

DIVIDER

STATE OF NORTH DAKOTA

INFORMATION TECHNOLOGY DEPARTMENT

SFN 2053 (4-2002)

PU-05-364

Public Service Commission

Public Utilities - Electric

Rulemaking

Filed 6/21/2005

Closed 6/28/2006

05



BOB STENEHJEM
State Senator
Chairman

JOHN D. OLSRUD
Director

JAY E. BURINGRUD
Assistant Director

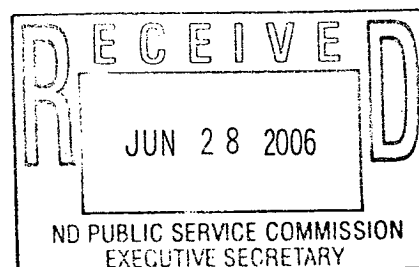
JIM W. SMITH
Legislative Budget
Analyst & Auditor

JOHN WALSTAD
Code Revisor

North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360 (701) 328-2916 TTY: 1-800-366-6888

June 28, 2006



Ms. Illona A. Jeffcoat-Sacco
Executive Secretary
Public Service Commission
State Capitol
Bismarck, ND 58505

Dear Ms. Jeffcoat-Sacco:

We have completed preparation of the North Dakota Administrative Code rules changes you recently submitted to our office for publication. Enclosed are copies of two different versions of those rules.

The first enclosed copy shows revised North Dakota Administrative Code sections as they will be published in the next supplement of the North Dakota Administrative Code. There is an instruction sheet for replacement of obsolete pages with these updated pages to be used if your agency maintains a full-sized set of your rules. If you maintain the published North Dakota Administrative Code in reduced size binders, the reduced size replacement pages will be sent to you soon.

The other enclosed copy shows our editorial changes to the rules as submitted. Please observe the style and grammar changes we have made.

Please contact this office if you have any questions regarding these rules. If these rules will be reviewed by the Administrative Rules Committee, we will contact you when the meeting is scheduled.

Sincerely,

John Walstad
Code Revisor

JW/CS
Encs.

30 GS-05-341 Pages: 48

Completed ND Admin. Code rules

50 PU-05-364 Pages: 48

Completed ND Admin. Code rules

46 PU-05-575 Pages: 48

Completed ND Admin. Code rules (resale & interconnection rules) by Legislative Council

27 PU-05-602 Pages: 48

Completed ND Admin. Code rules

by Legislative Council

06/28/2006: Comm Legal, Illona Pat, Jerry, Annette

GAS SAFETY PROPOSED RULES FOR 2005

69-09-03-02. Adoption of regulations. The following parts of title 49, Code of Federal Regulations in effect as of ~~August 1, 2004~~ October 1, 2005, are adopted by reference:

1. Part 190 - Department of Transportation Pipeline Safety Enforcement Procedures.
2. Part 191 - Department of Transportation Regulations for Transportation of Natural Gas by Pipeline; Reports of Leaks.
3. Part 192 - Transportation of Natural Gas and Other Gas by Pipeline: Minimum Safety Standards.
4. Part 199 - Control of Drug Use in Natural Gas; Liquefied Natural Gas and Hazardous Liquids Pipelines.

Copies of these regulations may be obtained from:

**Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480**

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002, November 1, 2003; May 1, 2005.

General Authority: NDCC 28-32-02
Law Implemented: NDCC 49-02-01.2

July 1, 2006

*Add July 1 2006
to each history line*

PROPOSED SITING RULES

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

69-06-08-02. Transmission facility corridor and route criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following

policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

CHAPTER 69-06-08 CRITERIA

Section

69-06-08-01

Energy Conversion Facility Siting Criteria

69-06-08-02

Transmission Facility Corridor and Route Criteria

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas shall be excluded in the consideration of a site for an energy conversion facility, and shall include a buffer zone of a reasonable width to protect the integrity of the area. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
 - c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.
 - d. Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, such exclusion shall not apply.
 - e. Irrigated land.
 - f. Areas critical to the lifestages of threatened or endangered animal or plant species.
 - g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.

