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NEW JERSEY BOARD OF PUBLIC UTILITIES

Proposed Amendments to the Renewable Portfolio Standards

N.J.A.C. 14:8-2.9(d)

“E-Metering Amendments”

BPU Docket Number: EX09040330

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PUBLIC UTILITIES BOARD OF PUBLIC UTILITIES

Renewable Portfolio Standards

Proposed Amendments: N.J.A.C. 14:8-2.9(d)

Authorized By: Board of Public Utilities, Jeanne M. Fox, President, and
Frederick F. Butler, Joseph L. Fiordaliso, Nicholas Asselta, and
Elizabeth Randall, Commissioners.

Authority: N.J.S.A. 48:2-13 and N.J.S.A. 48:3-49 et seq.

Calendar Reference: See Summary below for an explanation of exception to calendar
requirement.

BPU Docket Number: EX09040330

Proposal Number: PRN 2009-

Comments may be submitted through November 7, 2009, through either of the following methods:

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- ? Electronically, in Microsoft WORD format, or in a format that can be **easily converted to WORD**, by e-mailing them to the following e-mail address: rule.comments@bpu.state.nj.us; or
- ? On paper to:
 - New Jersey Board of Public Utilities
 - Kristi Izzo, Secretary
 - ATTN: BPU Docket Number: EX09040330**
 - Two Gateway Center
 - Newark, New Jersey 07102

The agency proposal follows:

Summary

The New Jersey Board of Public Utilities (“BPU”) has provided a 60-day comment period on this notice of proposal. Accordingly, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

The BPU is herein proposing amendments to the rules governing New Jersey’s renewable energy portfolio standards (“RPS”) at N.J.A.C. 14:8-2. The New Jersey Electric Discount and Energy Competition Act, N.J.S.A. 48:3-49 et seq. (“EDECA”) provides the foundation for these standards, authorizing the BPU to adopt, readopt, and amend them. The RPS rules require each electric power supplier and basic generation service provider in New Jersey to ensure that a certain amount of the energy they sell comes from renewable sources. Compliance with the RPS rules can be achieved through the use of renewable energy certificates (“RECs”) or through an alternative compliance payment (“ACP”). The RPS rules provide the requirements by which renewable energy generators can obtain RECs based on energy they generate.

Currently, N.J.A.C. 14:8-2.9(d) states that renewable energy generators must be interconnected with an electric distribution system that supplies New Jersey in order for the energy to qualify for RECs that can be used to comply with a New Jersey RPS (“New Jersey REC”). The rules provide two exceptions:

- For class I renewable energy other than solar, if the sale of the energy is settled in the PJM wholesale market, the energy is eligible to form the basis for a New Jersey REC. This option has recently been clarified through an adoption published elsewhere in this issue of the New Jersey Register;
- For all class I and class II renewable energy, if the Board waives the interconnection requirement by Order.

The Board provided such a waiver through a Board Order dated January 31, 2008, *In the Matter of the Renewable Portfolio Standards – Request for Board Action Regarding Renewable Energy Certificates*, Docket No. EO07110886 (“January 31 Order”). The Board extended that waiver by order dated May 15, 2009, *I/M/O The Renewable Portfolio Standards—Request For Board Action Regarding Renewable Energy Certificates Extension Of Time Period For Satisfying RPS Requirements Through Submitting Affidavit*; Docket No. EO07110886. The waiver will expire on May 31, 2010.

These requirements are aimed at ensuring the accuracy of the generation data upon which RECs used to comply with the RPS rules are based. However, as reflected in the January 31 Order, the Board believes that electronic metering is necessary as an additional alternative for ensuring the accuracy of data from renewable energy generators that are within PJM, but are not interconnected with an electric distribution system that supplies New Jersey. Therefore, the proposed amendments to N.J.A.C. 14:8-2.9(d) provide two additional options to allow such a renewable generator to earn RECs. First, the generator can report its energy output to PJM-EIS electronically at least monthly via a meter that satisfies the requirements of American National Standards Institute (“ANSI”) “Electric Meters Code for Electricity Metering,” C12.1-2008 (as amended or supplemented). The Board recognizes that PJM-EIS currently does not have the capability to directly meter a generator’s energy output, and that many renewable generators within PJM therefore are unable to use this option at this time. Accordingly, the proposed amendments also offer a second option, allowing the renewable generator to report its energy output at least monthly to an electric distribution company which is a member of PJM, via a meter that satisfies the requirements of ANSI “Electric Meters Code for Electricity Metering,” C12.1-2008 (as amended or supplemented). The renewable generator could then earn RECs, provided that the electric distribution company then provides the generator’s report electronically no less frequently than monthly to PJM-EIS.

The Board is aware that confusion has arisen in the past about the relationship between the requirements for an issuance of a REC under N.J.A.C. 14:8-2.9 and the requirements for Class I and Class II renewable energy under N.J.A.C. 14:8-2.7. The Board emphasizes that compliance with the requirements of N.J.A.C. 14:8-2.9 does not relieve a generator from compliance with the requirements of N.J.A.C. 14:8-2.7 for energy to be generated within, or delivered into, the PJM region.

Social Impact

The proposed amendments will have a positive social impact, by preserving New Jersey’s ability to attain the goals of the renewable portfolio standards with respect to the development of renewable sources of energy and cleaner electric generation technology, minimizing the environmental impacts on New Jersey associated with electric generation, and supporting the reliability of New Jersey’s electricity supply. The proposed amendments will accomplish this by increasing the flexibility afforded to renewable energy generators while maintaining the highest standards for the accuracy of the data upon which RECs are based.

