewable energy resources" under G.S. 62-133.8(a)(8). The Commission reasoned that the General Assembly, by including several specific examples of biomass in the statute, did not intend to limit the

scope of the term to those examples. Rather, the term “biomass” encompasses a broad category of resources and should not be limited absent express intent to do so. The Environmental Defense Fund and NCSEA appealed the Commission’s Order to the North Carolina Court of Appeals. On August 2, 2011, the Court of Appeals issued a decision affirming the Commission’s Order.

- Issued an Order declaring that yard waste and the percentage of RDF used as fuel are renewable energy resources, and that the percentage of Syngas produced from yard waste and RDF used as fuel is a renewable energy resource. The Commission held that yard waste is an organic material having a constantly replenished supply, and, thus, is a renewable resource under G.S. 62-133.8(a)(8).

- Accepted for registration as a new renewable facility a CHP facility determining that the portion of electricity produced by landfill gas will be eligible to earn RECs and the portion of waste steam produced from the electric turbines that is used as an input for a manufacturing process will be eligible to earn thermal RECs. However, also concluding that steam that bypasses the turbine generators and waste heat being used to pre-heat the feedwater for the boilers will not be used to directly produce electricity or useful, measureable thermal or mechanical energy at a retail electric customer’s facility pursuant to G.S. 62-133.8(a)(1), and, therefore, will not be eligible to earn RECs.

- Accepted registration of residential solar thermal water heating facilities on over one thousand homes which were allowed to install meters on a representative sample of the homes, rather than on each home, to determine the number of British Thermal Units (BTUs) of thermal energy that will be produced and on which RECs will be earned, and assigned to the unmetered homes the thermal heat measures recorded on the metered homes.

- Issued an Order accepting the registrations of nine solar thermal facilities, but found that a request for a waiver of the requirement in G.S. 62-133.8(d) that solar thermal energy be measured by a meter in order to produce RECs eligible to meet the solar set-aside requirement was inappropriate, disallowing the use of RETScreen Analysis Software (RETScreen) to calculate the estimated solar thermal production of each facility. The Commission noted that there was no cited or known legal authority by which the Commission is authorized to grant such a waiver. Further, the Commission concluded that the use of RETScreen is not appropriate because it estimates the total amount of solar thermal energy that could be produced, rather than the amount of energy actually used to heat water.

- The Commission denied the registration of a thermal system as a new renewable energy facility based upon the fact that the system would be integrated into an existing biomass facility and the thermal energy would be used to pre-heat the feed water entering the biomass-fueled boiler resulting in the use of less biomass fuel. The Commission concluded that it was appropriate to view the facility as one entity eligible to earn RECs on the electrical output of the biomass-fueled boiler, rather than two separate entities capable of earning RECs.

- Granted CPCNs with conditions and accepted registrations as new renewable energy facilities for a 300-MW wind facility in Pasquotank and Perquimans Counties and an 80-MW wind facility in Beaufort County.

- Issued an Order declaring that directed biogas is a renewable energy resource. The Commission stated that for a facility to earn RECs on electricity created using directed biogas appropriate attestations must be made and records kept regarding the source and amounts of biogas injected into the pipeline and used by the facility to avoid double counting. The Commission further noted that as provided in Commission Rule R8-67(d)(2) a facility utilizing directed biogas would earn RECs "based only upon the energy derived from renewable energy resources in proportion to the relative energy content of the fuels used." Finally, the Commission noted that each facility's registration will be considered on a case-by-case basis, and that the Commission had not addressed whether RECs earned would be subject to the out-of-state limitation on unbundled RECs under G.S. 62-133.8(b)(2)(e).

- Issued an Order stating that the policy that only net output is eligible for the issuance of RECs was not based solely on the definition of "station service" in the Commission rules, but that G.S. 62.133.8(a)(6) requires that RECs be derived from "electricity or equivalent energy" that is "supplied by a renewable energy facility." The Commission held that gross electricity used to power the facility itself cannot be considered electricity "supplied by a renewable energy facility." The Commission interpreted "station service" to encompass all electric demand consumed at the generation facility that would not exist but for the generation itself, including, but not limited to, lighting, office equipment, heating, and air-conditioning at the facility.

- Issued an Order that finding that because compensation could be built into alternative financial arrangements to recover the costs of electric generation, that a scenario in which a electricity producer sold steam and gave away electricity must be considered "[p]roducing, generating, transmitting, delivering, or furnishing electricity … to or for the public

for compensation" under G.S. 62-3(23)a.1. The Commission noted that were it to rule otherwise it create multiple scenarios in which an electric generator could provide electrical services "free of charge" to a third party and build in compensation to recover its costs via other arrangements, thus, avoiding the statutory definition of a public utility in G.S. 62-3(23)a.1.

Since October 1, 2012, the Commission has issued a number of additional orders interpreting provisions of Senate Bill 3 regarding applications for registration of renewable energy facilities, as described below.

Order on Request for Declaratory Ruling, Docket No. SP-100, Sub 30 (March 11, 2013).

On January 17, 2013, in Docket No. SP-100, Sub 30, Clean Energy, LLC (Clean Energy), filed a Request for Declaratory Ruling, requesting additional certainty that RECs earned from the capture and use of waste heat are eligible for triple credit pursuant to S.L. 2010-195. In its filing, Clean Energy requested that the Commission issue an Order with six specific declarations.

On January 22, 2013, the Commission issued an Order Requesting Comments, allowing for parties to intervene and file comments and reply comments on Clean Energy's request. Comments were filed by the Public Staff, ElectriCities, and NCMPA1, and NCEMPA (hereinafter collectively referred to as the Power Agencies). The Public Staff and the Power Agencies both recommended that the Commission issue an Order stating the six declarations requested by Clean Energy.

On March 11, 2013, the Commission issued an Order on Request for Declaratory Ruling. The Commission, citing its April 18, 2011 Order on Request for Declaratory Ruling, in Docket No. SP-100, Sub 28, addressing the eligible output, pursuant to S.L. 2010-195 (Senate Bill 886), to which triple credit is applied to any electric power or RECs generated by an eligible facility, agreed with Clean Energy, the Public Staff, and the Power Agencies, and found no reason why the April 18, 2011 Order was not still applicable. The Commission noted that S.L. 2011-279 (Senate Bill 484) did not amend any aspect of S.L. 2010-195 with respect to the electric generating capacity that is eligible to earn triple credit. Rather, S.L. 2011-279 simply amended the electric generating capacity from which additional credits are eligible to satisfy the poultry waste set-aside requirement in G.S. 62-133.8(f).

The Commission held that, although the first 20 MW of biomass renewable energy facility generating capacity remained eligible for the triple credit, only the first 10 MW of biomass renewable energy facility generating capacity was eligible to earn additional credits to meet the poultry waste set-aside requirements in G.S. 62-133.8(f). Consistent with the Commission's

April 18, 2011 Order, the Commission held that the limit was on the electric generating capacity, not the amount of energy or RECs that may be earned, and that RECS may be derived from both the electric generation and the waste heat used to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility. In the March 11, 2013 Order, the Commission made the following conclusions:

1. RECs eligible for triple credit pursuant to S.L. 2010-195, as amended by S.L. 2011-279, may be earned from the electric generation and the thermal energy produced from the capture and use of waste heat at a biomass fueled combined heat and power facility located in a cleanfields renewable energy demonstration park and registered with the Commission as a new renewable energy facility;

2. RECs eligible for triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, will be recorded in NC-RETS as one of two unique fuel types, marked either as originating from the first 10 MW of generating capacity, or as originating from the second 10 MW of generating capacity.

3. The electric power supplier that purchases either type of REC eligible for triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, for compliance with G.S. 62-133.8 will receive one REC. When the electric power supplier retires that REC, it will receive triple credit, resulting in one general requirement REC and two additional credits;

4. The electric power supplier will use and retire either type of REC eligible for the triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, and the two additional credits in accordance with the NC-RETS Operating Procedures;

5. The additional credits assigned to the first 10 MW of biomass renewable energy facility generation capacity are eligible for use to meet the requirements of G.S. 62−133.8(f) and they must first be used to satisfy those requirements. Only when the requirements of G.S. 62−133.8(f) are met may the additional credits assigned to the first 10 MW of biomass renewable energy facility generation capacity be utilized to comply with G.S. 62-133.8(b) and (c); and

6. Except for the triple credit, all of the provisions of G.S. 62-133.8 and Rule R8-67 will apply equally to the RECs associated with the electric generation and thermal energy produced at a cleanfields renewable energy demonstration park as to RECs associated with energy produced at any other renewable energy facility.

Order Accepting Registration as a Renewable Energy Facility, Docket No. SP-2285, Sub 0 (June 18, 2013).

On November 16, 2012, Weyerhaeuser NR Company (Weyerhaeuser) filed a registration statement for a new renewable energy facility located in Vanceboro in Craven County, North Carolina. In its filing, Weyerhaeuser described its facility as a biomass-fueled CHP system, consisting of a biomass-fueled recovery boiler, two fossil-fueled power boilers, and a backpressure turbine rated at 29.7 MW_{AC}. Weyerhaeuser stated in its filing that its facility began operations in 1969. Weyerhaeuser further stated that it uses spent pulping liquors from its pulp-manufacturing process as the source of fuel for the biomass-fueled recovery boiler. Finally, Weyerhaeuser provided supplemental information in support of its position that the Commission should approve registration of the facility as a "new" renewable energy facility.

In the supplemental information filed with its registration, Weyerhaeuser stated that the reconstruction and upgrade of its CHP system was necessary to continue using the biomass-fueled recovery boiler, and, potentially, to continue the operation of its pulp-manufacturing process. Weyerhaeuser further stated that it invested approximately $35 million to reconstruct and upgrade the CHP system, including the biomass-fueled recovery boiler. Weyerhaeuser argued that increased efficiencies and the increased life of the facility caused by the upgrades and reconstruction essentially rendered the facility a "new" biomass-fueled recovery boiler.

On December 27, 2012, NCSEA filed comments in opposition to Weyerhaeuser's assertion that its facility should be registered as a new renewable energy facility. In its comments, NCSEA stated that the relevant factors the Commission should consider in its determination of whether a facility is a new renewable energy facility should include: (1) whether equipment had previously been installed and/or operated at Weyerhaeuser's facility, and if so, (2) whether substantial investment and/or improvement was necessary for Weyerhaeuser to begin generating part or all of its electricity from a renewable energy resource, and (3) if such generation from a renewable energy resource began on or after January 1, 2007. NCSEA stated that because the facility had not undergone any change from its original function, it should not be viewed as being introduced into service on or after January 1, 2007, and, thus, the Commission should not accept registration of the facility as a new renewable energy facility.

On March 12, 2013, the Public Staff filed the recommendation required by Commission Rule R8-66(e) stating that Weyerhaeuser's registration statement should be considered to be complete. However, the Public Staff stated that it disagreed with Weyerhaeuser that the entire facility should be considered a new renewable energy facility. Alternatively, the Public Staff proposed a scenario in which only a portion of Weyerhaeuser's output, the portion demonstrated to be a

result of the increased efficiencies in the use of renewable fuels due to upgrades, would be considered "new."

On June 18, 2013, the Commission issued an Order Accepting Registration as a Renewable Energy Facility, accepting registration of Weyerhaeuser's facility as a renewable energy facility, but not as a new renewable energy facility. The Commission reviewed previous Orders that have discussed the issue of whether a facility that has undergone some sort of change or renovation should be classified as "new":

- On June 17, 2009, in Docket No. E-100, Sub 113, the Commission issued an Order concluding that individual generating units at a plant would not be considered separate facilities and that an electric public utility may use power generated from new or incremental utility-owned hydroelectric generating capacity of 10 MW or less that was placed into service on or after January 1, 2007.

- On June 13, 2008, in Docket No. SP-161, Sub 1, the Commission issued an Order, which accepted the registration of a 32-MW biomass-fueled cogeneration facility as a new renewable energy facility. Since 1986 the facility had operated as a coal-fired plant. However, the coal-fired plant ceased operations on April 26, 2007, and underwent an estimated $11,300,000 renovation, including extensive equipment modifications and additions, resulting in the ability to burn various wood waste products to generate electricity and create steam.

- On December 17, 2009, in Docket No. SP 165, Sub 3, the Commission issued an Order which, among other things, accepted the registration statements for an 86-MW and a 47-MW facility as new renewable energy facilities. Both facilities proposed to use wood waste, TDF, and coal as fuel sources. Additionally, at the time of the Order, both facilities were being upgraded to allow co-firing, at least in part, of renewable fuels, as opposed to their previous use of only coal as fuel.

- On October 11, 2010, in Docket No. E-7, Subs 939 and 940, the Commission issued an Order, which, among other things, accepted the registration as renewable energy facilities for two electric generation facilities that proposed to co-fire wood as a fuel for energy production in combination with coal. The Commission concluded that the electric output would be eligible for RECs for the portion generated by a renewable energy resource. However, the Commission declined to register the facilities as new renewable energy facilities, stating, "Neither facility, however, was placed into service after January 1, 2007; …. Moreover, neither facility required extensive modifications to allow it to burn biomass."

- On July 5, 2011, in Docket Nos. SP-100, Sub 9, and SP-967, Sub 0, the Commission issued an Order, which, among other things, accepted the registration as a new renewable energy facility for a 2.8-MW landfill gas facility. The facility had previously operated as a landfill gas facility that produced steam but not electricity and was being renovated to accommodate the production of electricity. In its determination that the facility was a new renewable energy facility, the Commission stated, "Because there was no existing capacity to generate electricity at this site and the facility is to be placed into service on or after January 1, 2007, RSP's proposed CHP facility further meets the definition of a new renewable energy facility."

The Commission determined that, consistent with these previous Commission orders, Weyerhaeuser's renovated CHP system, which originally began its operations in 1969, is a renewable energy facility pursuant to G.S. 62-133.8(a)(7). The Commission stated that the facility, which should be examined in its entirety, was capable of generating electricity from a renewable energy resource prior to the retrofit. Additionally, in contrast to the Commission's prior Order on incremental hydroelectric capacity, the Commission concluded that Weyerhaeuser's retrofit did not add additional capacity through the addition of a new boiler, but rather extended the useful life and increased the efficiency of an existing facility already capable of using a renewable energy source, and, thus, did not meet the definition of a new renewable energy facility.

Order Revoking Registration of Renewable Energy Facility, Docket No. SP 813, Sub 0 (July 16, 2013).

On August 10, 2012, the Commission issued an Order Requesting Audit and Recommendations requesting the Public Staff to audit the books and records of Rocky Knoll Farm, LP (Rocky Knoll), and that NC-RETS file a report recommending to the Commission any necessary actions to ensure that the number of RECs issued to Rocky Knoll for its electric output is accurate.

On September 28, 2012, the Public Staff filed a Motion for Extension of Time, requesting that the due date to file its recommendations be extended to October 17, 2012, which was granted by the Commission on October 1, 2012. On October 15, 2012, the Public Staff filed a Motion to Compel and for Extension of Time, stating that it had not received data request responses from Rocky Knoll, and, thus, was not able to complete the audit as requested by the Commission. The Public Staff requested that the Commission order Rocky Knoll to fully respond to its outstanding data request. Additionally, the Public Staff requested that the Commission extend the Public Staff's deadline for filing its audit and recommendations such that the Public Staff's response would be due two weeks following the date on which Rocky Knoll provided a complete response to the Public Staff. On October 30, 2012, the Commission issued an Order Granting Motion to Compel and Time Extension, requiring Rocky Knoll to

fully respond, within 10 business days, to the Public Staff's data requests. Further, the Commission requested that the Public Staff promptly inform the Commission of any failure by Rocky Knoll to comply in a timely fashion.

On May 31, 2013, the Public Staff filed a Motion to Revoke Registration Statement, requesting that the Commission revoke Rocky Knoll's registration as a renewable energy facility. In its motion, the Public Staff stated that Rocky Knoll has not provided the necessary information for the Public Staff to be able to determine the amount of electricity generated by Rocky Knoll that is eligible to earn RECs. The Public Staff noted that Rocky Knoll's partial response to its initial data request lacked sufficient information necessary to verify Rocky Knoll's electric output. After multiple requests and an incomplete response to its data requests, the Public Staff recommended that the Commission issue an order: (1) revoking the registration statement of Rocky Knoll as a renewable energy facility; (2) canceling any RECs earned by Rocky Knoll in the NC-RETS tracking system and finding that any RECs earned by this facility are ineligible for use by a North Carolina electric power supplier; and (3) directing the Administrator of NC-RETS to suspend and close Rocky Knoll's account. The Public Staff further recommended that the Commission's order state that if Rocky Knoll wishes to resubmit a registration statement as a renewable energy facility, that it must provide the information requested by the Public Staff to properly verify that the quantity of RECs generated by the facility is calculated in compliance with Commission Rules and the NC-RETS Operating Procedures. The Public Staff noted that if Rocky Knoll complies with these requirements, it may be able to enter some of its historic generation data in order to earn RECs. However, pursuant to Commission Rule R8-67(h)(4), renewable energy facilities registered in NC-RETS may only enter historic energy production data for REC issuance that goes back up to two years from the date on which they are registered.

On July 16, 2013, the Commission issued an Order Revoking Registration of Renewable Energy Facility, revoking Rocky Knoll's registration. The Commission noted that Commission Rule R8-66(b)(5) states:

> The owner of each renewable energy facility shall certify in its registration statement and annually thereafter that it consents to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with North Carolina electric power suppliers, and agrees to provide the Public Staff and the Commission access to its books and records, wherever they are located, and to the facility.

The Commission found that Rocky Knoll had not cooperated with the Public Staff in its efforts to audit the facility's books and records; that it was appropriate to revoke Rocky Knoll's registration as a renewable energy facility; and because it was not possible to ascertain with any confidence whether the RECs issued by NC-RETS relative to energy produced by Rocky Knoll are valid, that it was

appropriate to require the NC-RETS Administrator to subject all RECs issued for Rocky Knoll to forced retirement, regardless of their current ownership.

Order Giving Notice of Intent to Revoke Registration of Renewable Energy Facilities and New Renewable Energy Facilities, Docket No. E-100, Sub 130 (August 28, 2013).

On August 28, 2013, the Commission issued an Order giving notice of its intent to revoke the registration of 226 renewable energy facilities and new renewable energy facilities because their owners had not completed or filed the annual certifications required each April 1, as detailed in Commission Rule R8-66(b) (10 facilities registered with NC-RETS did not complete the on-line form and 216 did not file a verified certification with the Commission). Facility owners were given until October 1, 2013, to file their annual certifications belatedly. Owners that do not complete the annual certifications face their facility's registrations being revoked pursuant to Commission Rule R8-66(f). The matter is still pending before the Commission.

North Carolina Renewable Energy Tracking System (NC-RETS)

In its February 29, 2008 Order in Docket No. E-100, Sub 113, the Commission concluded that REPS compliance would be determined by tracking RECs associated with renewable energy and EE. In its Order, the Commission further concluded that a "third-party REC tracking system would be beneficial in assisting the Commission and stakeholders in tracking the creation, retirement and ownership of RECs for compliance with Senate Bill 3" and stated that "[t]he Commission will begin immediately to identify an appropriate REC tracking system for North Carolina." Pursuant to G.S. 133.8(k), enacted in 2009, the Commission was required to develop, implement, and maintain an online REC tracking system no later than July 1, 2010, in order to verify the compliance of electric power suppliers with the REPS requirements.

On September 4, 2008, the Commission issued an Order in Docket No. E-100, Sub 121, initiating a new proceeding to define the requirements for a third-party REC tracking system, or registry, and to select an administrator. The Commission established a stakeholder process to finalize a Requirements Document for the tracking system.

After issuing an RFP and evaluating the bids received, the Commission signed a Memorandum of Agreement (MOA) with APX, Inc. (APX), on February 2, 2010, to develop and administer NC-RETS. Pursuant to the MOA, on July 1, 2010, APX successfully launched NC-RETS. By letter dated September 3, 2010, the Commission informed APX that, to the best of its knowledge, NC-RETS has performed in substantial conformance with the MOA and has no material defects. The Commission, therefore, authorized APX to begin

billing North Carolina electric power suppliers and other users the fees that were established in the MOA.

Funding for NC-RETS is provided directly to APX by the electric power suppliers in North Carolina that are subject to the REPS requirements of Senate Bill 3 and is recovered from the suppliers' customers through the REPS incremental cost rider. Owners of renewable energy facilities and other NC-RETS users do not incur charges to open accounts, register projects, and create and transfer RECs, but will incur nominal fees to export RECs to other tracking systems or to retire RECs other than for REPS compliance.

At the end of 2012, each electric power supplier was required to place the RECs that it acquired to meet its 2012 REPS requirements into compliance accounts where the RECs are available for audit. The Commission will review each electric power suppliers' 2012 REPS compliance report; the associated RECs will be permanently retired. Members of the public can access the NC-RETS web site at www.ncrets.org. The site's "Resources" tab provides extensive information regarding REPS activities and NC-RETS account holders. NC-RETS also provides an electronic bulletin board where RECs can be offered for purchase.

- As of December 31, 2012, NC-RETS had issued 10,516,582 RECs and 2,659,381 EE certificates. These numbers could increase because renewable energy generators are allowed to enter historic production data for up to two years.

- As of August 27, 2013, 311 organizations, including electric power suppliers and owners of renewable energy facilities, had established accounts in NC-RETS.

- As of August 27, 2013, approximately 621 renewable energy facilities had been established as NC-RETS projects, enabling the issuance of RECs based on their energy production data.

Pursuant to the MOA, APX has been working with other registries in the United States, such as the Electric Reliability Council of Texas (ERCOT), to establish procedures whereby RECs that were issued in those registries may be transferred to NC-RETS. To date, such arrangements have been established with four such registries. Additionally, the Commission has established an on-going NC-RETS stakeholder group, providing a forum for resolution of issues and discussion of system improvements.

The MOA with APX expires on December 31, 2013, and the Commission intends to initiate discussions with APX as to the terms of a possible extension. On August 8, 2013, the Commission issued an Order in Docket No. E-100, Sub 121, scheduling a stakeholder meeting for September 24, 2013,

and requesting that stakeholders come prepared to discuss the following: (1) satisfaction with NC-RETS, (2) changes to NC-RETS the Commission should consider, and (3) MOA terms in anticipation of potential legislative changes. The matter is still pending before the Commission.

Environmental Impacts

Pursuant to G.S. 62-133.8(j), the Commission was directed to consult with the North Carolina Department of Environment and Natural Resources (DENR) in preparing its report and to include any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of the REPS requirements of Senate Bill 3. The Commission has not identified, nor has it received from the public or DENR, any comments regarding direct, secondary, and cumulative environmental impacts of the implementation of the REPS provision of Senate Bill 3. DENR stated that there continues to be interest in the development of renewable energy resources, particularly wind farms. In addition to environmental concerns such as effects on avian and bat populations, DENR pointed specifically to concerns that coastal wind farms may conflict with low-level military training flights. DENR highlighted the passage this year by the General Assembly of House Bill 484, An Act to Establish a Permitting Program for the Siting and Operation of Wind Energy Facilities, which creates a permitting process within DENR for wind energy facilities to work in tandem with the Certificate of Public Convenience and Necessity requirement, as a direct legislative response to these concerns.

ELECTRIC POWER SUPPLIER COMPLIANCE

Pursuant to Senate Bill 3, electric power suppliers are required, beginning in 2012, to meet an increasing percentage of their retail customers' energy needs by a combination of renewable energy resources and energy reductions from the implementation of EE and DSM measures. Also, pursuant to Senate Bill 3, starting in 2012, part of the REPS requirements must be met through poultry waste and swine waste. In addition, beginning in 2010 each electric power supplier was required to meet a certain percentage of its retail electric sales "by a combination of new solar electric facilities and new metered solar thermal energy facilities that use one or more of the following applications: solar hot water, solar absorption cooling, solar dehumidification, solar thermally driven refrigeration, and solar industrial process heat." G.S. 62-133.8(d). An electric power supplier is defined as "a public utility, an electric membership corporation, or a municipality that sells electric power to retail electric power customers in the State." G.S. 62-133.8(a)(3). Described below are the REPS requirements for the various electric power suppliers and, to the extent reported to the Commission, the efforts of each toward REPS compliance.

Monitoring of Compliance with REPS Requirement

Monitoring of electric power supplier compliance with the REPS requirement of Senate Bill 3 is accomplished through annual filings with the Commission. The rules adopted by the Commission require each electric power supplier to file an annual REPS compliance plan and REPS compliance report to demonstrate reasonable plans for and actual compliance with the REPS requirement.