- (1) Law enforcement.
- (2) School systems and education programs.
- (3) Governmental services and facilities.
- (4) General and mental health care facilities.
- (5) Recreational programs and facilities.
- (6) Transportation facilities and networks.
- (7) Retail service facilities.
- (8) Utility services.

c. The impact upon:

- (1) Local institutions.
- (2) Noise [?]sensitive land uses.
- (3) Rural residences and businesses.
- (4) Aquifers.
- (5) Human health and safety.
- (6) Animal health and safety.
- (7) Plant life.
- (8) Temporary and permanent housing.
- (9) Temporary and permanent skilled and unskilled labor.

?
technical
if yes?
y y

d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

- a. Recycling of the conversion byproducts and effluents.
- b. Energy conservation through location, process, and design.

69-06-08-02

- b. Designated or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.
 - c. County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.
 - d. Areas critical to the [?]lifestages of threatened or endangered animal or plant species.
 - e. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
2. **Avoidance areas.** The following geographical areas shall not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility, the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Economic considerations alone shall not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area shall be included unless a distance is specified in the criteria. Natural screening may be considered in determining the width of the buffer zone.
- a. Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.
 - c. Historical resources which are not specifically designated as exclusion or avoidance areas.
 - d. Areas which are geologically unstable.
 - e. Within five hundred feet [152.4 meters] of a residence, school, or place of business. This criterion shall not apply to a water pipeline transmission facility.
 - f. Reservoirs and municipal water supplies.
 - g. Water sources for organized rural water districts.
 - h. Irrigated land. This criterion shall not apply to an underground transmission facility.

[?]
2 words
y for

69-06-08-02

- i. Areas of recreational significance which are not designated as exclusion areas.
3. **Selection criteria.** A corridor or route shall be designated only when it is demonstrated to the commission by the applicant that any significant adverse effects which will result from the location, construction, and maintenance of the facility as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.
- a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner can demonstrate has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
 - (4) Surface drainage patterns and ground water flow patterns.
 - b. The impact upon:
 - (1) Noise sensitive land uses.
 - (2) The visual effect on the adjacent area.
 - (3) Extractive and storage resources.
 - (4) Wetlands, woodlands, and wooded areas.
 - (5) Radio and television reception, and other communication or electronic control facilities.
 - (6) Human health and safety.
 - (7) Animal health and safety.
 - (8) Plant life.
4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.
- a. Location and design.

?
back?
y tech

The heating value tests should be distributed with relation to the time of day in such a manner that the number of tests made will be proportional to the average rate of "sendout" at that time. At least two tests shall be made each day.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-04. Purity of gas.

1. Total sulfur. Manufactured gas distributed in this state shall in no case contain more than thirty grains [1.94 grams] of total sulfur per one hundred cubic feet [2.83 cubic meters] unless specific relief is granted by the commission.
2. Hydrogen sulfide. In no case shall the manufactured or diluted natural gas sold for lighting or heating contain an amount of hydrogen sulfide (sulfurated hydrogen) detectable by the following test:

The gas shall be considered to contain no more than a trace of hydrogen sulfide if a strip of white filter paper freshly moistened with a solution containing five percent by weight of lead acetate is not distinctly darker than a second paper freshly moistened with the same solution after the first paper has been exposed to the gas one minute in an apparatus through which the gas is flowing at the rate of approximately five cubic feet [141.58 liters] per hour, the gas not impinging directly from a jet upon the test paper.

3. Each utility furnishing manufactured gas service shall daily test the gas supplied by it for the presence of hydrogen sulfide and shall mark and preserve the test papers for at least ten days.
4. Each utility furnishing undiluted natural gas shall file with the commission a statement showing an analysis of the gas being furnished.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-05. Pressure of gas.