Economic Impact

Under the proposed amendments, the renewable portfolio standards will continue to ease New Jersey’s dependence on electricity generated from fossil fuels that have been dramatically increasing in price. As a result, the proposed amendments will tend to have a positive economic impact on New Jersey electricity customers.

Beyond that overall positive economic impact, the precise economic impact of the proposed amendments will be increased flexibility for renewable energy generators to choose e-metering rather than settling the sale of the energy in the PJM wholesale market. This flexibility will

increase the economic efficiency of these generators, as they will be able to choose the least cost option for their own situation. By increasing cost effectiveness for generators, the amendments may also reduce the price of RECs from behind the meter (“BTM”) generators within the PJM region, thus increasing the percentage of RECs from sources close to New Jersey that are used in RPS compliance.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt or amend State regulations that exceed any Federal standards or requirements to include in the rulemaking document a Federal Standards Analysis. The RPS has no Federal analogue, and is not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. do not require a Federal Standards Analysis for the proposed amendments.

Jobs Impact

The proposed amendments will increase the effectiveness of the renewable portfolio standards as a tool to encourage the development of localized, renewable sources of electricity and new, cleaner generation technology. Increasing that effectiveness will tend to have a positive impact on jobs in the development, construction, and operation of renewable energy facilities.

Agriculture Industry Impact

The Board does not expect the proposed amendments to have a direct material effect on the agriculture industry in New Jersey. To the extent that the proposed amendments make it more feasible to achieve the class I and class II renewable portfolio standards, that achievement will benefit the agriculture industry, if increased renewable electric generation displaces fossil-fueled generation that is linked to acid rain, global warming, and other air pollution that can harm agricultural crops.

Regulatory Flexibility Statement

A small business, as defined in the New Jersey Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., is a business that is a resident of New Jersey with fewer than 100 full-time employees. The proposed amendments do not impose additional reporting, recordkeeping, or other compliance requirements on small businesses operating renewable electric generation facilities in New Jersey. Accordingly, no Regulatory Flexibility Analysis is required.

Smart Growth Impact

The State Plan is intended to "provide a coordinated, integrated and comprehensive plan for the growth, development, renewal and conservation of the State and its regions" and to "identify areas for growth, agriculture, open space conservation and other appropriate designations."

N.J.S.A. 52:18A-199a. Smart growth is based on the concepts of “focusing new growth into redevelopment of older urban and suburban areas, protecting existing open space, conserving natural resources, increasing transportation options and transit availability, reducing automobile traffic and dependency, stabilizing property taxes, and providing affordable housing.”

The proposed amendments are not expected to have any impact on either the achievement of smart growth or the implementation of the State Development and Redevelopment Plan. The effect of the proposed amendments is not expected to vary by location within the State. Accordingly, the Board does not expect that the proposed amendments will affect the location of future development.

Housing Affordability Impact

The proposed amendments will have an insignificant impact, if any, on affordable housing in New Jersey because the scope of the proposal is limited solely to the Board’s standards for accepting electricity generated outside of New Jersey for RPS compliance. In addition, there is an extreme unlikelihood that the proposed rule amendments would evoke a change in the average costs associated with housing, because the cost of RPS compliance is not a factor that affects housing prices or the housing market.

Smart Growth Development Impact

The amendments proposed herein are expected to have no impact on smart growth in New Jersey because the scope of the proposal is limited solely to the Board’s standards for accepting electricity generated outside of New Jersey for RPS compliance. In addition, there is an extreme unlikelihood that the proposed rule amendments would evoke a change in housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because the effect of the proposed amendments is not expected to vary by location within the State. The RPS rules, and these proposed amendments, apply uniformly Statewide and do not affect housing construction or the housing market.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

TITLE 14. BOARD OF PUBLIC UTILITIES

CHAPTER 8. RENEWABLE ENERGY AND ENERGY EFFICIENCY

SUBCHAPTER 2. RENEWABLE PORTFOLIO STANDARDS

14:8-2.9 Board issuance of RECs

(a) – (c) (No change)

(d) For the purposes of this subsection, "electric distribution system" has the meaning set forth at N.J.A.C. 14:4-1.2, and "electric distribution company" means the owner or

operator of an electric distribution system. [To qualify for issuance of a REC, electric] **Electric** generation [shall be] **qualifies for issuance of RECs only if:**

- 1. It is** produced by a generating facility that is interconnected with an electric distribution system [, as defined at N.J.A.C. 14:8-2.2,] that supplies New Jersey; or
- 2. [, for] For** class I renewable energy, other than solar electric generation, **it is produced by a generating facility that is not interconnected with an electric distribution system that supplies New Jersey and:**
 - i. The generating facility reports its generation electronically to PJM-EIS no less frequently than monthly via a meter that satisfies all requirements of American National Standards Institute (ANSI) “Electric Meters Code for Electricity Metering,” C12.1-2008 (as amended or supplemented), and complies with any additional requirements established by PJM;** or
 - ii. The generating facility reports its generation electronically no less frequently than monthly to an electric distribution company that is a member of PJM, via a meter that satisfies all requirements of American National Standards Institute (ANSI) “Electric Meters Code for Electricity Metering,” C12.1-2008 (as amended or supplemented), and complies with any additional requirements established by PJM, and that electric distribution company then provides the generator’s report electronically no less frequently than monthly to PJM-EIS; or**
 - iii. The generating facility** [the electric generation need not be interconnected with an electric distribution system that supplies New Jersey if] **has** its sale [is] settled in the PJM wholesale market.

(e) The Board may waive [this requirement] **the requirements at (d) above** by Board order if the Board determines that such waiver would facilitate participation in the regional REC tracking system adopted by the Board, and determines that such a waiver would significantly advance the purposes expressed in N.J.A.C. 14:8-2.1(a).

[(e) (Reserved.)]

(f) – (m) (No change.)