Compliance plan

Pursuant to Commission Rule R8-67(b), on or before September 1 of each year, each electric power supplier is required to file with the Commission a REPS compliance plan providing, for at least the current and following two calendar years, specific information regarding its plan for complying with the REPS requirement of Senate Bill 3. The information required to be filed includes, for example, forecasted retail sales, RECs earned or purchased, EE measures implemented and projected impacts, avoided costs, incremental costs, and a comparison of projected costs to the annual per-account cost caps.

Compliance report

Pursuant to Commission Rule R8-67(c), each electric power supplier is required to annually file with the Commission a REPS compliance report. While a REPS compliance plan is a forward-looking forecast of an electric power

supplier's REPS requirement and its plan for meeting that requirement, a REPS compliance report is an annual look back at the RECs earned or purchased and energy savings actually realized during the prior calendar year and the electric power supplier's actual progress toward meeting its REPS requirement. Thus, as part of this annual REPS compliance report, each electric power supplier is required to provide specific information regarding its experience during the prior calendar year, including, for example, RECs actually earned or purchased, retail sales, avoided costs, compliance costs, status of compliance with its REPS requirement, and RECs to be carried forward to future REPS compliance years. An electric power supplier must file with its REPS compliance report any supporting documentation as well as the direct testimony and exhibits of expert witnesses. The Commission will schedule a hearing to consider the REPS compliance report filed by each electric power supplier.

For each electric public utility, the Commission will consider the REPS compliance report and determine the extent of compliance with the REPS requirement at the same time as it considers cost recovery pursuant to the REPS incremental cost rider authorized in G.S. 62-133.8(h). Each EMC and municipally-owned electric utility, over which the Commission does not exercise ratemaking authority, is required to file its REPS compliance report on or before September 1 of each year.

Cost Recovery Rider

G.S. 62-133.8(h) authorizes each electric power supplier to establish an annual rider to recover the incremental costs incurred to comply with the REPS requirement and to fund certain research. The annual rider, however, may not exceed the following per-account annual charges:

Customer Class	2008-2011	2012-2014	2015 and thereafter
Residential per account	$10.00	$12.00	$34.00
Commercial per account	$50.00	$150.00	$150.00
Industrial per account	$500.00	$1,000.00	$1,000.00

Commission Rule R8-67(e) establishes a procedure under which the Commission will consider approval of a REPS rider for each electric public utility. The REPS rider operates similar to the fuel charge adjustment rider authorized in G.S. 62-133.2. Each electric public utility is required to file its request for a REPS rider at the same time as it files the information required in its annual fuel charge adjustment proceeding, which varies for each utility. The test periods for both the REPS rider and the fuel charge adjustment rider are the same for each utility, as are the deadlines for publication of notice, intervention, and filing of testimony and exhibits. A hearing on the REPS rider will be scheduled to begin as soon as practicable after the hearing held by the Commission for the purpose of determining the utility's fuel charge adjustment rider. The burden of proof as to whether the REPS costs were reasonable and prudently incurred shall be on the

electric public utility. Like the fuel charge adjustment rider, the REPS rider is subject to an annual true-up, with 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 reflected in a REPS experience modification factor (REPS EMF) rider. Pursuant to G.S. 62-130(e), any over-collection under the REPS rider shall be refunded to a utility's customers with interest through operation of the REPS EMF rider.

Electric Public Utilities

There are three electric public utilities operating in North Carolina subject to the jurisdiction of the Commission: DEP, Duke, and Dominion. Although Duke and DEP underwent a merger in 2012, for REPS compliance purposes they continue to operate as two distinct entities.

REPS requirement

G.S. 62-133.8(b) provides that each electric public utility in the State (Duke, DEP, and Dominion) shall be subject to a REPS requirement according to the following schedule:

Calendar Year	REPS Requirement
2012	3% of prior year's North Carolina retail sales
2015	6% of prior year's North Carolina retail sales
2018	10% of prior year's North Carolina retail sales
2021 and thereafter	12.5% of prior year's North Carolina retail sales

An electric public utility may meet the REPS requirement by any one or more of the following:

- Generate electric power at a new renewable energy facility.
- Use 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.
- Reduce energy consumption through the implementation of an EE measure; provided, however, an electric public utility subject to the provisions of this subsection may meet up to 25% of the requirements of this section through savings due to implementation of EE measures. Beginning in calendar year 2021 and each year thereafter, an electric public utility may meet up to 40% of the requirements of this section through savings due to implementation of EE measures.
- Purchase electric power from a new renewable energy facility. Electric power purchased from a new renewable energy facility located outside the geographic boundaries of the State shall meet

the requirements of this section if the electric power is delivered to a public utility that provides electric power to retail electric customers in the State; provided, however, the electric public utility shall not sell the RECs created pursuant to this paragraph to another electric public utility.

- Purchase RECs derived from in-State or out-of-state new renewable energy facilities. Certificates derived from out-of-state new renewable energy facilities shall not be used to meet more than 25% of the requirements of this section, provided that this limitation shall not apply to Dominion.
- Use 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 this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated RECs.
- Reduce energy consumption through "electricity demand reduction," which is a voluntary reduction in the demand of a retail customer achieved by two-way communications devices that are under the real time control of the customer and the electric public utility.[4]

Duke Energy Progress, Inc. (DEP)

Compliance Report

On June 4, 2012, in Docket No. E-2, Sub 1020, DEP filed its 2011 REPS compliance report and application for approval of its 2012 REPS cost recovery rider pursuant to G.S. 62-133.8 and Rule R8-67. By its application and testimony, DEP proposed to implement the following total REPS rates effective for service rendered on and after December 1, 2012: $0.42 per month for residential customers; $7.28 per month for general service/lighting customers; and $34.33 per month for industrial customers. A hearing was held on DEP's 2011 REPS compliance report and 2012 REPS cost recovery rider on September 18, 2012. On November 16, 2012, the Commission issued an Order approving DEP's REPS rider. The Commission concluded that the appropriate REPS rider was $0.41 per month for the residential class per customer account; $7.04 per month for the commercial class per customer account; and $33.18 per month for the industrial class per customer account, a decrease from previous REPS rates of $0.15 per month for residential customers; an increase of $0.32 per month for general service/lighting customers; and a decrease of $12.34 per month for

[4] Sec. 1 of S.L. 2011-55 amended G.S. 62-133.8(a) by adding a definition of "electricity demand reduction," and Sec. 2 amended G.S. 62-133.8(b)(2) by adding a new subsection (g) making electricity demand reduction a REPS resource, effective April 28, 2011.

industrial customers. In the same Order, the Commission approved DEP's 2011 Compliance Report. In its 2011 REPS compliance report, DEP indicated that it acquired sufficient solar RECs to meet the 2011 requirement of 0.02% of its 2010 retail sales (7,816 RECs). DEP indicated that it would be able to comply with the 2012 solar set-aside (0.07% of 2011 retail sales), but would be unable to meet its 2012 swine waste and poultry waste set-aside requirements (0.07% of retail sales and 170,000 MWh respectively.)

On June 12, 2013, in Docket No. E-2, Sub 1032, DEP filed its 2012 REPS compliance report and application for approval of its 2013 REPS cost recovery rider pursuant to G.S. 62-133.8 and Rule R8-67. By its application and testimony, DEP proposed to implement the following total REPS rates effective for service rendered on and after December 1, 2013: $0.19 per month for residential customers; $7.81 per month for general service/lighting customers; and $29.68 per month for industrial customers. DEP's proposed new REPS rider, if approved, will decrease the current REPS rates (excluding gross receipts taxes and regulatory fee) by $0.22 per month for residential customers; increase the rate by $0.77 per month for general service/lighting customers; and decrease the rate by $3.50 per month for industrial customers. In its 2012 REPS compliance report, DEP indicated that it acquired sufficient RECs to meet the 2012 requirement of 3.0% of its 2011 retail sales (1,125,269 RECs representing 3% of combined 2011 retail megawatt-hour sales of 37,508,895.) Additionally, DEP indicated that it acquired sufficient solar RECs to meet the 2012 requirement of 0.07% of its 2011 retail sales (26,259 RECs.) Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, DEP was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. A hearing has been scheduled on DEP's 2012 REPS compliance report and 2013 REPS cost recovery rider on September 17, 2013. A final decision is pending before the Commission.

Compliance Plan

On September 4, 2012, in Docket No. E-100, Sub 137, DEP filed its 2011 REPS compliance plan as part of its 2012 Integrated Resource Plan (IRP). In its plan, DEP indicated that its overall compliance strategy to meet the REPS requirements consisted of the following opportunities: (1) DEP ownership of, or purchases from, new renewable energy generation; (2) the use of renewable energy resources at generating facilities; (3) purchases of RECs; and (4) implementation of EE measures. DEP has agreed to provide REPS compliance services for the following wholesale customers, as allowed under G.S. 62-133.8(c)(2)(e): the towns of Black Creek, Lucama, Sharpsburg, Stantonsburg, and the city of Waynesville.

DEP has adopted a competitive bidding process for the purchase of energy or RECs from renewable energy facilities whereby market participants have an opportunity to propose projects on a continuous basis. Through this RFP, DEP has

executed a significant number of contracts for solar, hydro, biomass, landfill gas, and out-of-state wind RECs. DEP maintains an open RFP for 10 MW or less of non-solar renewable resources. DEP stated that it does not currently own or operate any new renewable energy facilities. A decision to engage in future direct or partial ownership will be based on cost-effectiveness and portfolio requirements.

DEP engages in ongoing research regarding the use of alternative fuels meeting the definition of renewable energy resources at its existing generation facilities. However, introducing alternative fuels in traditional power plants must be proven technically feasible, reliable, and cost-effective prior to implementation. To the extent DEP determines the use of alternative fuels is appropriate and fits within the framework of Senate Bill 3, these measures would be included in future compliance plan filings.

DEP intends to achieve compliance with the solar set-aside requirements through the execution of a number of solar contracts as well as commercial and residential solar photovoltaic (PV) programs. DEP has maintained a commercial PV program since July 2009, with the target of adding 5 MW of solar PV per year. On July 1, 2010, in Docket No. E-2, Sub 979, DEP filed for Commission approval of its Residential Service SunSense Solar Rebate Rider SSR-1 (SunSense). SunSense is an experimental solar PV rebate program aimed at adding 1 MW per year of distributed solar generation. Residential customers who install rooftop solar PV generating systems will receive a one-time participation payment of $1,000 per kW of installed capacity and monthly bill credits based on the RECs produced by their system. The solar RECs will be the property of DEP. SunSense is limited to 1,000 kW of installed capacity in a calendar year and will be available through December 2015. On November 15, 2010, the Commission issued an Order approving SunSense and granting the participants waivers from several reporting requirements of Commission Rule R8-66 to allow DEP to be the aggregator for information gathering and reporting to the Commission and NC-RETS. DEP initiated SunSense on January 1, 2011.

DEP's primary strategy for compliance with the swine waste set-aside requirement was to jointly procure energy derived from swine waste resources with DEP and other electric power suppliers. DEP stated that the Swine REC Buyers Group issued a joint RFP for swine waste generation and through this RFP executed several contracts that it believed would exceed the statewide aggregate swine waste set-aside requirement. However, DEP stated that in the spring of 2012 the Swine REC Buyers Group terminated several contracts for reasons including consistent failure to develop the project; inability to assign the contract to another developer; and consistent failure to demonstrate progress towards commercial operation. DEP joined the Amended Joint Motion for delay of the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. In its 2012 compliance plan DEP does not state what year it anticipates it will be able to satisfy the swine waste set-aside.

In regards to compliance with the REPS poultry waste set-aside, DEP, in its 2012 compliance report, stated that it was a party to the Amended Joint Motion for delay of the swine waste and poultry waste resource requirements until 2014. In addition, DEP stated that in July, 2010, it joined with other electric suppliers and issued a Joint Poultry RFP. DEP indentified its pro-rata share in 2014 were the Amended Joint Motion approved as proposed, but, does not state what year it anticipated it would be able to satisfy the poultry waste set-aside. A hearing was held on the Amended Joint Motion on August 28, 2012. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, DEP was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013.

DEP intends to comply with a portion of the general REPS requirement by energy savings from DEP's EE measures. DEP has received approval for a number of EE programs and has begun implementation. DEP stated that if the programs were to exceed the 25% cap on EE to satisfy the general REPS requirements in 2012, 2013, and 2014, that it would bank the surplus for use in future compliance years. Based on its current contracts, EE programs and banked RECs, DEP believes that it has procured sufficient resources to meet its general REPS requirement.

On August 28, 2013, the Commission issued an Order in Docket No. E-100, Sub 137, which, among other things, granted a motion by Duke and DEP to extend their compliance plan filing deadline until October 1, 2013. Thus, at the time of the preparation this report, DEP's 2013 compliance plan has not been filed with the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, DEP, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Duke Energy Carolinas, LLC (Duke)

Compliance Report

On March 13, 2013, in Docket No. E-7, Sub 1034, Duke filed its 2012 REPS compliance report and an application for approval of a REPS rider to be effective September 1, 2013. The application requested a REPS rider of ($.01) per month for residential customers (a credit on customer's bills); $3.27 per month for general customers (the Duke equivalent of commercial class customers); and $12.40 per month for industrial customers; each of which is below the incremental per-account cost cap established in G.S. 62-133.8(h). In its 2012 REPS compliance report, Duke indicated that it acquired sufficient RECs to meet the 2012 requirement of 3.0% of its 2011 retail sales (1,783,889 RECs representing 3% of combined 2011 retail megawatt-hour sales of 59,462,811). Additionally, DEP indicated that it acquired sufficient solar RECs to meet the 2012 requirement of 0.07% of its 2011 retail sales (52,823 RECs). Pursuant to

the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Duke was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. A hearing was held on Duke's 2012 compliance report and 2013 REPS cost recovery rider on June 4, 2013. On August 20, 2013, the Commission issued an order approving a REPS rider of ($0.04) per month for residential customers (a credit on customer's bills); $3.14 per month for general service accounts; and $10.73 per month for industrial customers, each of which is below the incremental per-account cost cap established in G.S. 62-133.8(h). The approved changes to the REPS rider result in a decrease in the current REPS rates (excluding gross receipts taxes and regulatory fee) of $0.25 per month for residential customers; an increase of $0.04 per month for general service/lighting customers; and a decrease of $8.88 per month for industrial customers when compared to the previous year's rider. In the same Order the Commission approved Duke's 2012 compliance report and retired the RECs in Duke's 2012 compliance sub account.

Compliance Plan

On September 4, 2012, in Docket No. E-100, Sub 137, Duke filed its 2012 REPS compliance plan as part of its 2012 IRP. In its plan, Duke stated that it is pursuing REPS compliance by building a diverse portfolio of cost-effective renewable energy and EE resources. The key components of Duke's plan include: (1) introduction of EE programs; (2) purchases of unbundled RECs; (3) continued operations of company-owned renewable facilities; and (4) research studies to enhance its ability to comply in the future. Duke believes that the implementation of these strategies will yield a diverse portfolio of cost-effective qualifying resources and a flexible mechanism for REPS compliance. Duke has agreed to provide REPS compliance services for the following wholesale customers, as allowed under G.S. 62-133.8(c)(2)(e): Rutherford EMC; Blue Ridge EMC; the cities of Concord, Dallas, Forest, and Kings Mountain; and the Town of Highlands.

Duke stated that it was confident that it would meet its solar set-aside requirement under its 2012 REPS requirement. Duke has elected to pursue the following courses of action to acquire solar resources for compliance: (1) Duke-owned solar PV distributed generation program; (2) power purchase agreements for solar generation; and (3) purchase of in-State and out-of-state unbundled solar RECs, including RECs from solar thermal facilities. With respect to utility-owned solar resources, Duke received approval from the Commission in 2009 to build, own, and operate up to 10 MW of solar PV projects on customer sites and/or utility-owned property. Duke began construction in the fourth quarter of 2009 and the program was fully implemented in the first quarter of 2011, with the exception of 50 kW. However, a fire at one of the rooftop installations in April 2011 caused Duke to shut down all the facilities in the program. During 2011, and part of 2012, Duke voluntarily disconnected seventeen of the twenty-five distributed generation program sites in order to retrofit the

installations with safety enhancements. Since that time all the sites have been reenergized and Duke stated that the unplanned outage will not adversely affect its ability to meet its solar set-aside requirements. In addition, Duke has executed multiple solar REC purchase agreements with third parties for both out-of-state and in-State solar PV and solar thermal RECs.

Duke's primary strategy for compliance with the swine waste set-aside requirement was to jointly procure energy derived from swine waste resources with DEP and other electric power suppliers. In its compliance plan Duke stated that it has been unable to secure sufficient RECs to satisfy its swine waste set-aside requirements in 2012 and 2013, and that it may be able to meet its 2014 requirement, but that compliance is subject to multiple variables, particularly counterparty achievements of projected delivery requirements and commercial operation milestones. Duke has joined the Amended Joint Motion for delay of the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113, and stated that the petitioners proposed delayed schedule is possible to achieve, caveated by the same variables discussed above.

Additionally, Duke stated in its 2012 compliance plan that it would be unable to secure enough RECs to meet its poultry waste set-aside requirements in 2012 and 2013, and that compliance in 2014 is unlikely. Again, Duke has joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014, and stated that the petitioners proposed delayed schedule is possible to achieve, provided counterparties reach commercial operation and deliver expected REC quantities in line with current expectations. A hearing was held on the Amended Joint Motion on August 28, 2012. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, DEC was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013.

Aside from the solar, swine waste, and poultry waste set-aside requirements, Duke intends to meet the general REPS requirement in 2012, 2013, and 2014 with EE savings, hydroelectric power, biomass resources, out-of-state wind RECs, and solar resources. Duke projects that it will utilize EE savings to meet 25% of its general REPS requirements, the maximum percentage allowable under the statute. Duke plans to use hydroelectric power from three sources to meet the general REPS requirement: (1) small Duke-owned hydroelectric stations; (2) wholesale customers' SEPA allocation; and (3) hydroelectric facilities that have received Qualifying Facility status. Duke stated that it is evaluating a variety of biomass proposals, including landfill gas, CHP facilities, and biomass combustion facilities. Duke noted that reliance on direct combustion biomass has decreased in its long term planning due to uncertainty around the developable potential of such resources in North Carolina and uncertainty concerning various EPA rulemakings. Duke also plans to meet a

portion of the general requirement with RECs from wind facilities, noting that land-based facilities could appear in North and South Carolina in the next decade and that out-of-state RECs exist. Finally, Duke's 2012 compliance plan stated that it plans to meet a portion of the general requirement with RECs from solar facilities, a method not stated in its 2011 compliance plan. Duke stated that the downward trend in solar equipment and installation costs over the past several years is a positive development, and that while some uncertainty exists over supportive policies and future cost declines, Duke fully expects solar resources to contribute to its compliance efforts beyond the solar set-aside. Based on its compliance plan, which Duke stated contains a diversified balance of renewable resources; Duke stated that it will be able to meet its general REPS requirement through 2014.

On August 28, 2013, the Commission issued an Order in Docket No. E-100, Sub 137, which, among other things, granted a motion by Duke and DEP to extend their compliance plan filing deadline until October 1, 2013. Thus, at the time of the preparation this report, Duke's 2013 compliance plan has not been filed with the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, Duke, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Dominion North Carolina Power (Dominion)

Compliance Report

On August 10, 2012, in Docket No. E-22, Sub 487, Dominion filed its 2011 REPS compliance report. The report included compliance status for the Town of Windsor. Dominion stated that it met its 2010 REPS solar set-aside requirement (866 RECs) by purchasing unbundled out-of-state solar RECs. For the Town of Windsor's requirement (11 RECs), at least 75% of the RECs purchased were in-State RECs, as required by G.S. 62-133.8(b)(2)(e). Dominion stated that it has entered into contracts to purchase enough solar RECs to satisfy its compliance requirements through 2014. Dominion stated that it will not be able to meet the swine waste set-aside requirements in G.S. 62-133.8(e) and doubts that any swine waste renewable energy facilities will be in operation by 2013. Dominion further stated that because it can acquire out-of-state state poultry RECs, it would be able to fulfill its poultry waste set-aside requirement in G.S. 62-133.8(f), and would be able to fulfill 25% of that requirement for the Town of Windsor through out-of-state RECs. A hearing was held on Dominion's 2011 compliance report on November 20, 2012. On December 11, 2012, the Commission issued an Order approving Dominion's 2011 compliance report and retired the RECs in Dominion's 2011 compliance sub account. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Dominion was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste

set-aside requirement was delayed until 2013. Dominion did not file an application for approval of a REPS rider in 2012.

On August 29, 2013, in Docket No. E-22, Sub 503, Dominion filed an application for approval of a 2012 REPS recovery rider and its 2012 compliance report. The report included compliance status for the Town of Windsor. Dominion stated that it met its 2012 general REPS requirement (125,368 RECs) by purchasing unbundled out-of-state solar and wind RECs and the Town of Windsor's requirement (1,463 RECs) with additional solar and biomass RECs from within the State. Dominion stated that it met is 2012 solar set-aside requirement (2,926 RECs) and the Town of Windsor's requirement (35 RECs) by purchasing solar RECs. Dominion stated that it will not be able to meet the 2013 swine waste set-aside requirements in G.S. 62-133.8(e) for either itself or the Town of Windsor, despite the fact that Dominion can satisfy its entire requirement through the purchase of out-of-state RECs. Dominion further stated that because it can acquire out-of-state state poultry RECs, it would be able to fulfill its 2013 poultry waste set-aside requirement in G.S. 62-133.8(f), and would be able to fulfill 25% of that requirement for the Town of Windsor through out-of-state RECs. However, it would not be able to meet the remaining 75% of the requirement for the Town of Windsor due to a lack of resources. Further, for the first time, Dominion has requested approval of a REPS Rider; the request does not include any compliance costs from 2010 or 2011. Dominion has requested approval of two riders, an RPE rider to recover historical compliance costs, and an RP Rider to recover future projected 2014 compliance costs. The requested RPE rider is $0.15 for residential accounts, $3.03 for commercial accounts, and $22.40 for industrial accounts. The requested RP rider is $0.20 for residential accounts, $2.58 for commercial accounts, and $17.61 for industrial accounts. A hearing has been scheduled by the Commission for November 13, 2013, to consider Dominion's REPS Rider request and its 2012 compliance report.

Compliance Plan

On August 31, 2012, in Docket No. E-100, Sub 137, Dominion filed its 2012 REPS compliance plan as part of its 2012 IRP. In its plan, Dominion stated that it intends to meet its general REPS requirements through the use of new company-generated renewable energy where economically feasible, EE, and unbundled RECs. Dominion reiterated its responsibility to meeting the REPS requirements for its wholesale customer the Town of Windsor. Dominion is participating with other electric power suppliers to evaluate proposals from swine and poultry waste energy suppliers to meet the swine waste and poultry waste set-aside requirements. Dominion notes that the Swine Waste REC Buyers Group executed seven long term contracts with swine waste to energy developers that were expected to meet their requirements until 2015. However, several of these contracts have now been terminated and Dominion has doubts that any RECs will be available by 2013. Dominion has joined the Amended Joint Motion for delay of the swine waste and poultry waste resource requirements

until 2014 in Docket No. E-100, Sub 113. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Dominion was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013.

Dominion stated that is also participating in the Poultry Waste REC Buyers Group, which has executed two long term poultry waste contracts; as a part of this group Dominion has executed two long term contracts to satisfy the Town of Windsor's in-State requirements. As described above, Dominion is exempt from the 25% limit on the use of out-of-state RECs for REPS compliance, and thus the company continued to search for poultry waste RECs across the country. Dominion entered two poultry waste REC contracts with enough volume to comply with its out-of-state requirements for 2012 through 2014. Dominion stated it will be able to meet its 2012-2014 poultry waste REPS requirements and will be able to meet 25% of the Town of Windsor's. However, as stated above, Dominion joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. Approval of Dominion's 2012 compliance plan is still pending before the Commission.

On August 30, 2013, in Docket No. E-100, Sub 137, Dominion filed its 2013 REPS compliance plan as part of its 2013 IRP. In its plan, Dominion stated that it intends to meet its general REPS requirements in 2013 through 2015 through the use of new company-generated renewable energy where economically feasible, EE, and REC purchases. Dominion reiterated its responsibility to meeting the REPS requirements for its wholesale customer the Town of Windsor. In addition to the above resources, the Town of Windsor's general REPs requirement for 2013 through 2015 will also be satisfied by utilizing the Town's SEPA allocations. Dominion stated that it has contracted for enough solar RECs to satisfy its solar set-aside requirement in 2013 and 2014.