1. **Maximum and minimum limits.** The pressure of gas supplied by any utility, as measured at the outlet of the service pipe to any customer, or in the case of high pressure systems at the outlet of the house governor, should be maintained as uniform as practicable. For artificial gas service the pressure should never be less than three inches or more than ^{or} twelve inches of water pressure. For natural gas service the pressure should never be less than three ounces or more than twelve ounces. Customers desiring service at greater than the maximum allowable should request in writing that a higher service be maintained

?
~~Artificial~~
~~gas service~~
~~for~~
~~the~~
~~house~~
~~governor~~

?
~~than~~
~~twelve~~
~~inches~~
~~of~~
~~water~~
~~pressure~~
~~or~~
~~more~~
~~than~~
~~three~~
~~inches~~
~~of~~
~~water~~
~~pressure~~

and shall also pay any additional expense incurred, over and above the regular cost of service at the standard pressure, in providing and maintaining a special service.

2. **Artificial gas.** At any one outlet between the hours of six a.m. and seven p.m. of any one day, the variation of pressure shall not be greater than the following:

Minimum Pressure
Maintained

3 inches
3-4 inches
4-5 inches
5-6 inches
6-8 inches

Greatest Variation
Permissible

2 inches
2 1/2 inches
3 inches
3 1/2 inches
4 inches

font?

3. **Natural gas.** At any one outlet the variation of pressure shall not be greater than the following:

Established
Pressure

4 ounces
6 ounces
8 ounces

Minimum
[Pressure
Allowable

3 ounces
3 ounces
4 ounces

Maximum
[Pressure
Allowable

6 ounces
9 ounces
12 ounces

font?

✓✓

4. **Variations.** A utility shall not be deemed to have violated this section if it can be shown that the variations occurring in gas pressure were caused by unforeseen demand, temporary conditions beyond the control of the utility, individual customer owned service lines, or pipelines of such size as to render the maintenance of standard pressure variations impracticable.

*2 A
tech
y*

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-06. Pressure recording equipment and records.

1. Each utility shall be equipped with a sufficient number of portable recording pressure gauges and shall make frequent measurements of the gas pressure variation throughout each separate distribution system. A record shall be kept of the pressure at some point on each system at all times.
2. All pressure charts which have been made shall be filed by the utility for at least two years and shall be sufficiently complete and so arranged

period over which the correction is to be made shall be one-half of the time lapsed since the last previous test. The period shall not exceed six months. If a meter is found not to register for any period, the utility shall estimate the charge for the gas under similar conditions, preceding or subsequent thereto, or overused by averaging the amounts registered over similar and corresponding periods in previous years. Such action shall be taken only in cases of substantial importance where the utility is not at fault allowing the incorrect meter to be in service.

7
elapsed
in
sub 1
tech?
y

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-24. Refunds. No application for refunds of any payments to a utility claimed to be in excess of the rules, regulations, schedules, rates, or tariffs shall be made to the commission after the expiration of six years from the date of payment.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-25. Resale. Gas service furnished on standard rates or contracts furnished by a public utility shall not be resold or caused to be resold by any customer unless the customer is engaged in the business of distributing gas and has a contract to this effect approved by the commission, and has a certificate of public convenience and necessity granted by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-26. Filing of rates.

1. Each utility shall file with the commission its scheduled rates, rules, regulations, and practices in accordance with the statutory requirements.
2. Each rate filing shall stipulate the classification of service and application thereto, date effective, and the particular rate to be superseded. The filing shall be accompanied by a statement showing the reasons for making the filing and the estimated amount of annual revenue affected, based upon the previous year's business.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-03

69-09-01-27. Rate applications. Where more than one schedule of rates has been approved by the commission for the same class of service, it shall be the duty of the utility to advise the customer at the beginning of service of the rates and schedules which are available and typical bills for representative consumptions. Upon application by the customer, the utility shall make comparisons on the basis

telecommunications connection at a consumer's principal place of residence.

7. "Local exchange company" means an incumbent or competitive local exchange company.
8. "Telecommunications Act of 1996" means the Telecommunications Act of 1996 [Pub. L. 104-104; 110 Stat. 56; 47 U.S.C. 151 et seq.].