Dominion is participating with other electric power suppliers to evaluate proposals from swine and poultry waste energy suppliers to meet the swine waste and poultry waste set-aside requirements. Dominion reiterated that the Swine Waste REC Buyers Group executed seven long term contracts with swine waste to energy developers that were expected to meet their requirements until 2015. However, several of these contracts have now been terminated and Dominion stated that it is unclear if it will be able to comply with the swine waste set-aside in future years. Dominion stated that is also participating in the Poultry Waste REC Buyers Group, and has joined that group in pursuing approval of an RFP in Docket No. E-100, Sub 113. As described above, Dominion is exempt from the 25% limit on the use of out-of-state RECs for REPS compliance, and thus the company continued to search for poultry waste RECs across the country. Dominion entered two poultry waste REC contracts with enough volume to comply with its out-of-state requirements for 2013 through 2015. Dominion stated it will be able to meet its 2013-2015 poultry waste set-aside requirements and will be able to meet 25% of the Town of Windsor's. Approval of

Dominion's 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, Dominion, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

EMCs and Municipally-Owned Electric Utilities

There are thirty-one EMCs serving customers in North Carolina, including twenty-six that are headquartered in the state. Twenty-five of the EMCs are members of North Carolina EMC (NCEMC), a generation and transmission (G&T) services cooperative that provides wholesale power and other services to its members.

In addition, there are seventy-four municipal and university-owned electric distribution systems serving customers in North Carolina. These systems are members of ElectriCities of North Carolina, Inc. (ElectriCities), an umbrella service organization. ElectriCities is a non-profit organization that provides many of the technical, administrative, and management services required by its municipally-owned electric utility members in North Carolina, South Carolina, and Virginia. ElectriCities is a service organization for its members, not a power supplier. Fifty-one of the North Carolina municipalities are participants in either NCEMPA or NCMPA1, municipal power agencies that provide wholesale power to their members. The remaining municipally-owned electric utilities generate their own electric power or purchase electric power from wholesale electric suppliers.

By Orders issued August 27, 2008, the Commission allowed twenty-three EMCs to file their REPS compliance plans on an aggregated basis through GreenCo,[5] and the fifty-one municipal members of the power agencies to file through NCEMPA and NCMPA1. On September 7, 2010, the Commission similarly allowed TVA to file annual REPS compliance plans and reports on behalf of its four wholesale customers that provide retail service to customers in North Carolina.

REPS requirement

G.S. 62-133.8(c) provides that each EMC or municipality that sells electric power to retail electric power customers in the State shall be subject to a REPS according to the following schedule:

[5] Effective May 1, 2010, Blue Ridge EMC is no longer a member of GreenCo.

Calendar Year	REPS Requirement
2012	3% of prior year's North Carolina retail sales
2015	6% of prior year's North Carolina retail sales
2018 and thereafter	10% of prior year's North Carolina retail sales

Compliance with the REPS requirement is slightly different for an EMC or municipality than for an electric public utility. An EMC or municipality may meet the REPS requirement by any one or more of the following:

- Generate electric power at a new renewable energy facility.
- Reduce energy consumption through the implementation of DSM or EE measures.
- Purchase electric power from a renewable energy facility or a hydroelectric power facility, provided that no more than 30% of the requirements of this section may be met with hydroelectric power, including allocations made by the Southeastern Power Administration.
- Purchase RECs derived from in-State or out-of-state renewable energy facilities. An electric power supplier subject to the requirements of this subsection may use certificates derived from out-of-state renewable energy facilities to meet no more than 25% of the requirements of this section.
- Acquire all or part of its electric power through a wholesale purchase power agreement with a wholesale supplier of electric power whose portfolio of supply and demand options meet the requirements of this section.
- Use electric power that is supplied by a new renewable energy facility or saved due to the implementation of DSM or EE measures that exceeds the requirements of this section for any calendar year as a credit towards the requirements of this section in the following calendar year or sell the associated RECs.
- Reduce energy consumption through "electricity demand reduction," which is a voluntary reduction in the demand of a retail customer achieved by two-way communications devices that are under the real time control of the customer and electric power supplier.[6]

[6] Sec. 1 of S.L. 2011-55 amended G.S. 62-133.8(a) by adding a definition of "electricity demand reduction," and Sec. 2 amended G.S. 62-133.8(c)(2) by adding a new subsection (g) making electricity demand reduction a REPS resource, effective April 28, 2011.

Electric Membership Corporations

GreenCo Solutions, Inc. (GreenCo)

On September 4, 2012, in Docket No. E-100, Sub 135, GreenCo filed its 2011 REPS compliance report. On the same day in Docket No. E-100, Sub 137, GreenCo filed its 2012 compliance plan with the Commission on behalf of its member EMCs[7], as well as Mecklenburg Electric Cooperative and Broad River Electric Cooperative. In its plan, GreenCo stated that it intended to use its members' allocations from SEPA, RECs purchased from both in-State and out-of-state renewable energy facilities, and EE savings from eleven recently approved EE programs to meet its members' REPS requirements. GreenCo submitted a M&V plan for the EE programs in both its 2012 compliance plan, as well as its 2011 compliance report, and stated that it would not use any RECs associated with the programs in its 2011 compliance, nor would it seek to use any RECs in future years from the program until the M&V plan has been approved by the Commission. GreenCo stated that despite its continued work in collaborative efforts with other electric power suppliers to meet the swine waste and poultry waste set-aside REPS requirements that it did not anticipate complying until 2014. GreenCo joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. In its 2011 REPS compliance report, GreenCo stated that it secured adequate resources to meet the solar set-aside requirement for 2011. Lastly, for 2011, the REPS incremental costs incurred by GreenCo's members were significantly less than the costs allowed under the per-account cost cap in G.S. 62-133.8(h). Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, GreenCo was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Approval of GreenCo's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On September 3, 2013, in Docket No. E-100, Sub 139, GreenCo filed its 2012 REPS compliance report and its 2013 compliance plan with the Commission on behalf of its member EMCs, as well as Mecklenburg Electric Cooperative and Broad River Electric Cooperative. In its plan, GreenCo stated that it intended to use its members' allocations from SEPA, RECs purchased from both

[7] The following EMCs are members of GreenCo: Albemarle EMC, Brunswick EMC, Cape Hatteras EMC, Carteret-Craven EMC, Central EMC, Edgecombe-Martin County EMC, Four County EMC, French Broad EMC, Haywood EMC, Jones-Onslow EMC, Lumbee River EMC, Pee Dee EMC, Piedmont EMC, Pitt & Greene EMC, Randolph EMC, Roanoke EMC, South River EMC, Surry-Yadkin EMC, Tideland EMC, Tri-County EMC, Union EMC, and Wake EMC. Effective May 1, 2010, Blue Ridge EMC is no longer a member of GreenCo. The REPS requirements of Mecklenburg Electric Cooperative, headquartered in Chase, Virginia, and Broad River Electric Cooperative, headquartered in Gaffney, South Carolina, are aggregated with the GreenCo members in its REPS compliance plan. Beginning in 2012 the requirements for the town of Oak City (a wholesale customer of Edgecombe-Martin County EMC) are included in the compliance requirements for Edgecombe-Martin County EMC.

in-State and out-of-state renewable energy facilities, and EE savings from eleven approved EE programs to meet its members' REPS requirements. GreenCo submitted an M&V plan for the EE programs in both its 2012 compliance plan, as well as its 2011 compliance report, which is still pending Commission approval. Additionally, in its 2013 compliance plan GreenCo stated that M&V plans for additional programs are currently being developed and will be submitted as soon as they become available. GreenCo stated that it intends to join other electric power suppliers to request a delay to the 2013 swine waste and poultry waste set-aside REPS requirements, noting that the prospect of complying in 2014 and 2015 did not seem likely. In its 2012 REPS compliance report, GreenCo stated that it secured adequate resources to meet its members' solar set-aside requirement for 2012 (8,875 RECs for GreenCo, 2 RECs for Mecklenburg, and 5 RECs for Broad river). GreenCo also stated that it secured adequate resources to meet its members' general REPs requirement for 2012 (380,356 RECs for GreenCo, 48 RECs for Mecklenburg, and 174 RECs for Broad river). Lastly, for 2012, the REPS incremental costs incurred by GreenCo's members were significantly less (around one-fifth) than the costs allowed under the per-account cost cap in G.S. 62-133.8(h). Approval of GreenCo's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, GreenCo, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

EnergyUnited Electric Membership Corporation (EnergyUnited)

On August 31, 2012, in Docket No. E-100, Sub 137, EnergyUnited filed its 2012 IRP and 2012 REPS compliance plan with the Commission. On the same day, in Docket No. E-100, Sub 135, EnergyUnited filed its 2011 REPS compliance report with the Commission. In its report, EnergyUnited stated that it met its 2011 solar set-aside requirement by purchasing 488 solar RECs. In its 2012 compliance plan, EnergyUnited stated that it planned to fulfill its general REPS requirement in 2012 and beyond through the use of landfill gas generation (through 2012, with an option to extend the contract); RECs from its SEPA allocation; the purchase of RECs; and its two approved EE programs. EnergyUnited stated that it had already accumulated enough general RECs to meet its 2012 requirement (72,134), and anticipates accumulating enough RECs to meet its requirement for many years into the future. EnergyUnited stated that it was participating with other electric utilities to jointly procure RECs to satisfy the swine waste set-aside requirements. EnergyUnited also stated that it was participating with other electric utilities to jointly procure RECs to satisfy the poultry waste set-aside requirements. EnergyUnited stated that it had contracted for out-of-state poultry RECs that would be eligible to satisfy a portion of its poultry waste set-aside requirement. However, EnergyUnited cited a lack of sufficient resources and stated that it had joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until

2014 in Docket No. E-100, Sub 113. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, EnergyUnited was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Approval of EnergyUnited's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On August 27, 2013, in Docket No. E-100, Sub 139, EnergyUnited filed its 2013 REPS compliance plan and its 2012 REPS compliance report with the Commission. In its report, EnergyUnited stated that it met its 2012 general REPS requirement (72,134 RECs) through its SEPA allocations, EE programs, and the purchase of RECs. EnergyUnited stated that it met its solar set-aside requirement by purchasing 1,684 solar RECs. EnergyUnited noted in its report that its incremental costs of compliance were about one-third of the per-account cost cap. In its 2013 compliance plan, EnergyUnited stated that it planned to fulfill its general REPS requirement in 2013 and beyond through the use of landfill gas generation, RECs from its SEPA allocations; the purchase of RECs, and its two approved EE programs. EnergyUnited stated that it had already accumulated enough general RECs to meet its 2013 requirement (69,131) and anticipates accumulating enough RECs to meet its requirement for many years into the future. Further, EnergyUnited stated that it intends to meet its 2013 solar set-aside requirement through the purchase of RECs, adding that it has already accumulated enough to meet its 2013 solar set-aside requirement (1,614.)

In its compliance plan, EnergyUnited stated that it had participated with other electric utilities to jointly procure RECs to satisfy the swine waste set-aside requirements, however, none of the facilities identified were currently operational. EnergyUnited stated that it issued an RFP for swine waste RECS in 2013 but received no proposals. Further, EnergyUnited indicated it has purchased a small amount of out-of-state swine RECs that could be used to meet a portion of its 2013 swine waste set-aside requirement, but that it anticipates joining other utilities in asking that the 2013 swine waste set-aside requirement be waived. EnergyUnited also stated that it is participating with other electric utilities to jointly procure RECs to satisfy the poultry waste set-aside requirements. EnergyUnited cited a lack of sufficient resources and stated that it anticipates joining other utilities in asking that the 2013 r poultry waste set-aside requirement be waived. Approval of EnergyUnited's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, EnergyUnited, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Tennessee Valley Authority (TVA)

On September 7, 2010, in Docket No. E-100, Sub 129, the Commission issued an Order approving TVA's request to file an aggregated REPS

compliance plan and REPS compliance report on behalf of its four wholesale customers serving retail customers in North Carolina: Blue Ridge Mountain EMC, Mountain Electric Coop, Inc., Tri-State EMC, and Murphy Electric Power Board.

On August 27, 2012, in Docket No. E-100, Sub 135, TVA filed its 2012 REPS compliance plan and 2011 REPS compliance report with the Commission. In its plan, TVA indicated its intent to fulfill the general REPS requirement in 2012 through 2014 with its SEPA allocations, the purchase of out-of-state wind RECs, and the purchases of various in-State RECs. With regard to its cooperatives' solar set-aside requirement in years 2012 through 2014, TVA reiterated its plans to meet the requirement by generating the energy at its facilities and facilities owned by others, and/or purchasing solar RECs. In its report, TVA stated it had satisfied its cooperatives' 2011 solar set-aside requirement through the generation of solar energy and the purchase of solar RECs. TVA stated that it believes that the 2012 and 2013 swine waste and poultry waste set-aside requirements will be delayed until 2014. TVA further stated that if the swine waste and poultry waste set-asides are not delayed TVA will attempt to purchase RECs to comply. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, TVA's cooperatives were relieved of their 2012 swine waste set-aside requirement and their 2012 poultry waste set-aside requirement was delayed until 2013. Approval of TVA's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On August 30, 2013, in Docket No. E-100, Sub 139, TVA filed its 2013 REPS compliance plan and 2012 REPS compliance report with the Commission. In its plan, TVA indicated its intent to fulfill the general REPS requirement in 2013 through 2015 with its SEPA allocations, purchase of out-of-state wind RECs, and the purchases of various in-State RECs. With regard to its cooperatives' solar set-aside requirement in years 2013 through 2015, TVA reiterated its plans to meet the requirement by generating the energy at its own facilities. In its report TVA stated it had satisfied its cooperatives' 2012 general REPS requirement with its SEPA allocations, purchase of out-of-state wind RECs, and the purchases of various in-State RECs and had satisfied its cooperatives' 2012 solar set-aside requirement through the generation of solar energy. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, TVA's cooperatives were relieved of their 2012 swine waste set-aside requirement and their 2012 poultry waste set-aside requirement was delayed until 2013. TVA indicated that it intends to seek relief from the 2013 swine waste set-aside requirement and the 2013 poultry waste set-aside requirement within the month. Additionally, TVA indicated that it is attempting to procure swine and poultry waste RECs to satisfy its cooperatives' 2014 and 2015 swine and poultry waste set-aside requirements. Approval of TVA's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, TVA, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Halifax Electric Membership Corporation (Halifax)

On September 4, 2012, in Docket No. E-100, Sub 137, Halifax filed its 2012 REPS compliance plan with the Commission. On the same day, in Docket No. E-100, Sub 135, Halifax filed its 2011 REPS compliance report with the Commission. In its compliance plan, Halifax stated that it intends to meet its REPS requirements with a combination of SEPA allocations, EE programs, solar energy production, solar and wind RECs and additional resources to be determined on an ongoing basis. Halifax noted that it is a participant in the collaborative effort of electric power suppliers to meet the swine waste and poultry waste set-aside requirements, but also noted that the swine group's future is uncertain, and, thus, Halifax would look for swine RECs on its own to satisfy the 2012 swine waste set-aside requirement. Halifax stated that compliance with its 2012 poultry waste set-aside requirement is uncertain. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Halifax was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. With regard to its 2011 solar set-aside requirement, Halifax met that requirement by generating solar energy on its 98.56 kW solar PV system and purchasing solar RECs. Approval of Halifax's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On September 3, 2013, in Docket No. E-100, Sub 139, Halifax filed its 2013 REPS compliance plan and its 2012 REPS compliance report with the Commission. In its compliance plan, Halifax stated that it intends to meet its REPS requirements with a combination of SEPA allocations, EE programs, solar energy production, solar and wind RECs and additional resources to be determined on an ongoing basis. Halifax noted that it participated in the collaborative effort of electric power suppliers to meet the swine waste and poultry waste set-aside requirements, but that the groups' futures were uncertain, thus, Halifax individually has contracted to satisfy the 2013 and 2014 swine waste set-aside requirement. Halifax stated that compliance with its 2013 poultry waste set-aside requirement is uncertain at this time. According to its 2012 compliance report, Halifax met its 2012 general REPS requirement utilizing its SEPA allocations, various EE programs, and REC purchases. With regard to its 2012 solar set-aside requirement, Halifax met the requirement by generating solar energy on its 98.56 kW solar PV system and purchasing solar RECs. Halifax noted that its incremental costs of compliance were well below that established by the per-account cost cap. Approval of Halifax's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, Halifax, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Municipally-owned electric utilities

North Carolina Eastern Municipal Power Agency (NCEMPA)

On August 30, 2012, in Docket No. E-100, Sub 135, NCEMPA filed with the Commission, on behalf of its members, a 2012 REPS compliance plan and 2011 REPS compliance report. In its 2012 compliance plan, NCEMPA stated that its members had no plans to generate electric power at a renewable energy facility. NCEMPA stated that its members would meet their REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. The EE programs included a Home EE Kit designed to help residential customers understand energy usage and its effect on energy bills. The compliance plan provided a description of the M&V plan for the Home EE Kit program. NCEMPA stated that it had entered into contracts to purchase various types of RECs and will continue to investigate the market for unbundled RECs as a cost-effective means of REPS compliance. In its compliance report, NCEMPA stated that it met its 2011 solar set-aside requirement by purchasing solar RECs. In its compliance plan, NCEMPA stated that it has entered into contracts for enough RECs to satisfy the solar set-aside requirement through 2014. NCEMPA stated that despite its continued work in collaborative efforts with other electric power suppliers to meet the swine waste set-aside REPS requirements that it did not anticipate complying until 2014. Additionally, NCEMPA stated, that despite entering into contracts for both in-State and out-of-state poultry RECs, it was unlikely that they would be able to comply in 2012. NCEMPA joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. Pursuant to the Commission's November 29, 2012 Order, NCEMPA was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Finally, NCEMPA estimated that its incremental costs for REPS compliance will be substantially less than its per-account cost cap in 2012 through 2014. Approval of NCEMPA's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On August 26, 2013, in Docket No. E-100, Sub 139, NCEMPA filed with the Commission, on behalf of its members, a 2013 REPS compliance plan and 2012 REPS compliance report. In its 2013 compliance plan, NCEMPA stated that its members had no plans to generate electric power at a renewable energy facility. NCEMPA stated that its members would meet their REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. The EE programs included the Home EE Kit discussed above. The compliance plan provided a description of the M&V plan for the Home EE Kit program. NCEMPA stated that it had entered into contracts to purchase various types of RECs and will continue to investigate the market for unbundled RECs as a cost-effective means of REPS compliance. In its compliance report, NCEMPA stated that it met its 2012 general REPS requirement (214,027 RECs) through the purchase of

bundled renewable energy and the purchase of solar, biomass, and wind RECs. Additionally, NCEMPA stated in its report that it met its 2012 solar set-aside requirement (4,994 RECs) by purchasing solar RECs. In its compliance plan, NCEMPA stated that it has entered into contracts for enough RECs to satisfy the solar set-aside requirement through 2015.

In its compliance plan, NCEMPA stated that, despite its continued collaborative efforts with other electric power suppliers to meet the swine waste set-aside REPS requirements and the issuance of its own RFP, that it did not anticipate complying in 2013, 2014, or 2015. Additionally, NCEMPA stated it had entered into contracts for both in-State and out-of-state poultry RECs to satisfy its requirements for 2013 through 2015, but that due to several outstanding issues, including lack of certainty in the delivery of RECs and the revocation of the registration of one of its suppliers, NCEMPA did not anticipate complying with the 2013, 2014, or 2015 poultry set-aside requirements. Finally, NCEMPA stated in its report that its 2012 incremental costs were about one-ninth of the per-account cost cap and estimated in its compliance plan that the incremental costs for REPS compliance will be significantly less than its per-account cost cap in 2013 through 2015. Approval of NCEMPA's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 20, 2013, in Docket No. E-100, Sub 113, NCEMPA, along with NCMPA1, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

North Carolina Municipal Power Agency No. 1 (NCMPA1)

On August 30, 2012, in Docket No. E-100, Sub 135, NCMPA1 filed with the Commission on behalf of its members a 2012 REPS compliance plan and 2011 REPS compliance report. In its 2012 compliance plan, NCMPA1 stated that it intended to investigate and develop, as applicable, new renewable energy facilities. NCMPA1 stated that its members would meet their REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. The EE programs include a Home EE Kit, High Efficiency Heat Pump Rebate Program, Commercial Prescriptive Lighting Program, Commercial and Industrial EE Program, and a Municipal EE Program. M&V plans were described in the compliance plan for each program. NCMPA1 stated that it had entered into contracts to purchase various types of RECs and would continue to investigate the market for unbundled RECs as a cost-effective means of REPS compliance. In its compliance report, NCMPA1 stated that it met its 2011 solar set-aside requirement by purchasing electricity from solar generating facilities and through the purchase of solar RECs. In its compliance plan, NCMPA1 stated that it had entered into contracts for enough RECs to satisfy the solar set-aside requirement through 2014. NCMPA1 stated that despite its continued work in collaborative efforts with other electric power suppliers to meet the swine waste set-aside REPS requirements that it did not anticipate complying until 2014. Additionally, NCMPA1 stated it had entered into contracts for both in-State and out-of-state poultry RECs

to satisfy its requirements for 2012 through 2014. Despite its perceived ability at the time to comply, NCMPA1 joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, NCMPA1 was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Finally, NCMPA1 estimated that its incremental costs for REPS compliance will be less than its per-account cost cap in 2012 through 2014. Approval of NCEMPA's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On August 26, 2013, in Docket No. E-100, Sub 139, NCMPA1 filed with the Commission on behalf of its members a 2013 REPS compliance plan and 2012 REPS compliance report. In its 2013 compliance plan, NCMPA1 stated that it intended to investigate and develop, as applicable, new renewable energy facilities. NCMPA1 stated that its members would meet their REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. The EE programs include a Home EE Kit, High Efficiency Heat Pump Rebate Program, Commercial Prescriptive Lighting Program, Commercial and Industrial EE Program, and a Municipal EE Program. M&V plans were described in the compliance plan for each program. NCMPA1 stated that it had entered into contracts to purchase various types of RECs and would continue to investigate the market for unbundled RECs as a cost-effective means of REPS compliance. In its compliance report, NCMPA1 stated that it met its 2012 general REPS requirement (148,668 RECs) by purchasing renewable energy and through the purchase of solar, biomass, and wind RECs. Additionally, NCMPA1 stated in its report that it met its 2012 solar set-aside requirement (3,469 RECs) by purchasing electricity from solar generating facilities and through the purchase of solar RECs. In its compliance plan, NCMPA1 stated that it had entered into contracts for enough RECs to satisfy the solar set-aside requirement through 2015.

In its compliance plan, NCMPA1 stated that despite its continued work in collaborative efforts with other electric power suppliers to meet the swine waste set-aside REPS requirements and the issuance of its own RFP that it did not anticipate complying in 2013. Additionally, NCMPA1 stated it had entered into contracts for both in-State and out-of-state poultry RECs to satisfy its requirements for 2013 through 2015, but that several outstanding issues, including lack of certainty in the delivery and eligibility of RECs, made it unclear if it would be able to comply with the 2013 poultry set-aside requirement. Finally, NCMPA1 stated in its report that its 2012 incremental costs were about one-sixth of the per-account cost cap and estimated in its compliance plan that the incremental costs for REPS compliance will be significantly less than its per-account cost cap in 2013 through 2015. Approval of NCEMPA's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 20, 2013, in Docket No. E-100, Sub 113, NCMPA1, along with NCEMPA, filed a motion to

delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Fayetteville Public Works Commission (FPWC)

On October 15, 2010, in Docket No. E-100, Sub 129, FPWC filed its 2009 REPS compliance report. The report stated that FPWC had engaged in several activities that resulted in FPWC's receipt of RECs to be carried forward for use in complying with FPWC's REPS requirements in 2010 and beyond.

On August 30, 2011, in Docket No. E-100, Sub 129, the Public Staff filed comments on the 2009 REPS compliance report of FPWC. The Public Staff noted FPWC's request to rely on REPS compliance by its wholesale power supplier, DEP, and FPWC's inclusion of lost retail sales in its REPS costs were inconsistent with Commission decisions, noting that after FPWC filed its 2009 report the Commission decided in Docket No. E-48, Sub 6, that as a general rule neither a cooperative or municipal electric supplier can rely on its wholesale provider's REPS compliance, and that it is not acceptable for a cooperative or municipal supplier to include lost retail revenues as a cost of REPS compliance. After noting two additional exceptions, the Public Staff recommended that the Commission approve FPWC's 2009 compliance report.

On September 1, 2011, in Docket No. E-100, Sub 131, FPWC filed its 2011 REPS compliance plan and 2010 REPS compliance report. FPWC's compliance plan stated that it had continued several efforts resulting in FPWC's receipt of RECs to be carried forward for use in complying with FPWC's REPS requirements in 2011 and beyond. In its 2010 REPS compliance report, FPWC stated that it met its 2010 solar set-aside requirement by purchasing solar RECs.

On April 30, 2012, FPWC filed a revised 2009 REPS compliance report in Docket No. E-100, Sub 129, and a revised 2010 REPS compliance report in Docket No. E-100, Sub 131. In both filings, FPWC proposed to amend its REPS reports to exclude electric use and accounts associated with electricity used by other municipal departments of the City of Fayetteville (City), including City water and sewer operations. On May 8, 2012, and May 10, 2012, the Public Staff filed comments in the above-captioned dockets opposing FPWC's proposal to amend it 2009 and 2010 REPS compliance reports. On May 14, 2012, the Commission issued an Order finding that the 423 solar RECs FPWC had placed in its 2010 REPS compliance sub-account in the NC-RETS corresponded to the highest 2009 retail sales figure that had been posited for FPWC, and that FPWC's proposed revised 2010 REPS compliance report did not propose a revised number of RECs for FPWC's 2010 REPS compliance. The Commission concluded that FPWC had complied with its 2010 REPS requirement. Subsequently the Commission permanently retired the 423 solar RECs that were in FPWC's 2010 NC-RETS compliance sub-account.

On May 30, 2012, FPWC filed a motion for reconsideration of the Commission's May 14, 2012 Order. FPWC asked the Commission to defer retirement of 22 of the 423 solar RECs it had placed in its 2010 NC-RETS compliance sub-account until the Commission "resolves the pending dispute as to the proper level of retail electric sales that are attributable to FPWC in 2009 for purposes of calculating FPWC's 2010 REPS obligation." Also on May 30, 2012, FPWC filed a reply to the Public Staff's comments. On June 12, 2012, the Commission issued an Order finding that it is necessary to address this issue on a generic basis and requesting comments from all parties that have been involved in the REPS rulemakings, in addition to specific informational requests to FPWC. On July 31, 2012, FPWC filed a response to the Commission's June 12, 2012 Order. On July 30, 2012, and August 1, 2012, NCSEA and Public Staff respectively filed comments opposing FPWC's motion for reconsideration. On July 31, 2012, Blackfield, Enfield, Forest City, Highlands, Lucama, Sharpsburg, Statonsburg, and Waynesville (collectively NC Towns) filed comments in support of the motion. On August 1, 2012, NCEMPA and NCMPA1 filed comments in support of the motion. On August 12, 2012, FPWC filed reply comments.

On January 25, 2013, in Docket No. E-100, Subs 129 and 131, the Commission issued an Order, concluding that a municipality serving as an electric power supplier may exempt electric consumption by its electric operations for the purposes of calculating its retail sales under G.S. 62-133.8, however, electric consumption by a municipality serving as an electric power supplier that is unrelated to its electric operations shall be considered a retail sale under G.S. 62-133.8 and included when calculating an electric power suppliers REPS requirement. The Commission disapproved FPWC's 2010 compliance report and ordered FPWC to amend and refile its report by June 1, 2013. On June 25, 2013, after the Commission granted an extension of time, FPWC filed amended 2009 and 2010 compliance reports in Dockets E-100, Subs 129 and 131 respectively. Approval of FPWC's 2009 and 2010 compliance reports is still pending before the Commission.

On August 21, 2012, in Docket No. E-100, Sub 135, FPWC filed a motion for an extension of time to file its 2011 compliance report and 2012 compliance plan. On August 27, 2012, in the same docket the Commission issued an Order granting FPWC an extension to file its report and plan until September 24, 2012. On September 24, 2012, FPWC filed its 2011 compliance report and 2012 compliance plan in Docket No. E-100, Sub 135. Following the Commission's January 25, 2013 Order in Docket No. E-100, Subs 129 and 131, FPWC could no longer exempt its electric consumption that was unrelated to its electric operations when calculating its REPS requirement, consequently, FPWC filed an amendment to its 2011 compliance report of June 25, 2013. In its 2012 compliance plan, FPWC stated that it intended to meet its REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. The EE programs include a compact florescent lighting program, a LEED certified

customer service building, a $martworks Energy Efficiency Program, a GoGreen School Initiative, and improvements to city buildings. M&V plans were described in the compliance plan for each program. In its amended compliance report, FPWC stated that it met its 2011 solar set-aside requirement through the purchase of 443 solar RECs. FPWC stated that it had joined the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. Pursuant to the Commission's November 29, 2012 Order, FPWC was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Finally, FPWC stated that its incremental costs for REPS compliance are projected to be less than its per-account cost cap in 2012 through 2014. Approval of FPWC's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On August 30, 2013, in Docket No. E-100, Sub 139, FPWC filed its 2012 compliance report and 2013 compliance plan. In its 2013 compliance plan, FPWC stated that it intended to meet its REPS requirements by purchasing RECs, as well as utilizing SEPA allocations and EE programs. In its amended compliance report, FPWC stated that it met its 2012 general REPS requirement (64,537 RECs) through the purchase of in-State and out-of-state RECs. Additionally, FPWC stated that it met its solar set-aside requirement through the purchase of 1,506 solar RECs. In its compliance plan FPWC stated that it would be unable to meet its 2013 swine waste and poultry waste set-asides and that it intended to join with other electric power suppliers in requesting an additional delay of those requirements. Finally, FPWC stated that its incremental costs for REPS compliance are projected to be less than its per-account cost cap in 2013 through 2015. Approval of FPWC's 2012 compliance report and 2013 compliance plan is pending before the Commission. On September 16, 2013, in Docket No. E-100, Sub 113, FPWC, along with seven other parties, filed a motion to delay the 2013 swine and poultry waste set-aside requirements. The Commission has scheduled the matter for hearing on November 6, 2013.

Oak City

On August 29, 2012, in Docket No. E-100, Sub 135, Oak City filed its 2012 REPS compliance plan and 2011 REPS compliance report. Oak City's compliance plan stated that, due to its small size and the burden of compliance, Oak City had reached a preliminary agreement with Edgecombe Martin EMC (EMEMC), its wholesale provider, to meet the Town's REPS requirement. EMEMC utilizes GreenCo as its compliance agent; Oak City expected the transition to be complete at the end of 2012. Oak City stated that beginning January 1, 2013, it will compensate EMEMC for the cost of compliance moving forward. To satisfy 2012 requirements Oak City intended to purchase solar and generic RECs, as well as swine and poultry RECs if available. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Oak City was relieved of its 2012 swine waste set-aside requirement and its 2012

poultry waste set-aside requirement was delayed until 2013. Oak City's 2011 REPS compliance report stated that it acquired one solar REC to meet its 2011 solar set-aside requirement. Approval of Oak City's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

In its 2012 compliance report, GreenCo indicated that it had included Oak City in its calculation of EMEMC's REPS requirements.

Winterville

On August 30, 2012, in Docket No. E-100, Sub 135, Winterville filed its 2012 REPS compliance plan and 2011 REPS compliance report. Winterville stated that it continues to implement existing EE programs and investigate the potential for implementing new programs. However, Winterville indicated that it would be primarily purchasing RECs due to the lower than anticipated cost of RECs and the expense of EE programs. Winterville indicated that it had not purchased any RECs yet for 2012 compliance, but that it expected to purchase RECs in August through November of 2012. Winterville had not participated in the joint buyers groups for swine or poultry RECs, but indicated that it was willing to purchase swine and poultry RECs from other utilities or on the market if available. Winterville requested that any delay granted as a result of the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113, also apply to Winterville. Winterville's 2011 REPS compliance report stated that it met its 2011 solar set-aside requirement by purchasing solar RECs. Approval of Winterville's 2011 compliance report and 2012 compliance plan is still pending before the Commission. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Winterville was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013.

On August 30, 2013, in Docket No. E-100, Sub 139, Winterville filed its 2013 REPS compliance plan and 2012 REPS compliance report. Winterville stated that it will only continue to implement its existing CFL Lighting program and will cease its other EE programs due to inefficiency and the difficulty and cost of verification. Winterville indicated that it would be primarily purchasing RECs due to the lower than anticipated cost of RECs and the expense of EE programs. Winterville indicated that it had not purchased any RECs yet for 2013 compliance, but that it expected to purchase RECs in August through December of 2013. Winterville further explained that in the last quarter of 2013 it anticipated entering into an agreement with DEP to provide REPS compliance services. Winterville did not participate in the joint buyers groups for swine or poultry RECs, but indicated that it was willing to purchase swine and poultry RECs from other utilities or on the market if available. Winterville again requested that any delay granted as a result other electric power suppliers' potential request for delay of both the swine waste and poultry waste set-aside requirements until

2014, also apply to Winterville. In its 2012 REPS compliance report, Winterville stated that it met its 2012 solar set-aside requirement by purchasing 36 solar RECs. Additionally, Winterville stated that it met its 2012 general requirement of 1,511 RECS by purchasing RECs and earning EE RECs. Finally, Winterville stated that its incremental costs were below the per-account cost cap for compliance in 2012. Approval of Winterville's 2012 compliance report and 2013 compliance plan is pending before the Commission.

Town of Fountain (Fountain)

On August 29, 2012, in Docket No. E-100, Sub 135, Fountain filed its 2012 compliance plan and 2011 compliance report. Fountain noted in its compliance plan that it would look into EE programs, but that the bulk of its compliance with the general REPS requirement for 2012 through 2014 would be satisfied through the purchase of RECs. Fountain's report stated that its 2011 REPS compliance requirement was one solar REC. Fountain also stated that in 2011 it purchased an additional solar REC to belatedly comply with its 2010 solar requirement. Fountain also noted that it did not participate in the collaborative effort to acquire swine and poultry RECs, nor was it a party in the Amended Joint Motion for delay of both the swine waste and poultry waste resource requirements until 2014 in Docket No. E-100, Sub 113. However, by separate letter Fountain requested that the Commission apply any relief from the swine waste and poultry waste set-asides granted in that proceeding to Fountain as well. Fountain indicated it would purchase swine and poultry RECs to satisfy its future requirements if available. Pursuant to the Commission's November 29, 2012 Order in Docket No. E-100, Sub 113, Fountain was relieved of its 2012 swine waste set-aside requirement and its 2012 poultry waste set-aside requirement was delayed until 2013. Approval of Fountain's 2011 compliance report and 2012 compliance plan is still pending before the Commission.

On August 19, 2013, in Docket No. E-100, Sub 139, Fountain filed its 2013 compliance plan and 2012 compliance report. Fountain noted in its compliance plan that it would look into EE programs, but that the bulk of its compliance with the general REPS requirement for 2013 through 2015 would be satisfied through the purchase of RECs. Fountain indicated that it currently has enough solar RECs to satisfy both its 2013 and 2014 solar set-aside requirements, but that it will need to contract the purchase of all other remaining requirements. In its compliance report, Fountain stated that its 2012 general REPS requirement was 111 RECs and its solar set-aside requirement was one solar REC, both which were satisfied through the purchase of RECs. Further, Fountain noted that its incremental costs were about two-thirds of the allowed per-account cost cap. Approval of Fountain's 2012 compliance report and 2013 compliance plan is pending before the Commission.

Wholesale Providers Meeting REPS Requirements

DEP, as the wholesale provider, has agreed to meet the REPS requirements for the towns of Black Creek, Lucama, Sharpsburg, Stantonsburg, and the city of Waynesville. Similarly, Duke has agreed to meet the REPS requirements for Rutherford EMC, Blue Ridge EMC, the cities of Concord, Dallas, Forest and Kings Mountain, and the town of Highlands. Dominion has agreed to meet the REPS requirements for the Town of Windsor. The towns of Macclesfield, Pinetops, and Walstonburg have previously filed letters stating that the City of Wilson, as their wholesale provider, has agreed to include their loads with its own for reporting to NCEMPA for REPS compliance. Oak City has indicated that EMEMC, its wholesale provider, has agreed to include its loads with its own for reporting to GreenCo for REPS compliance.

RECOMMENDATION

The Commission recommends that G.S. 62-300 be amended to add a $25.00 filing fee for applications for registration of renewable energy facilities. The Commission has received more than 2,500 reports of proposed construction and registration applications since the implementation of Senate Bill 3. A reasonable fee for registration applications will help defray the cost of processing the applications and issuing orders of registration.

CONCLUSIONS

All of the electric power suppliers have met the 2011, and appear to have met the 2012, solar set-aside requirement of Senate Bill 3. All of the electric power suppliers have met, or appear on track to meet, the general REPS requirements coming in 2012, and appear on track to meet that requirement in 2013. However, none of the electric power suppliers met the poultry waste and swine waste set-asides for 2012, an Amended Joint Motion to delay implementation of that section of the REPS was granted in part, delaying the implementation of the poultry waste set-aside by one year and eliminating the swine waste set-aside requirement in 2012. Despite this action, most electric power suppliers do not appear on track to meet the poultry waste and swine waste set-asides for 2013 and have requested a further delay to these requirements. In addition, as stated in the 2012 Report and as highlighted again in this report, numerous issues continue to arise in the implementation of Senate Bill 3 that have required interpretation by the Commission of the statutory language: e.g., the definition of new renewable energy facility, the electric power suppliers' requirements under the set-aside provisions, the eligibility of renewable energy facilities and resources to meet the set-aside provisions, etc. If the plain language of the statute was ambiguous, the Commission attempted to discern the intent of the General Assembly in reaching its decision on the proper interpretation of the statute.

APPENDICES

APPENDICES

1. Environmental Review

    - Letter from Chairman Edward S. Finley, Jr., North Carolina Utilities Commission, to Secretary John E. Skvarla, III, North Carolina Department of Environment and Natural Resources (June 21, 2013)
    - Letter from Mitch Gillespie, Assistant Secretary for Environment, North Carolina Department of Environment and Natural Resources, to Chairman Edward S. Finley, Jr., North Carolina Utilities Commission (September 10, 2013)

2. Rulemaking Proceeding to Implement Session Law 2007-397

    - Order Requesting Comments Regarding Accounting Treatment for Transfers of Renewable Energy Certificates, Docket No. E-100, Sub 113 (September 17, 2012)
    - Order Modifying the Poultry and Swine Waste Set-Aside Requirements, Docket No. E-100, Sub 113 (November 29, 2013)

3. Renewable Energy Facility Registrations

    - Order on Request for Declaratory Ruling, Docket No. SP-100, Sub 30 (March 11, 2013).
    - Order Accepting Registration as a Renewable Energy Facility, Docket No. SP-2285, Sub 0 (June 18, 2013).
    - Order Revoking Registration of Renewable Energy Facility, Docket No. SP-813, Sub 0 (July 16, 2013).
    - Order Giving Notice of Intent to Revoke Registration of Renewable Energy Facilities and New Renewable Energy Facilities, Docket No. E-100, Sub 130 (August 28, 2013).

APPENDIX 1

State of North Carolina
Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

June 21, 2013

Secretary John E. Skvarla, III
North Carolina Department of
Environment and Natural Resources
1601 Mail Service Center
Raleigh, NC 27699-1601

Dear Secretary Skvarla:

In August 2007, the North Carolina General Assembly enacted comprehensive energy legislation, Session Law 2007-397 (Senate Bill 3), which, among other things, establishes a Renewable Energy and Energy Efficiency Portfolio Standard (REPS) for this State. As part of this legislation, the General Assembly requires the Commission to submit an annual report no later than October 1 of each year on the activities taken by the Commission to implement and by the electric power suppliers to comply with the REPS requirement. The Commission is further required pursuant to G.S. 62-133.8(j) to consult with the Department of Environment and Natural Resources and include in its report "any public comments received regarding direct, secondary, and cumulative environmental impacts of the implementation of" the REPS requirement.

The Commission is not aware of the receipt of any public comments related to this issue. In order to respond to the General Assembly, I am requesting that the Department provide to the Commission any information it may have "regarding direct, secondary, and cumulative environmental impacts of the implementation of" the REPS requirement, including any public comments received by the Department. Your response by August 15, 2013, is appreciated so that the Commission may meet its deadline.

430 North Salisbury Street • Raleigh, North Carolina 27603
Telephone No: (919) 733-4249
Facsimile No: (919) 733-7300
www.ncuc.net

Please feel free to contact me if you have any questions. With warmest personal regards, I am

Very truly yours,

Edward S. Finley, Jr.

ESF/DHC

cc: Mitch Gillespie, Assistant Secretary for Environment, DENR
Kathleen Waylett, North Carolina Attorney General's Office

North Carolina Department of Environment and Natural Resources

Pat McCrory
Governor

John E. Skvarla, III
Secretary

September 10, 2013

Mr. Edward S. Finley, Jr. Chairman
N.C. Utilities Commission
4325 Mail Service Center
Raleigh, N.C. 27699-4325

Re: Renewable Energy and Energy Efficiency Portfolio Standard

Dear Mr. Finley:

I am writing in response to your letter of June 21, 2013 to Secretary Skvarla requesting any public comment that the Department of Environment and Natural Resources may have received regarding the direct, secondary and cumulative environmental impacts of the implementation of the Renewable Energy and Energy Efficiency Portfolio Standard (REPS). There continues to be interest in development of renewable energy sources in the state, particularly wind farms.

Over the past few years, both state and federal agencies have received questions about the potential impacts of wind projects to military installations and to the environment. One concern relates to the potential for the turbines to cause radar interference for some distance. The United States Air Force has also expressed concern about conflicts with low-level military training flights in the coastal area of North Carolina. The coastal counties have a significant amount of special use airspace designated for military operations and training conducted out of Navy, Marine Corps and Air Force bases on the North Carolina coast and in southern Virginia. The "floor" on these military training routes can be as low as 500 feet; by comparison the turbines that were proposed for the Pantego project were approximately 492 feet tall at the tip of the blades. Officials at Seymour Johnson Air Force Base in Goldsboro were particularly concerned about flight training corridors near the Pantego site. The United States Navy, which runs training flights out of the Naval Air Station in Oceana Virginia, has some of the same concerns about the proposed Atlantic Wind project in Pasquotank County. There are also environmental concerns to consider when siting wind facilities, such as areas of environmental sensitivity and sensitive bat and bird populations.

Concerns about the potential impact of coastal wind projects over the past year led the General Assembly to pass House Bill 484, An Act to Establish a Permitting Program for the Siting and Operation of Wind Energy Facilities. This bill requires anyone seeking to build a wind energy facility to apply for a permit from DENR. The permitting process would involve review and discussion of military and environmental compatibility issues before siting wind turbines. This process is intended to complement the process for applying for a Certificate of Public

Convenience and Necessity. The goal of DENR in implementing the requirements of House Bill 484 will be to provide a reliable process for reviewing wind energy projects while encouraging the development of wind energy in North Carolina in ways compatible with existing important elements of North Carolina's economy and environment.

Please call me at 919-707-8619 if you have questions.

Sincerely,

Mitch Gillespie
Assistant Secretary for the Environment

cc: John Skvarla, Secretary of the Environment
Brad Ives, Assistant Secretary for Natural Resources

APPENDIX 2

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 113

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Rulemaking Proceeding to Implement Session Law 2007-397	)	ORDER REQUESTING COMMENTS REGARDING ACCOUNTING TREATMENT FOR TRANSFERS OF RENEWABLE ENERGY CERTIFICATES

BY THE COMMISSION: On August 16, 2012, the Commission issued an Order Approving REPS and REPS EMF Riders and 2011 REPS Compliance in Docket No. E-7, Sub 1008. The Order involved Duke Energy Carolinas, LLC's application for a Renewable Energy and Energy Efficiency Portfolio Standard cost recovery rider pursuant to G.S. 62-133.8 and Commission Rule 8-67. In the Order, the Commission concluded, among other things, that it is appropriate and necessary to address in a generic docket issues related to renewable energy certificate (REC) sales. In that proceeding, witnesses testified that REC sales raise the following questions: (1) how the gain that an electric power supplier receives from a REC sale should be treated for ratemaking purposes; (2) how the RECs to be sold should be selected; (3) how the sales price for RECs should be established; and (4) how the original purchase price of such RECs should be recorded.

The Commission concludes that these issues could affect all electric power suppliers and their customers. Therefore the Commission finds good cause to seek comments and reply comments from interested parties addressing these issues.

IT IS, THEREFORE, ORDERED as follows:

1) That comments shall be filed on these issues and others that the parties deem appropriate on or before November 30, 2012; and

2) That reply comments shall be filed on or before January 11, 2013.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of September, 2012.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Chief Clerk

je091712.01

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 113

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rulemaking Proceeding to Implement Session Law 2007-397	)))))	ORDER MODIFYING THE POULTRY AND SWINE WASTE SET-ASIDE REQUIREMENTS AND GRANTING OTHER RELIEF

HEARD: Tuesday, August 28, 2012, and Wednesday, August 29, 2012, at 9:30 a.m., in Commission Hearing Room, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina

BEFORE: Commissioner William T. Culpepper, III, Presiding, Chairman Edward S. Finley, Jr., and Commissioners Bryan E. Beatty, Susan W. Rabon, ToNola D. Brown-Bland, and Lucy T. Allen

APPEARANCES:

For Duke Energy Carolinas, LLC, and Progress Energy Carolinas, Inc.:

Kendal C. Bowman, Deputy General Counsel, Duke Energy Corporation, P. O. Box 1551, Raleigh, North Carolina 27602

Charles A. Castle, Associate General Counsel, Duke Energy Corporation, P. O. Box 1321 (DEC 45A), Charlotte, North Carolina 28201

For Dominion North Carolina Power, Inc.:

Bernard L. McNamee II, McGuireWoods LLP, One James Center, 901 E. Cary Street, Richmond, Virginia 23219

E. Brett Breitschwerdt, McGuireWoods LLP, 434 Fayetteville Street, Suite 2600, Raleigh, North Carolina 27601

For the Tennessee Valley Authority:

Mark S. Calvert, Senior Attorney, Tennessee Valley Authority, 400 W. Summit Hill Drive, WTGA-K, Knoxville, Tennessee

For the Public Works Commission of the City of Fayetteville:

James P. West, West Law Offices, P.C., 434 Fayetteville Street, Suite 2325, Raleigh, North Carolina 27601

For North Carolina Eastern Municipal Power Agency and North Carolina Municipal Power Agency No. 1:

Daniel C. Higgins, Burns, Day & Presnell, P.A., P. O. Box 10867, Raleigh, North Carolina 27605

For EnergyUnited Electric Membership Corporation:

Joseph W. Eason, Nelson Mullins Riley & Scarborough LLP, 4140 Parklake Avenue, Suite 200, GlenLake One, Raleigh, North Carolina 27612

For Halifax Electric Membership Corporation:

H. Lawrence Armstrong, Jr., Armstrong Law, PLLC, P. O. Box 187, Enfield, North Carolina 27823

For GreenCo Solutions, Inc.:

Richard M. Feathers, Vice President and Associate General Counsel, GreenCo Solutions, Inc., 3400 Sumner Boulevard, P. O. Box 27306, Raleigh, North Carolina 27611-7306

For the North Carolina Sustainable Energy Association:

Michael D. Youth, North Carolina Sustainable Energy Association, P. O. Box 6465, Raleigh, North Carolina 27628

For the Community Groups:

John D. Runkle, Attorney at Law, 2121 Damascus Church Road, Chapel Hill, North Carolina 27516

For the North Carolina Poultry Association:

Henry W. Jones, Jr., Jordan Price Wall Gray Jones & Carlton, 1951 Clark Avenue, P. O. Box 10669, Raleigh, North Carolina 27605-0669

For the North Carolina Pork Council:

Kurt Olson, Law Office of Kurt J. Olson, 3737 Glenwood Avenue, Suite 100, Raleigh, North Carolina 27612

For Green Energy Solutions NV, Inc.:

R. Sarah Compton, Esq., Attorney at Law, P. O. Box 12728, Raleigh, North Carolina 27605

For Recovered Energy Investors I, LLC:

M. Gray Styers, Jr., Charlotte A. Mitchell, Styers, Kemerait & Mitchell, 1101 Haynes Street, Suite 101, Raleigh, North Carolina 27604

For the Using and Consuming Public:

Robert S. Gillam, Tim R. Dodge, Staff Attorneys, Public Staff-North Carolina Utilities Commission, 4326 Mail Service Center, Raleigh, North Carolina 27699-4326

BY THE COMMISSION: On May 16, 2012, the Commission issued an Order directing all of the State's electric power suppliers to file updates on the status of their plans to comply with the swine waste and poultry waste set-aside requirements established in the State's Renewable Energy and Energy Efficiency Portfolio Standard (REPS). Subsections (e) and (f) of G.S. 62-133.8 establish set-asides within the overall renewable energy requirement. They provide that a specified percentage of the power supplied to customers each year must be derived from swine waste or poultry waste. G.S. 62-133.8(e) provides that in 2012 at least 0.07% of an electric power supplier's total 2011 retail sales must come from swine waste, with the percentage increasing to 0.14% in 2015 and 0.20% during and after 2018. G.S. 62-133.8(f) provides that the State's electric power suppliers must collectively provide a total of 170,000 megawatt-hours (MWh) of power generated from poultry waste in 2012, 700,000 MWh in 2013, and 900,000 MWh in 2014 and each year thereafter. The Commission's May 16, 2012 Order noted that REPS compliance plans for 2011, submitted to the Commission as required by Commission Rule R8-67(b) in Docket No. E-100, Subs 128 and 131, and comments filed by the Public Staff in the same dockets, called into question whether the electric power suppliers would meet their 2012 swine and poultry waste set-aside requirements. The Commission required that within 30 days the State's electric power suppliers provide an update to their plans for compliance with the requirements of G.S. 62-133.8(e) and (f) in 2012 and 2013.