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

69-09-05-01. Lowest priced service alternatives. Upon request of a residential customer or prospective customer for service, the utility shall ask if such customer wishes to be informed of the lowest priced service alternatives available from the utility, and upon an affirmative response shall inform such customer of the lowest priced service alternatives available from the utility at the customer's location, giving full consideration to grades of service, equipment options, and installation charges incident thereto. The lowest price service alternative includes service under the lifeline and link-up plans.

History: Amended effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7 #

Law Implemented: NDCC 49-21-01.4, 49-21-01.7, 49-21-07

*priced
tech?
y y*

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:
 - a. If the customer is delinquent in payment for nonessential services.

Proposed Telecommunications Registration Rulemaking

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:

- a. If the customer is delinquent in payment for nonessential services.
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay

for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.

5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency.

The notice must:

- a. Be sent by first-class mail addressed to the billing name and address of the affected account.
- b. Show the amount of the delinquency.
- c. Include the telephone number of the public service commission.
- d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
- e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6.
 - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
 8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
 - a. Pays the fee for resuming service established in the utility's rate schedules;

- b. Makes a deposit under section 69-09-05-03 (if required by the company); and
- c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued. Interexchange carriers are not required to resume long-distance service if local service is not connected.

in
Code

9.

Interexchange carriers are not required to resume long-distance service if local service is not connected.

If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.

- 10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules. The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller

or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

11. a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
- b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.

12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service

intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

History: Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee effective August 16, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-04. Rules for resale of telecommunications services.

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
- b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
- c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and

reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.

- d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service ~~providers~~ provider who ~~resell-wireline~~ resells cellular or other wireless service as ~~part of their cellular or personal communication service.~~
- e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.
- f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.

2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:

a. ~~Obtain a certificate of registration from~~ Register with the commission, on a form provided by the commission, ~~authorizing~~ indicating the provision of local resale or long-distance resale services in the state of North Dakota.

b. If a reseller requires prepayment for service, it shall:

(1) Submit a performance bond in an amount specified by the commission; or

(2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected at any given time, and file monthly reports showing escrow account activities and call completion data.

(3) ~~The requirements of paragraphs 1 and 2 are waived for any company that has provided cellular or personal communication service in North Dakota for one year without a formal complaint having been filed against it. The commission may revoke the waiver after notice and opportunity for hearing if necessary to protect the public interest.~~ Under ^{Subsection 7 of} North Dakota Century Code section 49-03.7-09(7) the bonding

requirement does not apply to a facility-based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.

(4.) The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.

(5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4. The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater.

The amount of an escrow account is an amount equal to the prepayments (including prepaid calling cards) at any given time.

- e. ~~Forfeit its registration if it is voluntarily dissolved or involuntarily dissolved under North Dakota law. A reseller may not operate and its registration certificate is void on the effective date of involuntary dissolution under North Dakota Century Code section 10-23-02.2.~~
3. A reseller may not be identified as an optional intrastate interexchange carrier ~~without a certificate of registration from~~ unless it is registered with the commission.
 4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
 5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
 6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.

7. A reseller is subject to reregulation by the ~~commission~~, revocation of its certificate authority) and the penalties provided in North Dakota Century Code ~~chapter~~ chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

History: Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-04.1. Identification of intraLATA interexchange carriers.

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective ~~certificate of public convenience and necessity or a current certificate of registration~~ authorizing the provision of intrastate interexchange service.
2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that

the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

History: Effective February 1, 1995; amended effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-05. Rules for the provision of operator services.

1. Definitions.

- a. "End user" means the person to whom operator service is provided.
- b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.
- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. ~~Obtain a certificate of registration from~~ Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.
- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
- e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider

which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

- f. Not charge for incompleting calls.
- g. Disclose their names on bills which include charges for services they provided.

History: Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-10. ~~Certificate of registration~~ Registration - Procedure.