In response to the Commission's May 16, 2012 Order, on June 1, 2012, Duke Energy Carolinas, LLC (Duke), Progress Energy Carolinas, Inc. (PEC), Dominion North Carolina Power (DNCP), GreenCo Solutions, Inc. (GreenCo), the Public Works Commission of the City of Fayetteville (Fayetteville), the North Carolina Eastern

Municipal Power Agency (NCEMPA), and North Carolina Municipal Power Agency Number 1 (NCMPA1),[1] EnergyUnited Electric Membership Corporation (EnergyUnited), Halifax Electric Membership Corporation (Halifax), and the Tennessee Valley Authority (TVA) (collectively the Joint Movants) filed a Joint Motion to Modify and Delay the Requirements of N.C. Gen. Stat. §§ 62-133.8(e) and (f) Due to Lack of Sufficient Swine and Poultry Waste Resources; and Update Complying with the Requirements of the Order Requiring Update of Plans to Meet Swine and Poultry Waste Set-Aside Obligations (Original Joint Motion). In this motion the Joint Movants requested, pursuant to G.S. 62-133.8(i)(2), to be relieved from compliance with subsections (e) and (f) for the year 2012. G.S. 62-133.8(i)(2) is often referred to as the "off-ramp" provision of the REPS statute. It states that the Commission must develop a procedure to modify or delay the provisions of subsections (b), (c), (d), (e), and (f) of G.S. 62-133.8 in whole or in part if the Commission determines that it is in the public interest to do so. G.S. 62-133.8(i)(2) requires that the adopted procedure include a requirement that the electric power supplier demonstrate that it made a reasonable effort to meet the requirements set out in the REPS.

On June 21, 2012, the Commission issued an Order setting the case for hearing, establishing deadlines for filing testimony, and requiring the Joint Movants to respond to certain questions in their direct testimony.

On July 17, 2012, the Joint Movants filed an Amended Joint Motion to Modify and Delay the Requirements of N.C. Gen. Stat. §§ 62-133.8(e) and (f) Due to Lack of Sufficient Swine and Poultry Waste Resources; and Amended Update Complying with the Requirements of the Order Requiring Update of Plans to Meet Swine and Poultry Waste Set-Aside Obligations (Amended Joint Motion). In the Amended Joint Motion, the Joint Movants requested that they be relieved from compliance with G.S. 62-133.8(e) and (f) for two years, rather than only one year as requested in the Original Joint Motion. The Joint Movants requested that all of the deadlines in subdivisions (e) and (f) be extended for a two-year period, so that the electric power suppliers would be required to provide 0.07% of their total retail sales from swine waste in 2014, increasing to 0.14% in 2017, and to provide a collective total of 170,000 MWh of power from poultry waste in 2014, 700,000 MWh in 2015, and 900,000 MWh in 2016 and subsequent years.

On July 18, 2012, petitions to intervene were filed by TVA and Recovered Energy Investments I, LLC (REI). On August 2, 2012, a petition to intervene was filed by Tucker Engineering Associates, Inc. On August 16, 2012, a petition to intervene was filed by Halifax. All these petitions were granted by the Commission. The intervention of the Public Staff is recognized under G.S. 62-15(d). All other parties to the proceeding had previously been made parties by the Commission or allowed to intervene in this docket.

On July 25, 2012, EnergyUnited filed the direct testimony of Alec Natt, its Chief Financial Officer; Fayetteville filed the direct testimony of Keith Lynch, its Power Contracts and Regulatory Manager; NCEMPA and NCMPA1 filed the direct testimony of

[1] NCEMPA and NCMPA1 are hereinafter sometimes referred to as the Power Agencies.

Andrew M. Fusco, Director of Planning with ElectriCities of North Carolina, Inc.; GreenCo filed the direct testimony of Jason B. Nemeth, its Director, Business Operations; DNCP filed the direct testimony of Chiman H. Muchhala, its Manager of Market Operations; and TVA filed the direct testimony of David B. DeHart, its Program Manager, Renewable Energy. On July 27, 2012, Duke and PEC filed the direct testimony of Jennifer S. Ellis, Duke's Manager of Carolinas Wholesale, and Emily O. Felt, Duke's Director of Renewable Strategy and Compliance, Carolinas. On August 13, 2012, Halifax filed the direct testimony of its Executive Vice President, Charles H. Guerry.

On July 31, 2012, a proposed Settlement Agreement was filed by PEC, Duke, the North Carolina Sustainable Energy Association (NCSEA), the North Carolina Pork Council (NCPC), the North Carolina Poultry Federation (NCPF), and the North Carolina Farm Bureau (NCFB). On August 6, 2012, the Commission issued an Order directing Duke and PEC to respond to certain questions relating to the proposed Settlement Agreement. Responses were filed by Duke and PEC on August 13, 2012.

On August 17, 2012, the Public Staff filed the testimony of Jay B. Lucas, Electric Engineer; Green Energy Solutions NV, Inc. (GES), filed the testimony of its President, Julian Cothran;[2] REI filed the testimony of Thomas McKittrick, President of Forsite Development, Inc.; and the Community Groups filed the testimony of Louis A. Zeller, Executive Director of the Blue Ridge Environmental Defense League.

On August 24, 2012, Duke filed the rebuttal testimony of witness Felt; DNCP filed the rebuttal testimony of witness Muchhala; NCEMPA and NCMPA1 filed the rebuttal testimony of witness Fusco; GreenCo filed the rebuttal testimony of witness Nemeth; NCSEA filed the rebuttal testimony of James D. Kennerly, its Policy and Regulatory Analyst; and NCPF filed the rebuttal testimony of Robert L. Ford, its Executive Director. The Commission also received several consumer statement of position letters from individuals in response to the Original Joint Motion and the Amended Joint Motion.

On August 28, 2012, the matter came on for hearing as scheduled. Duke and PEC presented the direct testimony of witness Ellis and the direct and rebuttal testimony of witness Felt; DNCP presented the direct and rebuttal testimony of witness Muchhala; TVA presented the direct testimony of witness DeHart; Fayetteville presented the direct testimony of witness Lynch; NCEMPA and NCMPA1 presented the direct and rebuttal testimony of witness Fusco; EnergyUnited presented the direct testimony of witness Natt; Halifax presented the direct testimony of witness Guerry; GreenCo presented the direct and rebuttal testimony of witness Nemeth; the Community Groups presented the direct testimony of witness Zeller; REI presented the direct testimony of witness McKittrick; the Public Staff presented the direct testimony of

[2] The testimony of Julian Cothran on behalf of Green Energy Solutions NV, Inc. (GES), was prefiled on August 17, 2012, but, while GES was represented by counsel at the evidentiary hearing on August 28-29, 2012, no witness appeared on behalf of GES to sponsor the testimony and respond to cross examination. As a result, the Commission will treat this testimony as a statement of position.

witness Lucas; NCSEA presented the rebuttal testimony of witness Kennerly; and NCPF presented the rebuttal testimony of witness Ford.

On September 7, 2012, Public Staff witness Lucas submitted late-filed exhibits. On September 12, 2012, REI witness McKittrick submitted late-filed exhibits.

On October 1, 2012, the Community Groups filed a post hearing brief. On October 9, 2012, Duke and PEC filed a Motion for Extension of Time to File Proposed Orders. On October 10, 2012, the Commission issued an Order Granting, In Part, Motion for Extension of Time to File Proposed Orders. On October 11, 2012, the NCPF filed a post hearing brief. On October 19, 2012, the Public Staff; Fayetteville; Duke, PEC, EnergyUnited, GreenCo and Halifax collectively; REI; TVA; NCSEA; NCPC; DNCP; and NCEMPA and NCMPA1 collectively, filed post hearing briefs. Also on October 19, 2012, DNCP filed an affidavit of witness Muchhala.

Based on the foregoing, the evidence and exhibits filed by the parties, and the entire record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. The State's electric power suppliers have made a reasonable effort to comply with the swine waste set-aside requirement established by G.S. 62-133.8(e) and the poultry waste set-aside requirement established by G.S. 62-133.8(f) for 2012, but will not be able to comply.

2. Compliance with the set-aside requirements has been hindered by the fact that the technology of power production from swine and poultry waste is in its early stages of development.

3. Compliance with the poultry waste set-aside requirement has been hindered in some respects, and promoted in other respects, by the fact that on several occasions the General Assembly has modified the REPS, either through amending the statute or via session law. Legislative and regulatory developments have expanded the universe of compliance options for electric power suppliers.

4. Compliance with the swine and poultry waste set-aside requirements has been hindered by disagreements between electric power suppliers and renewable power developers over the terms and conditions of power purchase agreements; prolonged negotiations and continual changes in requested terms, formats of proposal, and bidding processes presented by the electric power suppliers; misunderstandings and disagreements between electric power suppliers and renewable power developers as to the procedures for interconnecting swine and poultry waste generation facilities with the electric grid, and as to the cost of such interconnection; and by the uncertainty of future applicable environmental regulations.

5. It is appropriate to delay the statutory deadlines of the set-aside requirements, not only for those electric power suppliers who have been unable to comply, but for all electric power suppliers.

6. Electric power suppliers who have acquired swine and poultry waste renewable energy certificates (RECs) for 2012 REPS compliance may bank such RECs for swine and poultry waste set-aside requirement compliance in future years.

7. Electric power suppliers should continue to make efforts to purchase any reasonably-priced swine and poultry waste RECs available in order to support the construction and operation of swine and poultry waste generation facilities and to fulfill requirements pursuant to this Order.

8. It is in the public interest to eliminate the requirement of G.S. 62-133.8(e) for compliance by the State's electric power suppliers with the swine waste set-aside requirement in 2012 and to delay for a one-year period the requirements of G.S. 62-133.8(f) for compliance by the State's electric power suppliers with the poultry waste set-aside requirement.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 1-4

The evidence supporting these findings of fact appears in the testimony of Duke-PEC witnesses Felt and Ellis, DNCP witness Muchhala, TVA witness DeHart, Fayetteville witness Lynch, Power Agencies witness Fusco, EU witness Natt, Halifax witness Guerry, GreenCo witness Nemeth, Community Groups witness Zeller, NCPF witness Ford, REI witness McKittrick, and Public Staff witness Lucas, and the statement of position of GES witness Cothran.

Duke-PEC witness Felt testified that Duke worked actively and diligently to comply with its swine waste set-aside requirements. Duke was a member of the Swine REC Buyers Group, and the group entered into seven contracts with swine waste power developers. The contracts were expected to fulfill the swine waste set-aside requirements for 2012 and 2013. Witness Felt and others testified that four of these contracts were terminated because the developers missed deadlines and failed to make progress toward commercial operation. The other contracts remain in effect, and, in addition, Duke has entered into two separate contracts with swine waste developers and has purchased a small number of RECs from a pilot-scale swine waste-to-energy project.

Witness Felt testified that Duke has also entered into three contracts with poultry waste developers, and that Duke expects to have some poultry and swine waste RECs by the end of 2013. According to witness Felt, among the problems Duke has faced in attempting to comply with the swine and poultry waste set-aside requirements are the technological difficulty of producing power from swine and poultry waste; the difficulty of developers to obtain financing for projects; the fact that projects are often located in remote rural areas and interconnection costs are high; difficulties in structuring contracts

and balancing perceived risks between Duke and the developers; and uncertainty as to whether animal waste will be subject to the U.S. Environmental Protection Agency's (EPA) Commercial/Industrial Solid Waste Incinerator (CISWI) regulations. Witness Felt testified that Duke is hopeful that it can meet the current 2013 set-aside requirements, although Duke's compliance is dependent on how quickly negotiations can be completed and facilities come online. Additionally, witness Felt testified that potential compliance with the swine waste set-aside requirement in 2013 would be based in part upon a Duke biogas feasibility study, which has yet to be completed. She stated that Duke expects that it will be possible to meet the set-aside requirements in the years following 2013, but that this is also uncertain in view of the infancy of the animal waste generation industry.

Witness Felt also noted that there had been several legislative changes affecting the poultry waste set-aside requirement,[3] and while these changes had expanded the universe of compliance options for the electric power suppliers, they had also created uncertainty and required the electric power suppliers to continually re-evaluate their options for complying with the poultry waste set-aside requirement at the lowest cost. In addition, witness Felt testified that the potential for future changes in law regarding the REPS was a factor considered in negotiations with renewable energy developers. However, witness Felt testified that she was not aware of any additional proposed legislative changes, nor had she conferred with Duke's legislative liaison in regards to any potential changes.

Duke-PEC witness Ellis testified that PEC, like Duke, had worked diligently to meet the swine and poultry waste set-aside requirements. PEC participated with the other members of the Swine REC Buyers Group in signing contracts with several swine waste developers and subsequently terminating four of the contracts due to the developers' failure to make progress toward commercial operation. Unlike Duke, PEC also participated in the Poultry Collaborative, and the Collaborative entered into a contract with a developer to provide RECs for compliance with the poultry waste set-aside requirement. Witness Ellis testified that PEC is in negotiations with other parties for additional contracts for both swine and poultry power. When asked about the potential obstacles to full compliance with the swine and poultry waste set-aside requirements, witness Ellis emphasized the infancy of swine waste-to-energy technology and the need for a determination as to whether power generation from poultry waste is allowable under the CISWI regulations.

DNCP witness Muchhala testified that his company had participated in the Swine REC Buyers Group, entered into contracts with several swine waste developers, and terminated four of these contracts. Because of the contract terminations, DNCP undertook a nationwide search for developers who could supply swine waste RECs, but it was unable to obtain any swine waste RECs in North Carolina or any other state, and,

[3] For example Session Law 2011-309 (Senate Bill 710) allowed thermal energy from poultry waste production to be eligible towards G.S. 62-133.8(f) compliance. Session Law 2012-195 (Senate Bill 886), modified a year later by Session Law 2011-279 (Senate Bill 484), made a limited amount of non poultry waste RECs eligible for G.S. 62-133.8(f) compliance purposes.

therefore, it is unable to comply with the swine waste set-aside requirement in 2012. With respect to the poultry waste set-aside requirement, DNCP will be able to meet its own poultry waste set-aside requirement by buying out-of-state poultry waste RECs, as it is authorized to do under G.S. 62-133.8(b)(2)(e). For the purpose of meeting the poultry waste set-aside requirement of the Town of Windsor, a wholesale customer for which DNCP provides REPS compliance services, DNCP has chosen to participate in the Poultry Collaborative. Witness Muchhala testified that while DNCP is under contract with a developer to provide sufficient in-state RECs for future compliance with the poultry waste set-aside requirement, these RECs will not be available for compliance in 2012.

TVA witness DeHart testified that TVA is not a member of the Swine REC Buyers Group. TVA issued a request for offers of swine and poultry waste RECs in February 2012 and plans to issue a similar offer later this year. Witness DeHart stated that TVA plans to meet its customers' swine and poultry waste set-aside requirements through responses to this offer, through generators participating in its Generation Partners program or Renewable Standard Offer program, or through one or more stand-alone power purchase agreements with swine or poultry waste power producers.

Fayetteville witness Lynch testified confidentially concerning Fayetteville's efforts to comply with the swine and poultry waste set-aside requirements.

Power Agencies' witness Fusco testified that the Power Agencies were members of the Swine REC Buyers Group and, together with the other members, entered into contracts with several swine waste-to-energy developers, although some of these contracts subsequently had to be canceled. He further testified that the Power Agencies were initially members of the Poultry Collaborative. However, when the General Assembly passed Senate Bill 710, which allowed combined heat and power facilities, using poultry waste as a fuel to gain REC credit for the production of thermal energy produced as well as electric energy, the Power Agencies withdrew from the Poultry Collaborative and entered into a contract for poultry waste RECs with such a facility. Consequently, the Power Agencies are now in a position to comply with the poultry waste set-aside requirement for 2013, and NCMPA1 is in a position to comply for 2012 as well.

EU witness Natt testified that EU sought to obtain in-state swine and poultry waste RECs by participating in the Swine REC Buyers Group and the Poultry Collaborative. He stated that EU has entered into, and in some cases has had to cancel, the same contracts as other members of the group, and currently it has no in-state swine or poultry waste RECs. EU has, however, been able to acquire a limited number of out-of-state swine and poultry waste RECs.

Halifax witness Guerry testified that his cooperative had relied on the efforts of the Swine REC Buyers Group and the Poultry Collaborative to secure swine and poultry waste RECs. Witness Guerry testified that, at present, Halifax does not have any RECs derived from swine or poultry waste.

GreenCo witness Nemeth testified that GreenCo participated in the Swine REC Buyers Group and Poultry Collaborative, and it is also working to acquire swine waste RECs from two farms located in the service area of one of its member cooperatives, South River EMC. Witness Nemeth testified that GreenCo has also purchased out-of-state swine waste RECs, and it will consider issuing a request for proposals (RFP) for swine and poultry waste RECs. Witness Nemeth also testified about GreenCo's experience with GES. He stated that GES presented a proposal to supply poultry waste RECs to GreenCo in 2009, but that the proposal was unsatisfactory to GreenCo for several reasons. The proposal was for an industrial-scale project and would have produced far more RECs than GreenCo needed, and the proposal required GreenCo to buy all of GES's output. Witness Nemeth testified that GreenCo was also concerned because: (1) the GES project was located in South Carolina; (2) the GES project involved thermal as well as electric energy, at a time when the General Assembly had not passed legislation ensuring that thermal RECs would count toward the poultry waste set-aside requirement; and (3) there was uncertainty as to the project's costs. Witness Nemeth stated that GreenCo contacted GES to respond to its proposal. Witness Nemeth expressed strong disagreement with GES's contention that the electric power suppliers never intended to comply with the poultry waste set-aside requirement.

Community Groups witness Zeller testified that he is Executive Director of the Blue Ridge Environmental Defense League. He stated that he is opposed to the construction of biomass-fueled power plants because they increase atmospheric pollution, contribute to global warming, and involve such financial complexity that they cannot be effectively regulated by local government. In his opinion, the swine and poultry waste set-aside requirements should not be simply delayed for two years, but should be eliminated altogether. According to witness Zeller's testimony the Commission should report to the General Assembly that G.S. 62-133.8(e) and (f) are a "dead letter" and will never be met.

NCPF witness Ford testified concerning the importance of the poultry industry to the State's economy, the likelihood that land application of poultry litter as fertilizer will be restricted in the future, and the need to use litter for energy production if land application is limited. He stated that while the Commission has authority to delay and modify the application of G.S. 62-133.8(e) and (f), it does not have the authority to repeal them, and permanently excusing compliance with subdivisions (e) and (f) would have the effect of repealing them. He emphasized that the plants proposed by REI will not burn poultry waste, but instead will burn substitutes for poultry litter as authorized by Senate Bill 886, and he encouraged the Commission to approve the proposed Settlement Agreement entered into by NCPF, NCPC, NCFB, NCSEA, Duke, and PEC.

REI witness McKittrick testified that he is president of Forsite Development, Inc. (Forsite), an affiliate of REI. He stated that Forsite is the developer of Reventure Park in Mecklenburg County, a "cleanfields renewable energy demonstration park" as defined in Senate Bill 886, enacted by the General Assembly in 2010. Witness McKittrick stated that under Senate Bill 886, when one megawatt-hour of thermal or electric energy is

generated from biomass (of any kind, not necessarily poultry waste) in a cleanfields renewable energy demonstration park, it will be eligible for a three times REC multiplier (one general REC creates an additional two poultry waste RECs.)[4] Witness McKittrick testified that REI is constructing a facility in ReVenture Park that will produce thermal and electric energy from biomass.[5]

Witness McKittrick stated that, when REI sought to enter into a contract to sell its RECs to Duke, Duke insisted that the contract include a "change of law" provision under which the risk of changes in the renewable energy statutes would be placed on REI. He stated that REI's lenders would not approve a contract with such a provision, and the negotiations broke down. In witness McKittrick's view, the market for poultry waste RECs cannot develop properly, and the poultry waste set-aside requirement cannot function successfully, unless electric power suppliers are willing to agree to a reasonable share of the risk of change of law and other risks inherent in a business transaction. Witness McKittrick further testified that REI is willing to sell its RECs of vintage 2013 to electric power suppliers, and the Commission should not take away this business opportunity by relieving the electric power suppliers from their obligation to meet the poultry waste set-aside requirement in 2013.

REI witness McKittrick testified that the relief sought by the Amended Joint Motion and the Settlement Agreement could put many projects in limbo, including those of REI. He testified that the interest of several electric power suppliers in purchasing poultry waste RECs is dependent on the outcome of this docket. He further stated that REI fears that if the Commission modifies the poultry waste set-aside requirements, potential purchasers will wait until after the next legislative session before deciding to purchase RECs, and if they do, REI will likely not construct one of its two proposed facilities.

According to the statement of position of GES president Cothran, GES has completed construction of a plant in South Carolina that will produce electric and thermal energy from poultry waste. Cothran asserted that GES attempted to market its RECs to several electric power suppliers, but that none were willing to negotiate with GES except for Duke. According to Cothran's statement, Duke took such demanding and unreasonable negotiating positions that the negotiation of the contract took more than 24 months. At present, construction of the plant is complete and the facility is generating biogas from poultry waste, but the plant cannot be connected to the grid because of disputes among GES, Duke, and PEC as to the amount of the interconnection charges and who is responsible for the charges.

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[4] Reventure Park Investments I, LLC, filed a request for a declaratory ruling on March 15, 2011, regarding the Commission's interpretation of SB 886 and how the REC provisions of the Act would be implemented. The Commission issued an Order on the request on April 18, 2011.

[5] REI filed a report of proposed construction for the facility on June 25, 2012, in Docket No. SP-1927, Sub 0, and a registration statement as a new renewable energy facility on September 24, 2012, in Docket No. SP-1927, Sub 1.

Public Staff witness Lucas testified that EPA regulations, in particular the proposed CISWI regulations, have made compliance with the swine and poultry waste set-aside requirements difficult; however, a poultry waste facility proposed by Prestage Farms, Inc., has obtained a determination by the Division of Air Quality of the North Carolina Department of Environment and Natural Resources that its fuel source will be considered a non-solid waste fuel and thus not subject to CISWI. Witness Lucas further stated that two recurring issues have presented difficulty for swine and poultry waste developers seeking to reach agreement with electric power suppliers for the purchase of their RECs: (1) differences in agreement over contract terms, particularly "change of law" provisions, and (2) inability to reach a satisfactory interconnection agreement. Additionally, witness Lucas testified that the Public Staff believes it is reasonable for a utility to negotiate with the expectation that current law and current statutory requirements will remain in place, unless it has verifiable information indicating otherwise.

The Commission has reviewed all of the evidence and concludes the electric power suppliers have demonstrated that they made a reasonable effort to comply with the swine and poultry waste set-aside requirements for 2012. The electric power suppliers invested both time and effort to (1) solicit proposals for generation from swine and poultry waste, (2) evaluate the proposals received, (3) negotiate contracts with the developers who presented the most promising proposals, and (4) monitor the developers' performance under their contracts. No evidence was presented to suggest that the electric power suppliers failed to make a reasonable effort to comply, except for the testimony of REI witness McKittrick that Duke's contract negotiating position was inflexible. Although the statement of position of GES president Cothran indicates that he received no response to some of his proposals, the record shows that his company did ultimately enter into a contract with Duke. As for witness McKittrick, credible witnesses testified that Duke devoted a great deal of time to negotiating with his company, even though the two companies did not ultimately reach agreement on a contract.

Nonetheless, the Commission acknowledges the concerns raised by REI and GES that difficult negotiations, slow or inconsistent responses, interconnection issues, and shifts in position due to changes in law may, in some cases, have delayed progress toward compliance with the swine and poultry waste set-aside requirements. Therefore, similar to the stipulations agreed to in the proposed Settlement Agreement entered into by NCPF, NCPC, NCFB, NCSEA, Duke, and PEC, the Commission will require heightened reporting requirements and improvements in communications between electric power suppliers and developers, including a triannual report to the Commission and a website Information Sheet, in order to help reduce similar delays in the future.

Numerous witnesses testified that the most substantial reason for the electric power suppliers' failure to comply with the set-aside requirements is the immaturity of the animal waste power production industry and its technology. As Duke-PEC witness Felt testified, "producing electricity from swine waste is technologically challenging and few successful applications exist." Witnesses testified that the same is true of poultry waste technology. In essence, when the General Assembly enacted G.S. 62-133.8(e)

and (f), it was seeking to advance the development of an industry that was in its infancy. In the initial development stages of a new industry, such setbacks and failures are not unexpected.

Another factor contributing to the electric power suppliers' failure to achieve compliance with the swine and poultry waste set-aside requirements is the applicability of environmental regulations. Public Staff witness Lucas testified that it is uncertain whether EPA's proposed CISWI regulations will apply to facilities that generate electricity from animal waste. The Commission finds that uncertainty may discourage potential bidders from responding to the electric power suppliers' requests for proposals.

The General Assembly amended G.S. 62-133.8(f), the statutory provision for the poultry waste set-aside requirement, on three occasions in 2010 and 2011. In Senate Bill 886, enacted on August 5, 2010, the General Assembly authorized triple credit for RECs produced from biomass at a "cleanfields renewable energy demonstration park," with each megawatt-hour produced at such a facility counting as one general REC that upon retirement additionally will count as two poultry waste RECs, even if the facility's generation source is some form of biomass other than poultry waste. In Senate Bill 484, enacted on June 23, 2011, the triple REC credit for a facility at a cleanfields renewable energy demonstration park was limited to the first 10 megawatts of capacity at such a facility. Senate Bill 710, enacted on June 27, 2011, provides that thermal as well as electric energy produced from poultry waste is eligible for poultry waste RECs. With the enactment of each statutory change, the process of contracting for poultry waste RECs was delayed, as electric power suppliers reanalyzed the proposals they had received and determined which was lowest in cost. However, as witness Lucas and others testified, the overall effect of the statutory changes was to make more facilities eligible for poultry waste RECs and, thus, to lower the price of poultry waste RECs.

Another factor that has made it more difficult for the electric power suppliers to comply with the swine and poultry waste set-aside requirements involves differences between the electric power suppliers and swine and poultry waste developers as to the terms and conditions of purchase agreements. There was extensive testimony about the negotiations between Duke and REI concerning their proposed contract. These negotiations continued for several years and did not result in agreement, with the main area of dispute relating to Duke's proposed language on change of law. Public Staff witness Lucas testified that change of law and interconnection are recurring issues that make it difficult for electric power suppliers to reach agreement with developers, and, thus, for them to reach compliance with the swine and poultry waste set-aside requirements. The Commission agrees with witness Lucas's testimony that it is reasonable for an electric power supplier to negotiate with the expectations that current statutory requirements will remain in place, unless it has verifiable information indicating otherwise. Additionally, the Commission finds that it would be reasonable for a public utility to negotiate with the expectation that it would have a reasonable opportunity to recover prudent costs resulting from contracts entered to satisfy existing law at the time of a contract's creation.

The Commission concludes that the electric power suppliers have made a reasonable effort to comply with the swine and poultry waste set-aside requirements in 2012. While some electric power suppliers have been able to make some progress towards their compliance with the poultry waste set-aside requirement, the vast majority of them will not be able to comply successfully with either of the set-aside requirements in 2012. The primary reason for the suppliers' failure to comply is the newly developing and still unproven state of the technology for generating power from animal waste. Other reasons include (1) the uncertainty surrounding environmental regulation of the newly developing industry; (2) frequent changes in legislation relating to the poultry waste set-aside requirement; (3) prolonged negotiations and changing requests for proposals and buying groups; (4) difficulties in reaching agreement on contract terms and conditions, particularly with respect to change of law and interconnection; and (5) the lack of experience of some swine and poultry waste developers. Overall, the Commission concludes that substantial progress is being made, but at a pace that is somewhat slower than what the General Assembly envisioned.

While compliance in 2012 is not possible, at this time the Commission feels it is premature to make a similar finding for 2013. A small number of the electric power suppliers are already in position to comply with the 2013 set-aside requirements. Additionally, this Order will greatly reduce the pro-rata poultry waste set-aside requirements in 2013 for each electric power supplier (a pro-rata portion of 170,000 MWh rather than 700,000 MWh). Duke witness Felt testified that she was hopeful Duke could meet the original 2013 requirement, a requirement significantly larger than the 2013 requirement resulting from this Order, and that Duke still awaits the results of its biogas feasibility study. Legislative changes have expanded the means of compliance with the poultry waste set-aside requirement and an additional year may yield results that allow electric power suppliers to comply with the updated schedule in 2013 pursuant to this Order. Additionally, the evidence has shown that swine and poultry waste facilities are part of an ever changing market; the Commission is not in a place to anticipate changes to the market over the next year. Further, the Commission hopes to support the General Assembly's intent to facilitate near-term development of poultry and swine waste generation. As North Carolina is the only state in the country with specific REPS set-aside requirements for energy generated from animal waste, a prolonged delay could have pronounced implications on the developing markets for these RECs.

When exercising the "off ramp" authority granted to the Commission in G.S. 62-133.8(i)(2), the Commission does so with constraint and an attempt to preserve as much of the intent of the General Assembly as possible. At this time it appears premature to make a finding that the electric power suppliers have made a reasonable effort to comply with the swine and poultry waste set-aside requirements for 2013, and that a two-year delay is in the public interest. The electric power suppliers should continue to make reasonable efforts to comply with the 2013 requirements as modified pursuant to this Order. However, nothing in this Order shall preclude the electric power suppliers from making a similar motion at a later date demonstrating that they cannot

achieve compliance and have made a reasonable effort to do so in 2013, if circumstances warrant such action.

EVIDENCE AND CONCLUSIONS FOR FINDINGS OF FACT NOS. 5-7

The evidence supporting these findings of fact appears in the testimony of DNCP witness Muchhala and Power Agencies witness Fusco.

DNCP witness Muchhala testified that DNCP initially planned to participate in the Poultry Collaborative to meet its poultry waste set-aside requirements, but based on legislative and regulatory developments, as well as the growing availability of RECs in other states, DNCP limited its continued participation in the Poultry Collaborative to obtaining in-state poultry waste RECs for the Town of Windsor, a wholesale customer for which DNCP is providing REPS compliance services. For its own use, DNCP sought to purchase additional poultry waste RECs from out-of-state. As a result, DNCP has been able to make significant progress towards its 2012 poultry waste set-aside requirements through the purchase of out-of-state RECs, but it remains unable to meet the in-state needs of the Town of Windsor. [6]

DNCP witness Muchhala further testified that, as a result of DNCP's initial efforts to obtain swine waste RECs, it learned that swine waste-to-energy technology is relatively new and that a market for swine waste RECs has not developed yet. As a result, DNCP concluded that participating in the Swine REC Buyers Group was the most cost effective and prudent approach. DNCP is an active participant in the group's efforts, but as a result of the termination of several contracts originally entered into by the Swine REC Buyers Group, DNCP has conducted its own independent search for swine waste RECs in the State and across the nation. Despite its ability to use RECs derived from out-of-state facilities, DNCP has not been able to obtain or even identify sufficient quantities of swine waste RECs on a nationwide basis to meet its statutory requirements. To the extent that DNCP has been able to comply, it requests that the Commission allow it to bank the animal waste RECs it has already obtained to be used for compliance in future years, rather than retire them in 2012. DNCP states that to do otherwise would result in its being penalized for its good faith efforts to comply.

Power Agency witness Fusco testified that NCMPA1 has been able to secure sufficient poultry waste RECs to meet its 2012 requirements and that both Power Agencies anticipate being in a position to comply with the 2013 poultry waste set-aside requirement. Rather than requiring NCMPA1 to retire the 2012 poultry waste RECs it has obtained, witness Fusco requested that the Commission allow them to be banked for compliance in future obligation years. Witness Fusco stated that the Power Agencies agreed to be party to the Joint Motion because the set-aside requirements are statewide

[6] The Commission's September 22, 2009, Order in this docket on DNCP's Motion for Further Clarification clarified that G.S. 62-133.8(b)(2)e expressly exempts DNCP from the 25% limitation on the use of unbundled out-of-state RECs. DNCP provides REPS compliance services for the Town of Windsor, an electric power supplier that is a wholesale customer of the Company, and Windsor is not exempt from the 25% limitation.

and industry-wide aggregate requirements. He further stated that any relief granted to any electric power supplier should be applied equitably to all electric power suppliers. In his opinion, suppliers that have diligently pursued efforts to comply, and have secured RECs, should not be punished for having done so by being denied the relief granted to those that could not comply and not being allowed to bank the RECs they have secured. Witness Fusco also testified that not allowing the banking of RECs could send a message to the marketplace that would potentially hinder future compliance. As an example, witness Fusco pointed out that if the Commission granted a delay, but then required those electric power suppliers who had acquired RECs to retire them, then an electric power supplier "may opt to negotiate with a supplier to delay delivery of those RECs until 2014 and, hence, avoid the additional cost of having to comply twice with the requirement that really doesn't take effect until 2014."

The Commission commends those electric power suppliers that have acquired sufficient poultry and/or swine waste RECs such that they could meet their 2012 poultry or swine waste set-aside requirements. The Commission is not persuaded that it would be punitive to require compliance by those electric power suppliers that can, in fact, comply. However, the Commission is concerned that some electric power suppliers might have purchased swine waste RECs that will eventually be determined to be ineligible for compliance.[7] In addition, the Commission recognizes that the General Assembly established the swine and poultry waste set-aside requirements as aggregate obligations and imposed them on all North Carolina electric power suppliers together. Notwithstanding prior Commission Orders approving compliance based on pro-rata shares of the aggregate requirements, the Commission finds that it is in the public interest that all electric power suppliers currently be held to the same compliance schedule for the swine and poultry waste set-aside requirements.

On February 29, 2008, the Commission issued an Order Adopting Final Rules to Implement S.L. 2007-397 in this docket. In that Order the Commission considered the wording of the statutory off-ramp provision and questions about whether the off-ramp should be applied to all electric power suppliers or only to those individual electric power suppliers that demonstrated a need. The Public Staff, SunEdison, and the Solar Alliance all recommended that in a situation where a limited number of suppliers have shown the need for a modification or delay of the REPS requirement, the proper course of action for the Commission to take is to grant the modification or delay solely with respect to those suppliers that need it. The Commission agreed with this position and ultimately included in Rule R8-67(c)(5) the following sentence: "The Commission shall allow a modification or delay only with respect to the electric power supplier or group of electric power suppliers for which a need for a modification or delay has been demonstrated." The situation envisioned by the Public Staff, SunEdison, and the Solar Alliance is different than the one currently faced by the Commission, however, where the vast majority of the electric power suppliers are unable to comply despite their reasonable efforts. In this matter the "group of electric power suppliers for which a need" has been demonstrated is all electric power suppliers due to the aggregate nature of the swine

[7] See the Commission's August 10, 2012 Order Requesting Audit and Recommendations in Docket No. SP-813, Sub 0.

and poultry waste set-aside requirements, the small number of electric power suppliers that can show even partial compliance, and the disincentive for future compliance were the Commission to rule otherwise

On March 31, 2010, the Commission issued an Order on Pro Rata Allocation of Aggregate Swine and Poultry Waste Set-Aside Requirements and Motion for Clarification in this docket. The Order approved a proposed pro-rata mechanism for electric power suppliers to demonstrate compliance with the swine and poultry waste set-aside requirements. Nothing in the Order, however, changed the requirements from aggregate requirements as established by the General Assembly. Under the current circumstances, to delay the requirements only for a portion of the electric power suppliers while requiring a small number of others to comply with their pro-rata portion would cause unnecessary future confusion in compliance as different electric power suppliers would be on different compliance schedules for aggregate requirements.

While G.S. 62-133.8(i)(2) requires an electric power supplier to demonstrate that it made a reasonable effort to meet the requirements, the Commission's authority to modify or delay the REPS requirements is based on the Commission's determination that it is in the public interest to do so. The Commission finds in this case that the public interest would be best served by allowing the efforts of the electric power suppliers to be considered as a whole, and that the delay should also be applied equally to all electric power suppliers. Electric power suppliers that have obtained RECs to meet some portion of their poultry or swine waste set-aside requirements should bank those RECs for compliance in 2013 and continue acquiring RECs for future compliance.

The Commission cautions, however, that if an electric power supplier is individually found not to have made reasonable efforts over the period of the delay to meet its compliance obligations, such a supplier may find the Commission less willing in future proceedings to treat it comparably to others who clearly demonstrated reasonable efforts. While not attempting to define what constitutes reasonableness, the Commission may consider the following actions as illustrative of the reasonableness of the electric power supplier's efforts: (1) issuing RFPs for qualifying resources; (2) consideration of self-build options; (3) expenditure of research and development funds to evaluate swine and poultry waste-to-energy technologies; (4) outreach efforts to poultry and swine waste power producers; (5) exploration of out-of-state markets, when permitted; (6) negotiations with developers; (7) good faith efforts to negotiate power and REC purchase contracts; and (8) good faith efforts to assist developers with interconnection agreements and place their facilities in service in a timely fashion. The Commission notes that some of these efforts are included as part of the conditions of this Order and recognizes them as solid steps in making further progress in these areas.

Despite the granting of the delay and allowing for the banking of RECs in this Order, the Commission has ongoing concerns regarding the ability of the electric power suppliers to comply in 2013 and future years based on existing contracts and estimates for facilities under construction. To the extent that electric power suppliers are able to

identify reasonably priced, technologically viable options for compliance that can be placed in service in 2012, the Commission encourages them to give those options full consideration.

EVIDENCE AND CONCLUSIONS FOR FINDING OF FACT NO. 8

The Commission's authority to modify or delay the REPS requirements is based on the Commission's determination that it is in the public interest to do so. When establishing the REPS in Session Law 2007-397 the General Assembly set forth goals of the REPS which were "declared to be the policy of the State of North Carolina." Specifically G.S. 62-2(a)(1) stated that the development of renewable energy and energy efficiency through the implementation of a REPS will:

a. Diversify the resources used to reliably meet the energy needs of consumers in the State.
b. Provide greater energy security through the use of indigenous energy resources available within the State.
c. Encourage private investment in renewable energy and energy efficiency.
d. Provide improved air quality and other benefits to energy consumers and citizens of the State.

Based on testimony in this proceeding, the market for poultry and swine waste-to-energy projects is clearly in its infancy. The lack of sufficient projects has made the poultry and swine waste set-aside requirements much more costly than other options for meeting the general REPS requirement. These costs are eventually borne by retail consumers, and allowing more time for the market to develop is in the public interest in that it will protect customers from the inflated cost of an undeveloped industry. A one-year delay will not further deter private investment in the market. Additionally, several environmental and public health concerns, including air quality concerns, in regard to the production of electricity from poultry and swine waste were expressed in witness Zeller's testimony for the Community Groups and also submitted to the Commission in several consumer statement of position letters. A delay may allow for improvements in these areas and alleviate some concerns as the industry advances technologically, allowing for advances in areas such as anaerobic digestion and emission reductions, which may allow poultry and swine waste to become a cleaner source of energy in the future. During a delay the applicability of the CISWI regulations might also be clarified which could provide certainty to both financiers and environmental groups as to the state of regulation regarding swine and poultry waste-to-energy facilities. These developments would better allow the REPS to achieve its stated goal and policy to "[p]rovide improved air quality and other benefits to energy consumers and citizens of the State."

Based on all of the forgoing evidence and conclusions, the Commission finds that the electric power suppliers sufficiently demonstrated that they have made reasonable efforts to meet the swine and poultry waste set-aside requirements in 2012, and that eliminating the 2012 swine waste set-aside requirement of G.S. 62-133.8(e) and

delaying the poultry waste set-aside requirement of G.S. 62-133.8(f) for 2012, as provided for in this Order, is in the public interest.

IT IS, THEREFORE, ORDERED as follows:

1. That the 2012 requirement of G.S. 62-133.8(e) shall be eliminated. The electric power suppliers, in the aggregate, shall comply with the requirements of G.S. 62 133.8(e) according to the following schedule:

Calendar Year	Requirement for Swine Waste Resources
2013-2014	0.07%
2015-2017	0.14%
2018 and thereafter	0.20%

2. That the effective date of G.S. 62-133.8(f) shall be delayed for one year. The electric power suppliers, in the aggregate, shall comply with the requirements of G.S. 62-133.8(f) according to the following schedule:

Calendar Year	Requirement for Poultry Waste Resources
2013	170,000 megawatt hours
2014	700,000 megawatt hours
2015 and thereafter	900,000 megawatt hours

3. That the general REPS requirements established in G.S. 62-133.8(b) and (c) shall remain unchanged as a result of this Order.

4. That Duke and PEC shall file triannual progress reports verified by an Officer of each company (Progress Reports) to the Commission, providing an up to date summary and position of Duke's and PEC's compliance with, and efforts to comply with, G.S. 62-133.8(e) and (f). The Progress Reports shall be filed on or before January 1, May 1, and September 1 of each fiscal year. The final Poultry Waste Set-Aside Progress Reports shall be made September 1, 2014, and the final Swine Waste Set-Aside Progress Reports shall be made September 1, 2018. The Progress Reports shall be provided to the Public Staff and other interested parties, subject to existing nondisclosure agreements, and shall be filed with the Commission under seal. The Progress Reports shall, without limitation, include: (a) an overall summary of Duke's and PEC's respective current compliance provisions; (b) a list of all entities that Duke and PEC have engaged in discussions about contracts for compliance with the swine and poultry waste set-aside requirements; (c) a list of and summary of relevant options and active proposals that Duke and PEC have received for compliance with the swine and poultry waste set-aside requirements and who provided them; (d) a list of all entities that Duke and PEC have contracted with for swine or poultry waste generation or RECs and a summary of the contracts; (e) for each entity listed in items (b) and/or (c) above that Duke and PEC have not contracted with, a summary of reasons why a contract has not been executed; (f) a summary of Duke's and PEC's respective plans to procure contracts for compliance with the swine and poultry waste set-aside requirements in the

next four months; (g) for any plans to procure contracts for compliance with the swine and poultry waste set-aside requirements from the preceding four months that were not implemented, a summary of why they were not implemented; and (h) a statement about Duke's and PEC's respective forecasts and plans to comply with the swine and poultry waste set-aside requirements by the statutory deadlines as amended by this Order. Duke and PEC shall also file with the Commission and provide to the Public Staff notification of any material changes that have occurred since the last Progress Reports, including delays in commercial operation date of any facilities under contract, termination of any existing contracts, or any significant modification of capacity or technology by an existing project developer that is under contract with them. The Commission reserves the right to request similar information from other electric power suppliers. The Progress Reports shall be filed in a new docket, Docket No. E-100, Sub 113A.

5. That within 45 days of the issuance of this Order, Duke and PEC shall create a web-based summary Information Sheet designed to inform developers of swine or poultry waste-to-energy facilities (waste-to-energy facilities) of the following, at a minimum: (a) typical fees, charges, terms and contract conditions associated with power purchase agreements used by Duke and PEC for the acquisition of electricity and RECs (bundled or unbundled) from waste-to-energy facilities; (b) the requirements for interconnecting an electric generation facility with Duke's and PEC's transmission or distribution systems, highlighting any unique features that may apply to remotely located facilities; (c) the identification and a brief description of considerations or difficulties that Duke and PEC have observed as being an impediment to developers of waste-to-energy facilities seeking to build and operate a facility and sell the output (bundled or unbundled) to electric power suppliers in North Carolina; (d) contact information for appropriate personnel regarding power purchase agreements; (e) contact information for appropriate personnel regarding interconnection agreements for facilities proposed to be located in the respective utility's service territory; and (f) information on any open RFPs and links on the web-based portal to any current applicable RFPs. PEC and Duke shall file a copy of their most recent Information Sheet in Docket No. E-100, Sub 113A. Parties may disseminate hard copies of the Information Sheet to developers of waste-to-energy facilities. Electric power suppliers other than PEC and Duke shall be required to provide the information specified in subparagraphs (d) through (f) above for use in the Information Sheet. Any electric power supplier other than Duke or PEC that submits to Duke or PEC a written request to do so shall be allowed by Duke and PEC to participate in the design and preparation of the Information Sheet. A draft of the Information Sheet shall be circulated to parties to this docket within 30 days from the date of this Order and those persons may provide Duke and PEC comments on the content of the Information Sheet not later than 10 days following receipt. The web-based Information Sheet shall be updated as necessary.

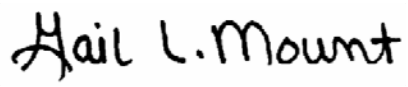
6. That the electric power suppliers may bank any poultry or swine waste RECs acquired prior to 2013 for retirement and REPS compliance in years 2013 and beyond.

7. That each of the electric power suppliers shall continue to take all reasonable actions to purchase all available and reasonably priced swine and poultry waste RECs.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of November, 2012.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Chief Clerk

Dc112912.01

APPENDIX 3

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. SP-100, SUB 30

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Request for Declaratory Ruling by	)	ORDER ON REQUEST FOR
Clean Energy, LLC	)	DECLARATORY RULING

BY THE COMMISSION: On January 17, 2013, in the above captioned proceeding, Clean Energy, LLC (Clean Energy), filed a Request for Declaratory Ruling stating that "[p]otential purchasers of [renewable energy certificates (RECs)] earned by facilities proposed for Clean Energy's Reventure Park have requested additional certainty that RECs earned from the capture and use of waste heat are eligible for triple credit beyond the statements of the Commission in its ruling in Docket No. SP-100, Sub 28." In its filing, Clean Energy requests that the Commission issue an Order with six specific declarations regarding the aforementioned issues.

On January 22, 2013, the Commission issued an Order Requesting Comments, allowing for parties to intervene and file comments and reply comments on Clean Energy's request.

On February 1, 2013, Electricities of North Carolina, Inc., North Carolina Municipal Power Agency Number 1, and North Carolina Eastern Municipal Power Agency (hereinafter collectively referred to as the Power Agencies) filed a petition to intervene in this docket, which was granted by the Commission on February 6, 2013.

Comments were filed by the Public Staff on February 13, 2013, and by the Power Agencies on February 15, 2013. No other parties filed comments in this docket.

In its comments, the Public Staff, supporting Clean Energy's request, stated that "any 'waste heat [used] to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility' from the first 20 MW of generating capacity should also be eligible for triple credit." Further, the Public Staff agreed that S.L. 2011-279, which amended Section 4 of S.L. 2010-195, "limited the ability of the additional credits to be utilized to meet the requirements of the poultry waste set-aside in G.S. 62-133.8(f) to the first 10 MW of biomass renewable energy facility generation capacity, but it did not affect the overall application of the triple credit provision to the renewable generation from the first 20 MW of biomass renewable energy generation capacity." In conclusion, the Public Staff recommended that the Commission issue an Order stating the six declarations requested by Clean Energy.

In their comments, the Power Agencies addressed each of the six declarations requested by Clean Energy, describing them as consistent with prior Commission Orders; S.L. 2010-195, as amended by S.L. 2011-279; and the intent of the Renewable Energy and Energy Efficiency Portfolio Standard. The Power Agencies recommended that the Commission issue an Order stating the six declarations requested by Clean Energy.