1. A reseller ~~applying for a certificate of registration or competitive facilities-based provider desiring authority to provide service in North Dakota~~ shall file an application register on a form provided by the commission. The application registration shall include evidence identification of the applicant's authority to do business in North Dakota.
2. An applicant for a certificate of registration as a A reseller shall follow the procedure set forth in section 69-09-05-04.
3. When the holder of a certificate of registration ~~a registered company~~ intends to assign the its authority to provide telecommunications service in North Dakota to another entity, the

assignee must first ~~obtain a certificate of registration from~~ register
with the commission.

4. A reseller registered company may voluntarily, without commission approval, surrender its ~~certificate of registration~~ authority by notifying the commission in writing and updating its registration to reflect this surrender.
5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
 - a. The type of service the applicant intends to provide.

- b. The service area or areas in which the applicant intends to provide service.
 - c. How the applicant meets the issues to be considered in the application.
- 2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
 - a. A balance sheet of the form and style usually followed in the industry.
 - b. An income statement of the form and style usually followed in the industry.
 - c. If available, an independent accountant's financial opinion.
 - d. Any other information requested by the commission.
- 3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:
 - a. Fitness and ability of the applicant to provide service.
 - b. Adequacy of the proposed service.

- c. The technical, financial, and managerial ability of the applicant to provide service.
- 4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
- 5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
- 6. ~~Abandonment of a certificate of public convenience and necessity for a competitive local exchange company requires prior written notice to the commission and thirty days' prior written notice to the company's customers.~~ Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

**Amended
Proposed Interconnection Agreement Filing Rules**

69-09-05-14. Procedure for filing negotiated interconnection agreements. Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251; assignments, assumptions or transfers of interconnection agreements; amendments to interconnection agreements; and agreements for Qwest Platform Plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission Internet site for comment by interested parties. The Internet listing will include the date each agreement was filed and links to the agreement itself.

4. The commission will accept written comments on a listed agreement for 60 days from the date filed.
5. Absent commission action within 90 days of filing to disapprove an agreement, (or portion thereof), the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any assignment, assumption, or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption, or transfer occurs.
7. Any amendment to an interconnection agreement requires a new filing with a new 90-day review and comment period.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

AMENDED PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording, and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives, and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions. *As used in this chapter:*

1. "Designated representative" means a responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. "Existing facilities" ^{means} ~~Renewable energy facilities placed in service before January 1, 2001.~~
3. "New facilities" ^{means} ~~Renewable energy facilities placed in service on or after January 1, 2001.~~
4. "Program administrator" ^{means} ~~The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.~~
5. "Renewable energy certificate" ^{means} ~~A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.~~
6. "Renewable energy certificate account" ^{means} ~~An account maintained by the program administrator for the purpose of tracking renewable energy certificates.~~

7. "Renewable energy certificates tracking program" ^{means} ~~The process of~~ tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. "Renewable energy credit" ^{means} ~~The intangible, generally perceived~~ environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
9. "Renewable energy facility" ^{means} ~~A facility generating electricity from one or~~ more generating units that exclusively rely on an energy source or fuel included in North Dakota Century Code Section 49-02-25.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to

participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under ~~North Dakota Administrative Code~~ Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator. A renewable energy facility with more than one generating unit may be metered with a single meter.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;
4. Facilitate private trading of renewable energy certificates;

5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate; and
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15th of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, ⁹(in megawatts) ⁹by ₂ technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.

3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a designated representative must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.

2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with applicable law and rules.

4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.

5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

NORTH DAKOTA ADMINISTRATIVE CODE

Supplement 321

July 1, 2006

The North Dakota Administrative Code Supplement is published each month following the month that rules are filed with the Legislative Council office. A historical source note immediately follows an affected section and indicates the effective date of any amendment, creation, or repeal. A supplement change without any historical source note corrects a nonsubstantive error in the section.

This supplement instruction page should be retained and placed behind your "supplement instruction sheets" divider in Volume 1. **Before inserting any supplement into the code be sure the previous supplement has been inserted.** For those codes purchased after August 1, 1996, the first supplement is Supplement 207.