DISCUSSION AND CONCLUSION

On April 18, 2011, in Docket No. SP-100, Sub 28, the Commission issued an Order on Request for Declaratory Ruling, which, among other things, addressed the eligible output, pursuant to S.L. 2010-195 (Senate Bill 886), to which triple credit is applied to any electric power or RECs generated by an eligible facility. In its April 18, 2011 Order, the Commission stated:

> The Commission notes that Senate Bill 886 states simply that "[t]he triple credit shall apply only to the first 20 megawatts of biomass renewable energy facility generation capacity located in all cleanfields renewable energy demonstration parks in the State." The limit, therefore, is on the electric generating capacity of the facility or facilities, not the energy or RECs that may be earned by the facility or facilities. For example, if the BTE Facility were a combined heat and power facility, it could earn RECs associated with both the electric generation and the "waste heat [used] to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility." As provided in Senate Bill 886, the triple credit is applied to any electric power or RECs generated from renewable energy resources at the biomass renewable energy facility that are purchased by an electric power supplier for the purposes of compliance with G.S. 62-133.8. The Commission agrees with ReVenture, therefore, that, under Senate Bill 886, any electric generating capacity beyond 20 MW located in cleanfields renewable energy demonstration parks in the State are not eligible for the triple credit. However, the Commission is not persuaded that Senate Bill 886 limits the number of RECs that may be earned by the first 20 MW of electric generating capacity to the electric power generated at the facility.

The Commission agrees with Clean Energy, the Public Staff, and the Power Agencies, and finds no reason why its April 18, 2011 Order is not still applicable. S.L. 2011-279 (Senate Bill 484) did not amend any aspect of S.L. 2010-195 with respect to the electric generating capacity that is eligible to earn triple credit. Rather, S.L. 2011-279 simply amended the electric generating capacity from which additional credits are eligible to satisfy the poultry waste set-aside requirement in G.S. 62-133.8(f). S.L. 2011-279 amended S.L. 2010-195 adding the following underlined language:

> The additional credits <u>assigned to the first 10 megawatts of biomass renewable energy facility generation capacity</u> shall be eligible for use to

> meet the requirements of G.S. 62-133.8(f). The additional credits assigned to the first 10 megawatts of biomass renewable energy facility generation capacity shall first be used to satisfy the requirements of G.S. 62-133.8(f). Only when the requirements of G.S. 62-133.8(f) are met, shall the additional credits assigned to the first 10 megawatts of biomass renewable energy facility generation capacity be utilized to comply with G.S. 62-133.8(b) and (c). The triple credit shall apply only to the first 20 megawatts of biomass renewable energy facility generation capacity located in all cleanfields renewable energy demonstration parks in the State

The effect of this language is that, although the first 20 MW of biomass renewable energy facility generating capacity remain eligible for the triple credit, only the first 10 MW of biomass renewable energy facility generating capacity is eligible to earn additional credits to meet the poultry waste set-aside requirements in G.S. 62-133.8(f). The additional credits from any generating capacity in excess of 10 MW must be utilized to comply with the general REPS requirements in G.S. 62-133.8(b) and (c), rather than the poultry waste set-aside requirement in G.S. 62-133.8(f). Consistent with the Commission's April 18, 2011 Order, the limit is on the electric generating capacity, not the amount of energy or RECs that may be earned, and RECS may be derived from both the electric generation and the waste heat used to produce electricity or useful, measurable thermal or mechanical energy at a retail electric customer's facility.

Based on its review of Clean Energy's request, the comments of the Public Staff and the Power Agencies, prior Commission Orders, and S.L. 2010-195, as amended by S.L. 2011-279, the Commission makes the following conclusions:

1. RECs eligible for triple credit pursuant to S.L. 2010-195, as amended by S.L. 2011-279, may be earned from the electric generation and the thermal energy produced from the capture and use of waste heat at a biomass fueled combined heat and power facility located in a cleanfields renewable energy demonstration park and registered with the Commission as a new renewable energy facility;

2. RECs eligible for triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, will be recorded in NC-RETS as one of two unique fuel types, marked either as originating from the first 10 MW of generating capacity, or as originating from the second 10 MW of generating capacity. If necessary, the allocation method of RECS between the first and second 10 MW of generating capacity will be determined during the registration of a cleanfields renewable energy demonstration park as a new renewable energy facility. Each megawatt-hour and every 3,412,000 British thermal units of useful thermal energy so recorded will equal a single REC of either type;

3. The electric power supplier that purchases either type of REC eligible for triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, for compliance with G.S. 62-133.8 will receive one REC. When the electric power supplier

retires that REC, it will receive triple credit, resulting in one general obligation REC and two additional credits;

4. The electric power supplier will use and retire either type of REC eligible for the triple credit pursuant to Section 4 of S.L. 2010-195, as amended by S.L. 2011-279, and the two additional credits in accordance with the NC-RETS Operating Procedures;

5. The additional credits assigned to the first 10 megawatts of biomass renewable energy facility generation capacity are eligible for use to meet the requirements of G.S. 62‑133.8(f) and they must first be used to satisfy those requirements. Only when the requirements of G.S. 62‑133.8(f) are met may the additional credits assigned to the first 10 MW of biomass renewable energy facility generation capacity be utilized to comply with G.S. 62-133.8(b) and (c); and

6. Except for the triple credit, all of the provisions of G.S. 62-133.8 and Rule R8-67 will apply equally to the RECs associated with the electric generation and thermal energy produced at a cleanfields renewable energy demonstration park as to RECs associated with energy produced at any other renewable energy facility.

IT IS, THEREFORE, SO ORDERED

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of March, 2013.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Chief Clerk

Pb031113.01

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. SP-2285, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Weyerhaeuser NR Company for Registration of a New Renewable Energy Facility	))))	ORDER ACCEPTING REGISTRATION AS A RENEWABLE ENERGY FACILITY

BY THE COMMISSION: On November 16, 2012, Weyerhaeuser NR Company (Weyerhaeuser) filed a registration statement pursuant to Commission Rule R8-66 for a new renewable energy facility located in Vanceboro in Craven County, North Carolina. In its filing, Weyerhaeuser described its facility as a biomass-fueled combined heat and power (CHP) system, consisting of a biomass-fueled recovery boiler, two fossil-fueled power boilers, and a backpressure turbine rated at 29.7 MW_{AC}. Weyerhaeuser stated in its filing that its facility began operations in 1969. Weyerhaeuser further stated that it uses spent pulping liquors from its pulp-manufacturing process as the source of fuel for the biomass-fueled recovery boiler. Finally, Weyerhaeuser provided supplemental information[1] in support of its position that the Commission should approve registration of the facility as a new renewable energy facility.

In the supplemental information filed with its registration, Weyerhaeuser stated that the reconstruction and upgrade of its CHP system was necessary to continue using the biomass-fueled recovery boiler and, potentially, to continue the operation of its pulp-manufacturing process. Weyerhaeuser further stated that it invested approximately $35 million to reconstruct and upgrade the CHP system, including the biomass-fueled recovery boiler. This investment, according to Weyerhaeuser, resulted in the continued use of its biomass-fueled recovery boiler and improved the overall performance, efficiency, and monitoring of its CHP system. Weyerhaeuser stated that the upgrade and reconstruction of its CHP system began in 2008 and concluded in November, 2009. Weyerhaeuser also stated that 75-80 percent of the expenditures were directed towards technology improvements for the overall CHP system. Finally, Weyerhaeuser asserted that its newly renovated CHP system should be classified as a new renewable energy facility because substantial improvements and capital investments were made to the CHP system, including the biomass-fueled recovery boiler, that resulted in: (1) increased efficiencies and utilization in the biomass-fueled recovery boiler of spent pulping liquors, a renewable energy resource as defined by G.S. 62-133.8(a)(8); and (2) increased useful life of the biomass-fueled recovery boiler. Weyerhaeuser argued that these

[1] Weyerhaeuser's supplemental information filed on November 16, 2012, contained: Exhibit 1, Map with Location of New Bern Facility; Exhibit 2, New Renewable Energy Facility Basis; Exhibit 3, Method of Determining Gross MWH Attributable to Each Fuel Used and Method of Determining Electrical Station Load; Exhibit 4, Method of Determining Eligible Thermal Output; and Exhibit 5, Permits.

increased efficiencies and the increased life of the facility caused by the upgrades and reconstruction essentially rendered the facility a new biomass-fueled recovery boiler.

Weyerhaeuser's filing included certified attestations that: 1) the facility will be in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources; 2) the facility will be operated as a new renewable energy facility; 3) Weyerhaeuser will not remarket or otherwise resell any renewable energy certificates (RECs) sold to an electric power supplier to comply with G.S. 62-133.8; and 4) Weyerhaeuser will consent to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with North Carolina electric power suppliers.

On December 27, 2012, the North Carolina Sustainable Energy Association (NCSEA), filed comments in opposition to Weyerhaeuser's assertion that its facility should be registered as a new renewable energy facility. In its comments, NCSEA stated that, barring statutory provisions specified for hydroelectric facilities and grandfathered power facilities, the relevant factors the Commission should consider in its determination of whether a facility is a new renewable energy facility should include: (1) whether equipment had previously been installed and/or operated at Weyerhaeuser's facility, and if so, (2) whether substantial investment and/or improvement was necessary for Weyerhaeuser to begin generating part or all of its electricity from a renewable energy resource, and (3) if such generation from a renewable energy resource began on or after January 1, 2007.

NCSEA further stated in its filing that Weyerhaeuser's rationale for its CHP system to be considered a new renewable energy facility emphasized only the change of a single component. NCSEA stated that Weyerhaeuser's position completely disregarded the fact that no fundamental change to Weyerhaeuser's CHP system took place. NCSEA noted that Weyerhaeuser's CHP system, including its biomass-fueled recovery boiler, is made up of multiple components, only some of which are related to the generation of electric power and that, despite the magnitude of the investment, the original and fundamental nature of the facility had not changed. Finally, NCSEA stated that because the facility had not undergone any change from its original function, it should not be viewed as being introduced into service on or after January 1, 2007, and, thus, the Commission should not accept registration of the facility as a new renewable energy facility.

On March 12, 2013, the Public Staff filed the recommendation required by Commission Rule R8-66(e) stating that Weyerhaeuser's registration statement should be considered to be complete. However, the Public Staff stated that it disagreed with Weyerhaeuser that the entire facility should be considered a new renewable energy facility. Specifically, the Public Staff recommended that:

(1) The Commission accept Weyerhaeuser's facility as a new renewable energy facility having commenced its operations on or around November 19, 2009, the completion of Weyerhaeuser's CHP system retrofit. However, to the extent that

the Commission does accept the Weyerhaeuser facility as a new renewable energy facility, such acceptance shall only be to the extent that the electrical and thermal energy produced at the facility from a renewable energy resource, as a result of the retrofit, exceeds the baseline energy produced during a comparable period of time, prior to the retrofit;

(2) The Commission accept the remaining electrical and thermal energy generated, not defined in item (1) above, for Weyerhaeuser's facility as having been generated from a renewable energy facility and not from a new renewable energy facility;

(3) Weyerhaeuser provide verified monthly energy production data, broken down by fuel type, for the period beginning January 1, 2007, and ending December 31, 2008, in an effort for the Commission to establish a pre-retrofit energy baseline for the Weyerhaeuser facility;

(4) Weyerhaeuser provide verified monthly energy production data, broken down by fuel type, for the two years of operation prior to the filing of its registration on November 16, 2012;

(5) The Commission accept the calculations, filed in Weyerhaeuser's application as Exhibits 3 and 4, as satisfactory methods to calculate the gross megawatt-hours attributable to each fuel type used, the station service electrical load, and the eligible thermal energy output of the Weyerhaeuser facility, in an effort for the Commission to determine the portion of the facility's electrical and thermal energy that is eligible for issuance of RECs;

(6) For REC issuance purposes, the Commission authorize Weyerhaeuser to enter two years of historical energy production data into the North Carolina Renewable Energy Tracking System (NC-RETS); and

(7) That the Commission direct the NC-RETS Administrator to provide comments on any programmatic changes necessary to enable NC-RETS to support the implementation of the Public Staff's recommendations.

No other party made a filing with respect to these issues.

DISCUSSION AND CONCLUSIONS

Weyerhaeuser filed a registration statement pursuant to Commission Rule R8-66, requesting that its newly-renovated CHP facility located in Vanceboro in Craven County, North Carolina be registered as a new renewable energy facility. Weyerhaeuser asserted in its filing, in relevant part, the following: (1) that it made substantial improvements and capital investments, totaling an estimated $35million, to its original facility, including its biomass-fueled recovery boiler which had reached the end of its useful life; (2) that its newly renovated facility is in essence a "new" facility; and (3) that its newly renovated facility demonstrates increases in system efficiency for the entire facility, use of newer technology and improved system controls, reductions in fossil fuel use, increased capacity to use renewable energy resources, and re-commenced operations after January 1, 2007. There is no dispute that a portion of the facility uses a renewable energy resource. Thus, the relevant issue in this proceeding is whether Weyerhaeuser's newly renovated facility should be classified as a renewable or a new renewable energy facility.

While the specific circumstances of this matter are a case of first impression for the Commission, the issue of whether a facility that has undergone some sort of change or renovation should be classified as "new" has been addressed by the Commission in previous orders. On June 17, 2009, in Docket No. E-100, Sub 113, the Commission issued an Order on Public Staff's Motion for Clarification, considering the question of whether RECs could be earned by a hydroelectric plant with a capacity of more than 10 MW, where the plant is composed of multiple generating units of less than 10 MW capacity. The Commission concluded that individual generating units at the plant would not be considered separate facilities, and further concluded that an electric public utility cannot use utility-owned hydroelectric generation that was placed into service prior to January 1, 2007, for REPS compliance, regardless of the size of a unit or the facility of which it is a part, but that it may use power generated from new or incremental utility-owned hydroelectric generating capacity of 10 MW or less that was placed into service on or after January 1, 2007.

On June 13, 2008, in Docket No. SP-161, Sub 1, the Commission issued an Order Approving Application, Issuing Certificate, and Accepting Registration, which accepted the registration statement filed by Coastal Carolina Clean Power, LLC, for a 32-MW biomass-fueled cogeneration facility as a new renewable energy facility. Since 1986 the facility had operated as a coal-fired plant. However, the coal-fired plant ceased operations on April 26, 2007, and underwent an estimated $11,300,000 renovation, including extensive equipment modifications and additions, resulting in the ability to burn various wood waste products to generate electricity and create steam.

On December 17, 2009, in Docket No. SP 165, Sub 3, the Commission issued an Order Issuing Amended Certificates, Accepting Registration Statement, and Issuing Declaratory Ruling, which, among other things, accepted the registration statements filed by EPCOR USA North Carolina, LLC, for an 86-MW and a 47-MW facility as new renewable energy facilities. Both facilities proposed to use wood waste, tire derived fuel,

and coal as fuel sources. Additionally, at the time of the Order, both facilities were being upgraded to allow co-firing, at least in part, of renewable fuels, as opposed to their previous use of only coal as fuel.

On October 11, 2010, in Docket No. E-7, Subs 939 and 940, the Commission issued an Order Accepting Registration of Renewable Energy Facilities, which, among other things, accepted the registration as renewable energy facilities for two electric generation facilities (Buck and Lee) that proposed to co-fire wood as a fuel for energy production in combination with coal. The Commission concluded that the electric output would be eligible for RECs for the portion generated by a renewable energy resource. However, the Commission declined to register the facilities as new renewable energy facilities, stating, "these facilities meet the definition of renewable energy facility. Neither facility, however, was placed into service after January 1, 2007; rather, Duke witness Beer testified that Buck and Lee were placed into service in the 1950s. Moreover, neither facility required extensive modifications to allow it to burn biomass."

Finally, on July 5, 2011, in Docket Nos. SP-100, Sub 9, and SP-967, Sub 0, the Commission issued an Order on Request for Supplemental Declaratory Rulings and Registration of New Renewable Energy Facility, which, among other things, accepted the registration as a new renewable energy facility for a 2.8-MW landfill gas facility. The facility had previously operated as a landfill gas facility that produced steam but not electricity and was being renovated to accommodate the production of electricity. In its determination that the facility was a new renewable energy facility, the Commission stated, "Because there was no existing capacity to generate electricity at this site and the facility is to be placed into service on or after January 1, 2007, RSP's proposed CHP facility further meets the definition of a new renewable energy facility."

Based on these Orders, the Public Staff and NCSEA both asserted that the determinative factor in classifying a facility as "new" should be whether substantial investment or improvement was necessary for the facility to begin generating some or all of its electricity from a renewable energy resource.

NCSEA argued that Weyerhaeuser's facility should not be classified as a new renewable energy facility because there was no change to the original function of the facility. The Public Staff, contrary to NCSEA, argued that part of the facility should be classified as a new renewable energy facility, and the remaining portion should be classified as a renewable energy facility. Specifically, the Public Staff noted that its recommendation that the facility be registered as two separate classifications is based on the Commission's June 17, 2009 Order on Public Staff's Motion for Clarification, issued in Docket No. E-100, Sub 113. The Public Staff argued that the same treatment given to the incremental capacity added at a hydroelectric facility should be given to a facility that is not a hydroelectric facility, but rather a renewable energy facility renovated after January 1, 2007. Specifically, the Public Staff explained that, following the retrofit of a renewable energy facility that involves a substantial investment or improvement, any increase to the facility's power production or use of a renewable energy resource

over and above the facility's baseline capacity that can be attributed to the retrofit, should be treated as new.

The Commission finds that the facts of this matter are distinguishable from the previous Commission orders addressing whether a facility that has undergone some sort of change or renovation should be classified as new. In both Docket No. SP-161, Sub 1 and Docket No. SP-165, Sub 3, the facilities, prior to renovation, did not have the capability to use a renewable energy resource. The Commission agrees with the Public Staff and NCSEA that the determinative factor in classifying a facility as new should be whether substantial investment or improvement was necessary for the facility to begin generating some or all of its electricity from a renewable energy resource. However, the Commission disagrees with the Applicant and the Public Staff's recommendations for several reasons.

The Public Staff attempts to compare the matter at hand to the Commission's treatment of new or incremental utility-owned hydroelectric generating capacity of 10 MW or less that was placed into service on or after January 1, 2007. The Commission disagrees with the Public Staff's recommendation regarding how to determine if a renewable energy facility is also a new renewable energy facility if it has undergone renovation on or after January 1, 2007. Specifically, in the Commission's July 5, 2011 Order, issued in Docket No. SP-100, Sub 9 and Docket No. SP-976, Sub 0, the Commission outlined a process to make such a determination. The Commission stated:

> With the exception, again, of certain hydroelectric power facilities and other grandfathered facilities, a new renewable energy facility is defined in G.S. 62-133.8(a)(5) as a renewable energy facility that was placed into service on or after January 1, 2007. The relevant questions, then, to be asked in these and similar cases to determine whether a renewable energy facility is also a new renewable energy facility are, first, whether electric generating equipment had previously been installed and operated at the site, and, if so, whether a substantial investment or improvement was necessary to begin generating some or all of the electricity from renewable energy resources. The facility is a new renewable energy facility if there was no existing capacity to generate electricity at this site or, if there was, a substantial investment or improvement was necessary to begin generating some or all of the electricity from renewable energy resources and the facility was placed into service on or after January 1, 2007.

To apply this standard to the current facts the Commission must determine: (1) when did Weyerhaeuser's facility begin its operations, (2) what type of generating capabilities did the original Weyerhaeuser facility possess, (3) did Weyerhaeuser make a substantial investment or improvement to its facility, and (4) was Weyerhaeuser's

investment or improvement necessary to begin generating some or all of its electricity from a renewable energy resource.

The Commission finds that the facility began its operations in 1969 and was capable of generating electricity at that time. The Weyerhaeuser facility originally consisted of a biomass-fueled recovery boiler, two fossil-fueled power boilers, and a backpressure turbine. The Commission also finds that Weyerhaeuser made a substantial investment and improvements to retrofit its facility. However, the retrofit was not necessary for the facility to begin generating some or all of its electricity from a renewable energy resource. The Commission agrees with NCSEA that, despite the retrofit, no improvements or additions were made that changed the original function of the facility. While the retrofit may have extended the life of the facility and increased its efficiency, the retrofit did not result in the facility possessing the capability to use a renewable fuel source that it could not have previously used.

Therefore, consistent with previous Commission orders, the Commission concludes that Weyerhaeuser's renovated CHP system, which originally began its operations in 1969, is a renewable energy facility pursuant to G.S. 62-133.8(a)(7). The facility, which should be examined in its entirety, was capable of generating electricity from a renewable energy resource prior to the retrofit. Additionally, in contrast to the Commission's Order on incremental hydroelectric capacity, Weyerhaeuser's retrofit did not add additional capacity through the addition of a new boiler, but rather extended the useful life and increased the efficiency of an existing facility already capable of using a renewable energy resource prior to January 1, 2007. Thus, the Commission concludes that the facility does not meet the definition of a new renewable energy facility. Having concluded that spent pulping liquors are a renewable energy resource as defined by G.S. 62-133.8(a)(8), the Commission concludes that the Weyerhaeuser facility qualifies as, and should be registered as, a "renewable energy facility" pursuant to G.S. 62-133.8(a)(7) and Commission Rule R8-66. Pursuant to Commission Rule R8-67(d)(2), if the facility uses both renewable energy resources and nonrenewable energy resources to produce energy, the facility shall earn RECs based only upon the energy derived from renewable energy resources in proportion to the relative energy content of the fuels used.

Based upon the foregoing and the entire record in this proceeding, including the source of fuels stated in the registration statement, the Commission finds good cause to deny registration of Weyerhaeuser's facility as a new renewable energy facility and to accept registration of Weyerhaeuser's facility as a renewable energy facility. Weyerhaeuser shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year. To the extent that Weyerhaeuser is not otherwise participating in a REC tracking system, Weyerhaeuser will be required to participate in NC-RETS (www.ncrets.org) in order to facilitate the issuance of RECs.

IT IS, THEREFORE, ORDERED as follows:

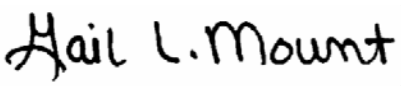
1. That the registration by Weyerhaeuser for its biomass-fueled CHP system facility located in Vanceboro in Craven County, North Carolina, as a renewable energy facility shall be, and is hereby, accepted.

2. That Weyerhaeuser shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of June, 2013.

NORTH CAROLINA UTILITIES COMMISSION



Gail L. Mount, Chief Clerk

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STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. SP-813, SUB 0

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Rocky Knoll Farm, LP, for Registration of a Renewable Energy Facility	)	ORDER REVOKING REGISTRATION OF RENEWABLE ENERGY FACILITY

BY THE COMMISSION: On August 10, 2012, the Commission issued an Order Requesting Audit and Recommendations requesting the Public Staff to audit the books and records of Rocky Knoll Farm, LP (Rocky Knoll), and that the North Carolina Renewable Energy Tracking System (NC-RETS) file a report recommending to the Commission any necessary actions to ensure that the number of renewable energy certificates (RECs) issued to Rocky Knoll for its electric output is accurate.

On September 28, 2012, the Public Staff filed a Motion for Extension of Time, requesting that the due date to file its recommendations be extended to October 17, 2012, which was granted by the Commission on October 1, 2012.

On October 15, 2012, the Public Staff filed a Motion to Compel and for Extension of Time. In its motion, the Public Staff stated that it had not received data request responses from Rocky Knoll, and, thus, was not able to complete the audit as requested by the Commission. The Public Staff requested that the Commission order Rocky Knoll to fully respond to its outstanding data request. Additionally, the Public Staff requested that the Commission extend the Public Staff's deadline for filing its audit and recommendations such that the Public Staff's response would be due two weeks following the date on which Rocky Knoll provided a complete response to the Public Staff.

On October 30, 2012, the Commission issued an Order Granting Motion to Compel and Time Extension, requiring Rocky Knoll to fully respond, within 10 business days, to the Public Staff's data requests. Further, the Commission requested that the Public Staff promptly inform the Commission of any failure by Rocky Knoll to comply in a timely fashion. Finally, the Commission extended the Public Staff's deadline for filing its audit and recommendations to two weeks from the date that the Public Staff received the data that it had requested from Rocky Knoll.

On May 31, 2013, the Public Staff filed a Motion to Revoke Registration Statement, requesting that the Commission revoke Rocky Knoll's registration as a renewable energy facility. In its motion, the Public Staff stated that Rocky Knoll has not provided the necessary information for the Public Staff to be able to determine the amount of electricity generated by Rocky Knoll that is eligible to earn RECs, as requested by the Commission in its August 10, 2012 Order. The Public Staff noted that Rocky Knoll's partial response to its

initial data request lacked sufficient information necessary to verify Rocky Knoll's electric output. After multiple requests and an incomplete response to its data requests, the Public Staff recommended that the Commission issue an order: (1) revoking the registration statement of Rocky Knoll as a renewable energy facility; (2) canceling any RECs earned by Rocky Knoll in the NC-RETS tracking system and finding that any RECs earned by this facility are ineligible for use by a North Carolina electric power supplier; and (3) directing the Administrator of NC-RETS to suspend and close Rocky Knoll's account.

The Public Staff further recommended that the Commission's order state that if Rocky Knoll wishes to resubmit a registration statement as a renewable energy facility, that it must provide the information requested by the Public Staff to properly verify that the quantity of RECs generated by the facility is calculated in compliance with Commission Rules and the NC-RETS Operating Procedures. The Public Staff noted that if Rocky Knoll complies with these requirements, it may be able to enter some of its historic generation data in order to earn RECs. However, pursuant to Commission Rule R8-67(h)(4), renewable energy facilities registered in NC-RETS may only enter historic energy production data for REC issuance that goes back up to two years from the date on which they are registered.

DISCUSSION AND CONCLUSIONS

Commission Rule R8-66(b)(5) states:

> The owner of each renewable energy facility shall certify in its registration statement and annually thereafter that it consents to the auditing of its books and records by the Public Staff insofar as those records relate to transactions with North Carolina electric power suppliers, and agrees to provide the Public Staff and the Commission access to its books and records, wherever they are located, and to the facility. [Emphasis added.]

The Commission finds that Rocky Knoll has not cooperated with the Public Staff in its efforts to audit the facility's books and records. Thus, the Commission agrees with the Public Staff that it is appropriate at this time to revoke Rocky Knoll's registration as a renewable energy facility. Further, because it is not possible to ascertain with any confidence whether the RECs that have been issued by NC-RETS relative to energy produced by Rocky Knoll are valid, the Commission agrees with the Public Staff that it is appropriate to require the NC-RETS Administrator to subject all RECs that have been issued for Rocky Knoll to forced retirement, regardless of their current ownership. Such RECs are ineligible for compliance with the State's Renewable Energy and Energy Efficiency Portfolio Standard (REPS). The Commission declines to adopt the Public Staff's recommendations encouraging Rocky Knoll to participate further in the State's REPS or its tracking system.

IT IS, THEREFORE, ORDERED as follows:

1. That the registration statement previously approved by the Commission on December 9, 2010, for the Rocky Knoll biomass facility located in Lancaster, Pennsylvania, as a renewable energy facility shall be, and is hereby, revoked.

2. That the Administrator of NC-RETS shall not allow Rocky Knoll to establish its facility as a "project" in NC-RETS, and if already established, the NC-RETS Administrator shall cancel Rocky Knoll's facility as a "project" in NC-RETS as soon as practicable.

3. That any RECs issued by NC-RETS for Rocky Knoll are ineligible to be used by an electric power supplier for compliance with the REPS and shall be forcibly retired by the NC-RETS Administrator.

4. That the Administrator of NC-RETS shall post a copy of this Order on the home page of the NC-RETS web site, and distribute a copy via email to all NC-RETS stakeholders.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of July, 2013.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Chief Clerk

kh071613.09

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. E-100, SUB 130

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Revocation of Registration of Renewable Energy Facilities and New Renewable Energy Facilities Pursuant to Rule R8-66(f) - 2013	)))))	ORDER GIVING NOTICE OF INTENT TO REVOKE REGISTRATION OF RENEWABLE ENERGY FACILITIES AND NEW RENEWABLE ENERGY FACILITIES

BY THE COMMISSION: Pursuant to Commission Rule R8-66(b), for renewable energy certificates (RECs) earned by a facility to be eligible for use by an electric power supplier in North Carolina for compliance with the Renewable Energy and Energy Efficiency Portfolio Standard (REPS), the owner of the facility shall register it with the Commission as a renewable energy facility or new renewable energy facility and is thereafter required to file an annual certification. Each Commission order approving the registration of a renewable energy facility or new renewable energy facility states that the owner of the facility shall annually file the information required by Commission Rule R8-66 on or before April 1 of each year. Specifically, Commission Rule R8-66(b)(7) states that annual certifications are due April 1 of each year, and that owners of facilities that are registered as projects in the North Carolina Renewable Energy Tracking System (NC-RETS) may complete their annual certification electronically via the NC-RETS system. Pursuant to Commission Rule R8-66(f), failure to file an annual certification may result in the revocation of a facility's registration.

According to records maintained in NC-RETS, ten renewable energy facilities and/or new renewable energy facilities registered in NC-RETS (listed in Appendix A of this Order) have not completed the on-line annual certification that was due April 1, 2013. In addition, 216 renewable energy facilities and/or new renewable energy facilities that are registered with the Commission but that are not registered as projects in NC-RETS (listed in Appendix B of this Order) have not filed with the Commission the annual certification that was due April 1, 2013.

The Commission finds good cause to notice its intent to revoke, as of October 1, 2013, the registration of any facility listed in Appendix A of this Order, unless the owner of the facility completes the on-line certification on or before that date. Further, the Commission finds good cause to notice its intent to revoke, as of October 1, 2013, the registration of any facility listed in Appendix B of this Order, unless the owner of the facility files the verified certification required by Rule R8-66(b) (attached as Appendix C of this Order) on or before that date. Finally, the Commission concludes that it is appropriate to waive the 2013 annual certification requirement in Rule R8-66(b)

for recently-registered facilities that received orders approving registration after January 1, 2013.

IT IS, THEREFORE, ORDERED as follows:

1. That the Commission shall issue orders revoking the registration of any renewable energy facilities and/or new renewable energy facilities listed in Appendix A as of October 1, 2013, unless the owner of the facility completes the on-line certification required by Rule R8-66(b) on or before that date.

2. That the Commission shall issue orders revoking the registration of any renewable energy facility and/or new renewable energy facility listed in Appendix B as of October 1, 2013, unless the owner of the facility files the verified certification required by Rule R8-66(b) (attached as Appendix C of this Order) on or before that date.

3. That the NC-RETS Administrator shall not import any RECs from a renewable energy facility or new renewable energy facility listed in Appendix B until the owner of the facility has filed with the Commission the certification required by Rule R8-66(b) and this Order.

4. That the Chief Clerk shall serve a copy of this Order on the owner of each facility listed in Appendices A and B by certified mail, return receipt requested.

5. That the Chief Clerk shall distribute a copy of this Order to all of the parties in Docket No. E-100, Sub 113.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2013.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Chief Clerk

Chairman Edward S. Finley, Jr. did not participate.

Pb082813.03

Registered Facilities Pending Revocation (*NC-RETS Participants*)		
Docket Number	**Facility Owner**	**State**
RET-22, Sub 0	ST Silver Bluff, LLC	NC
SP-311, Sub 0	Hoosier Hydroelectric, Inc.	NC
SP-432, Sub 1	Madison County Public Schools	NC
SP-432, Sub 2	Madison County Public Schools	NC
SP-588, Sub 0	Frazier Jr.; Ronald C	NC
SP-596, Sub 0	Brinton; Jonathan	NC
SP-615, Sub 0	Escobar; Caroline M.	NC
SP-634, Sub 1	Bend of Ivy Lodge	NC
SP-1036, Sub 1	Martin Truex Jr., LLC	NC
SP-1224, Sub 0	Crow Creek Golf Club, LLC	NC

Registered Facilities Pending Revocation *(Non NC-RETS Participants*)		
Docket Number	**Facility Owner**	**State**
SP-1022, Sub 0	Sun Edison SD, LLC	CA
SP-1044, Sub 0	Tioga Solar I, LLC	CA
SP-1045, Sub 0	Tioga Solar VII, LLC	CA
SP-1046, Sub 0	Tioga Solar IX, LLC	CA
SP-1082, Sub 0	GCL Eastside, LLC	CA
SP-1175, Sub 0	GCL Highland, LLC	CA
SP-1176, Sub 0	GCL Antelope Valley, LLC	CA
SP-1177, Sub 0	GCL AV Adult, LLC	CA
SP-1179, Sub 0	GCL Lancaster, LLC	CA
SP-1180, Sub 0	GCL Quartz Hill, LLC	CA
SP-1181, Sub 0	GCL Palmdale, LLC	CA
SP-1182, Sub 0	GCL Little Rock, LLC	CA
SP-1183, Sub 0	GCL Desert Winds, LLC	CA
SP-1184, Sub 0	GCL Knight, LLC	CA
SP-1558, Sub 0	SunRun Solar Owner II, LLC	CA
SP-733, Sub 0	SPG Solar I LLC	CA
SP-746, Sub 1	Costco Wholesale Corporation	CA
SP-746, Sub 10	Costco Wholesale Corporation	CA
SP-746, Sub 11	Costco Wholesale Corporation	CA
SP-746, Sub 12	Costco Wholesale Corporation	CA
SP-746, Sub 13	Costco Wholesale Corporation	CA
SP-746, Sub 14	Costco Wholesale Corporation	CA
SP-746, Sub 15	Costco Wholesale Corporation	CA
SP-746, Sub 16	Costco Wholesale Corporation	CA
SP-746, Sub 17	Costco Wholesale Corporation	CA
SP-746, Sub 2	Costco Wholesale Corporation	CA
SP-746, Sub 3	Costco Wholesale Corporation	CA
SP-746, Sub 4	Costco Wholesale Corporation	CA
SP-746, Sub 5	Costco Wholesale Corporation	CA
SP-746, Sub 6	Costco Wholesale Corporation	CA
SP-746, Sub 7	Costco Wholesale Corporation	CA
SP-746, Sub 8	Costco Wholesale Corporation	CA
SP-746, Sub 9	Costco Wholesale Corporation	CA
SP-785, Sub 0	SPP Fund II, LLC	CA
SP-785, Sub 1	SPP Fund II, LLC	CA

SP-785, Sub 10	SPP Fund II, LLC	CA
SP-785, Sub 11	SPP Fund II, LLC	CA
SP-785, Sub 12	SPP Fund II, LLC	CA
SP-785, Sub 13	SPP Fund II, LLC	CA
SP-785, Sub 14	SPP Fund II, LLC	CA
SP-785, Sub 15	SPP Fund II, LLC	CA
SP-785, Sub 16	SPP Fund II, LLC	CA
SP-785, Sub 17	SPP Fund II, LLC	CA
SP-785, Sub 18	SPP Fund II, LLC	CA
SP-785, Sub 19	SPP Fund II, LLC	CA
SP-785, Sub 2	SPP Fund II, LLC	CA
SP-785, Sub 20	SPP Fund II, LLC	CA
SP-785, Sub 21	SPP Fund II, LLC	CA
SP-785, Sub 22	SPP Fund II, LLC	CA
SP-785, Sub 23	SPP Fund II, LLC	CA
SP-785, Sub 24	SPP Fund II, LLC	CA
SP-785, Sub 3	SPP Fund II, LLC	CA
SP-785, Sub 4	SPP Fund II, LLC	CA
SP-785, Sub 5	SPP Fund II, LLC	CA
SP-785, Sub 6	SPP Fund II, LLC	CA
SP-785, Sub 7	SPP Fund II, LLC	CA
SP-785, Sub 8	SPP Fund II, LLC	CA
SP-785, Sub 9	SPP Fund II, LLC	CA
SP-1971, Sub 0	Young; Carlton Quint	FL
SP-1049, Sub 0	Green Energy Partners, LLC	GA
EMP-29, Sub 0	Pioneer Prairie Wind farm LLC	IA
EMP-42, Sub 0	Lost Lakes Wind Farm LLC	IA
EMP-47, Sub 0	Blackstone Wind Farm, LLC	IL
EMP-48, Sub 0	Blackstone Wind Farm II, LLC	IL
EMP-55, Sub 0	Rail Splitter Wind Farm, LLC	IL
EMP-52, Sub 0	Meadow Lake Wind Farm LLC	IN
EMP-53, Sub 0	Meadow Lake Wind Farm II LLC	IN
EMP-54, Sub 0	Meadow Lake Wind Farm IV LLC	IN
EMP-56, Sub 0	Meadow Lake Wind Farm III LLC	IN
EMP-33, Sub 0	Smoky Hills Wind Project II, LLC	KS
EMP-39, Sub 0	Smoky Hills Wind Farm, LLC.	KS
SP-1984, Sub 0	Flat Ridge 2 Wind Energy, LLC	KS
SP-1616, Sub 0	Ecocorp Inc.	MD
SP-1506, Sub 0	Fibrominn, LLC	MN

EMP-61, Sub 0	Pantego Wind Energy, LLC	NC
RET-27, Sub 0	Gaston County Schools	NC
RET-33, Sub 0	Appalachian State University	NC
RET-33, Sub 2	Appalachian State University	NC
RET-33, Sub 3	Appalachian State University	NC
RET-33, Sub 4	Appalachian State University	NC
SP-1012, Sub 0	Public Library of Charlotte and Mecklenburg County	NC
SP-1039, Sub 2	New World Renewable Energy Leasing, Inc.	NC
SP-1081, Sub 0	McDowell Green Energy, LLC	NC
SP-1108, Sub 4	North Carolina Renewable Energy, LLC	NC
SP-1108, Sub 5	North Carolina Renewable Energy, LLC	NC
SP-1108, Sub 6	North Carolina Renewable Energy, LLC	NC
SP-1122, Sub 0	NC-CHP Owner I, LLC	NC
SP-1131, Sub 0	Sefcik; Frank	NC
SP-1153, Sub 1	Steve Mason Enterprises, Inc.	NC
SP-1204, Sub 0	Solar Noir, LLC	NC
SP-1205, Sub 0	Spectrum Building Company, Inc.	NC
SP-1210, Sub 1	Concepts By Gary, LLC	NC
SP-1224, Sub 1	Crow Creek Golf Club, LLC	NC
SP-1240, Sub 0	AgPower, LLC	NC
SP-1244, Sub 0	Sawmill Solar Portfolio, LLC	NC
SP-1246, Sub 0	Coutu; Stephen and AJ	NC
SP-1249, Sub 1	Rockingham; County	NC
SP-1308, Sub 1	Effect Energy, Inc	NC
SP-1321, Sub 1	Due; Steven A.	NC
SP-1325, Sub 0	Barnabas Investment Group LLC	NC
SP-1341, Sub 3	Eagle Electron Power Partners, Inc	NC
SP-1360, Sub 0	Storms; William R.	NC
SP-1364, Sub 0	ESA Solar Pavillion, LLC	NC
SP-1368, Sub 0	Commercial Solar Applications, LLC	NC
SP-1375, Sub 0	Wright of Thomasville	NC
SP-1377, Sub 0	FLS Solar 60, LLC	NC
SP-1378, Sub 0	UREV Solar, LLC	NC
SP-1383, Sub 1	Morrissey; Michael T.	NC
SP-1396, Sub 0	Conrad Energy, LLC	NC
SP-1398, Sub 0	GWSJ, LLC	NC
SP-1399, Sub 1	Innovative Solar Systems 1, LLC	NC
SP-1434, Sub 1	Sommerville, Mark Lee	NC
SP-1440, Sub 1	Pope; John	NC

SP-1441, Sub 1	Knight; Heath	NC
SP-1472, Sub 0	Industrial Power Generating Company, LLC	NC
SP-1490, Sub 1	North Kannapolis Baptist Church	NC
SP-1514, Sub 0	Berwald; Greg	NC
SP-1515, Sub 0	Gerhart; Jeff	NC
SP-1517, Sub 0	Old Beech Mountain Solar Plant, LLC	NC
SP-1526, Sub 0	Adams, Martin and Associates PA	NC
SP-1536, Sub 0	Sunrise NC Daughter, LLC	NC
SP-1537, Sub 0	Sunrise NC RKAN Lessee, LLC	NC
SP-1540, Sub 0	Sunrise NC Martin 1 Lessee, LLC	NC
SP-1541, Sub 0	Sunrise NC Alexander Lessee, LLC	NC
SP-1542, Sub 0	Sunrise NC Shields Lessee, LLC	NC
SP-1543, Sub 0	Sunrise NC Hindsman Lessee, LLC	NC
SP-1550, Sub 0	Burke, Pierre & Nancy	NC
SP-1565, Sub 7	ESA Renewables IV, LLC	NC
SP-1565, Sub 9	ESA Renewables IV, LLC	NC
SP-1568, Sub 0	Plymouth Solar, LLC	NC
SP-1571, Sub 0	Cane Creek Solar Company	NC
SP-1572, Sub 0	Charlotte Motor Speedway Solar Plant, LLC	NC
SP-1577, Sub 0	Airfield Solar Plant, LLC	NC
SP-1602, Sub 0	Pristine Sun Fund 3, LLC	NC
SP-1623, Sub 0	North Cargo Building, LLC	NC
SP-1645, Sub 0	Grandfather Solar Project, LLC	NC
SP-1658, Sub 0	Red Toad III, LLC	NC
SP-1665, Sub 0	Neuse River Solar Farm II, LLC	NC
SP-1676, Sub 0	Airport Ground Solar 1, LLC	NC
SP-1695, Sub 0	Wallace Solar, LLC	NC
SP-1696, Sub 0	Franklin Solar, LLC	NC
SP-1706, Sub 1	Innovative Solar 3, LLC	NC
SP-1707, Sub 0	Seagrove Foods, Inc.	NC
SP-1708, Sub 0	Highland Brewing Solar, LLC	NC
SP-1720, Sub 0	North Carolina Solar II, LLC	NC
SP-1723, Sub 1	Innovative Solar 2, LLC	NC
SP-1724, Sub 1	Innovative Solar 6, LLC	NC
SP-1725, Sub 1	Innovative Solar 7, LLC	NC
SP-1740, Sub 1	Frame; Darrell	NC
SP-1741, Sub 0	Warsaw Solar, LLC	NC
SP-1754, Sub 0	Alamance Community College	NC
SP-1757, Sub 0	URENEW Solar, L.L.C.	NC

SP-1768, Sub 0	Water and Sewer Authority of Cabarrus County	NC
SP-1769, Sub 0	Nick Solar, LLC	NC
SP-1793, Sub 1	Innovative Solar 4, LLC	NC
SP-1794, Sub 1	Innovative Solar 9, LLC	NC
SP-1795, Sub 1	Innovative Solar 8, LLC	NC
SP-1810, Sub 0	Sanford Solar, LLC	NC
SP-1813, Sub 1	Lotus Solar, LLC	NC
SP-1814, Sub 1	Big Boy Solar, LLC	NC
SP-1817, Sub 0	Tower Solar Farm, LLC	NC
SP-1839, Sub 0	The Boathouse at FSV, LLC	NC
SP-1841, Sub 0	Onslow Power Producers, LLC	NC
SP-1877, Sub 0	Exhibit Court Solar, LLC	NC
SP-1899, Sub 1	Solar 55, LLC	NC
SP-1902, Sub 0	Atlantic Corporation of Wilmington, Inc.	NC
SP-1922, Sub 1	Beulaville Solar, LLC	NC
SP-1923, Sub 1	Kenansville Solar, LLC	NC
SP-1935, Sub 1	Poole; Leslie	NC
SP-1939, Sub 0	Beth Solar, LLC	NC
SP-1979, Sub 0	Manway Solar, LLC	NC
SP-2001, Sub 3	Energy United Electric Membership Corporation	NC
SP-2001, Sub 4	Energy United Electric Membership Corporation	NC
SP-2001, Sub 5	Energy United Electric Membership Corporation	NC
SP-203, Sub 1	Aquesta Bank	NC
SP-203, Sub 2	Aquesta Bank	NC
SP-2041, Sub 0	Mount Olive Solar, LLC	NC
SP-2042, Sub 0	Calypso Solar, LLC	NC
SP-2043, Sub 0	Warsaw Solar 2, LLC	NC
SP-2066, Sub 0	Plummer; Nicholas	NC
SP-2092, Sub 0	Sylvester; Rick	NC
SP-2165, Sub 0	Biscoe Solar, LLC	NC
SP-2166, Sub 0	Rockwell Solar, LLC	NC
SP-2167, Sub 0	Selma Solar, LLC	NC
SP-2168, Sub 0	Turkey Branch Solar, LLC	NC
SP-265, Sub 1	Jenkins; William Thomas	NC
SP-283, Sub 4	Appalachian State University	NC
SP-283, Sub 5	Appalachian State University	NC
SP-283, Sub 7	Appalachian State University	NC
SP-341, Sub 1	FLS Solar 10, LLC	NC
SP-432, Sub 3	Madison County Public Schools	NC

SP-605, Sub 1	Moore; Samuel B.	NC
SP-605, Sub 3	Moore; Samuel B.	NC
SP-665, Sub 0	Semprius, Inc.	NC
SP-677, Sub 0	Renewable Energy Business Group, Inc.	NC
SP-725, Sub 0	Frank and Robin Ann Southecorvo	NC
SP-779, Sub 0	Grandfather Mountain Stewardship Foundation	NC
SP-791, Sub 0	Harkrader; Richard	NC
SP-804, Sub 1	510 REPP One, LLC	NC
SP-823, Sub 0	Edson; Ben	NC
SP-833, Sub 0	Smith; Tony	NC
SP-833, Sub 1	Smith; Tony	NC
SP-844, Sub 1	Tropical Nut & Fruit Company	NC
SP-967, Sub 0	Raleigh Steam Producers, LLC	NC
SP-446, Sub 0	Tatanka Wind Power, LLC	ND/SD
EMP-63, Sub 0	Blue Canyon Windpower VI, LLC	OK
SP-1154, Sub 0	Green Gas Pioneer Crossing Energy, LLC	PA
SP-1336, Sub 0	Wisniewski; Raymond	PA
SP-1770, Sub 0	Emm; Thomas A.	PA
SP-1484, Sub 0	R1 Solar	SC
EMP-16, Sub 0	Post Oak Wind, LLC	TX
SP-1562, Sub 0	Blue Mountain Biogas, LLC	UT

Annual Certification for Renewable Energy Facility Registration

Facility Name: _____

Facility NCUC Docket No.: _____

☐	I certify that the facility is in substantial compliance with all federal and state laws, regulations, and rules for the protection of the environment and conservation of natural resources.
☐	I certify that the facility satisfies the requirements of G.S. 62-133.8(a)(5) or (7) as a O renewable energy facility, or O new renewable energy facility, and the facility will be operated as a O renewable energy facility, or O new renewable energy facility.
☐	I certify that 1) my organization is not simultaneously under contract with NC GreenPower to sell our RECs emanating from the same electricity production being tracked in NC-RETS; and 2) any renewable energy certificates (whether or not bundled with electric power) sold to an electric power supplier to comply with G.S. 62-133.8 have not, and will not, be remarketed or otherwise resold for any other purpose, including another renewable energy portfolio standard or voluntary purchase of renewable energy certificates in North Carolina (such as NC GreenPower) or any other state or country, and that the electric power associated with the certificates will not be offered or sold with any representation that the power is bundled with renewable energy certificates.
☐	I certify that I consent to the auditing of my organization's books and records by the Public Staff insofar as those records relate to transactions with North Carolina electric power suppliers, and agree to provide the Public Staff and the Commission access to our books and records, wherever they are located and to the facility.
☐	I certify that the information provided is true and correct for all years that the facility has earned RECs for compliance with G.S. 62-133.8.
☐	I certify that I am the owner of the renewable energy facility or am fully authorized to act on behalf of the owner for the purpose of this filing.

Name (print) _____

Title _____

Facility Owner _____

Phone Number _____

VERIFICATION

STATE OF _____ COUNTY OF _____

_____, personally appeared before me this day and, being first duly sworn, says that the facts stated in the foregoing certification and any exhibits, documents, and statements thereto attached are true as he or she believes.

WITNESS my hand and notarial seal, this _____ day of _____, 20____.

My Commission Expires: _____

_____
Signature of Notary Public

_____
Name of Notary Public – Typed or Printed

The name of the person who completes and signs the certification must be typed or printed by the notary in the space provided in the verification. The notary's name must be typed or printed below the notary's seal. This original verification must be affixed to the original certification, and a copy of this verification must be affixed to each of the 15 copies that are also submitted to the Commission at:

Chief Clerk's Office
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325