Instructions for integrating this supplement into the Administrative Code are as follows:

	Pages to be Removed	Pages to be Inserted
Table of Contents	15 - 16	15 - 16
Article 2-03 (Chapter 2-03-01)	1 - 3	1 - 3
Chapter 3-01-02	1 - 2	1 - 2
Article 10-16 (Chapter 10-16-01)	1 - 5	1 - 5
Article 48-02 (Chapter 48-02-01)	1 - 9	1 - 9
Chapter 48-04-04	1 - 6	1 - 11
Chapter 56-02-05	1 - 5	1 - 5
Article 58-01 (Chapter 58-01-01)	1 - 4	1 - 3
Chapter 58-02-08	1 - 10	1 - 11
Chapter 61.5-02-02	1 - 8	1 - 8
Article 61.5-03 (Chapter 61.5-03-01)	1	1
Chapter 61.5-03-04	1 - 2	1 - 2
Chapter 61.5-06-02	1	1
Title 67	1 - 2	1 - 2
Article 67-01 (Chapter 67-01-01)	1 - 6	1 - 6
Chapter 67-01-02	1	1
Article 67-11 (Chapter 67-11-01)	1 - 5	1 - 5
Chapter 67-11-03.3	1 - 3	1 - 3
Chapter 67-11-04	1 - 5	1 - 5
Chapter 67-11-08	1 - 3	1 - 3
Chapter 67-11-14	1 - 5	1 - 5
Chapter 67-11-16	1 - 5	1 - 5
Article 67-12 (Chapter 67-12-01)	1 - 3	1 - 3
Chapter 67-15-02	1 - 7	1 - 7
Article 67-19 (Chapter 67-19-01)	1 - 29	1 - 59
Article 67-20 (Chapter 67-20-01)	1 - 3	1 - 3
Article 67-22 (Chapter 67-22-01)	1 - 3	1 - 3
Article 67-24 (Chapter 67-24-01)	1 - 3	1 - 3

	Pages to be Removed	Pages to be Inserted
Article 67-26	1	1
Article 67-27	1	1
Chapter 67-28-01	-	1 - 6
Chapter 69-06-08	1 - 7	1 - 7
Article 69-09 (Chapter 69-09-01)	1 - 21	1 - 20
Chapter 69-09-03	1	1
Chapter 69-09-05	1 - 15	1 - 15
Chapter 69-09-08	-	1 - 4
Article 70-01 (Chapter 70-01-01)	1 - 2	1
Article 71-02 (Chapter 71-02-01)	1 - 4	1 - 4
Chapter 71-02-02	1	1
Chapter 71-02-03	1 - 8	1 - 9
Chapter 71-02-04	1 - 8	1 - 8
Chapter 71-02-05	1 - 7	1 - 8
Chapter 71-02-07	1 - 2	1 - 2
Chapter 71-02-09	1	1
Chapter 71-02-10	1 - 2	1 - 2
Chapter 71-02-11	1 - 4	1 - 4
Chapter 71-04-04	1 - 3	1 - 3
Chapter 71-04-05	1 - 2	1 - 2
Chapter 71-04-06	1 - 4	1 - 4
Article 71-05 (Chapter 71-05-01)	1 - 2	1 - 2
Chapter 71-05-02	1 - 6	1 - 6
Chapter 71-05-04	1 - 6	1 - 7
Chapter 71-05-05	1 - 5	1 - 5
Chapter 71-05-08	1 - 2	1 - 2
Article 71-08 (Chapter 71-08-01)	1 - 3	1 - 3
Chapter 71-08-02	1	1
Chapter 71-08-04	1 - 2	1 - 2
Chapter 71-08-06	1 - 3	1 - 3
Chapter 71-08-07	1 - 2	1 - 2
Chapter 71-08-08	-	1
Chapter 71-08-09	-	1
Article 72-06 (Chapter 72-06-01)	1 - 6	1 - 8
Article 74-01 (Chapter 74-01-01)	1 - 2	1 - 2
Article 74-02 (Chapter 74-02-01)	1 - 10	1 - 7
Chapter 74-02-02	1 - 2	1 - 2
Article 74-03 (Chapter 74-03-00.1)	1 - 3	1 - 3
Chapter 74-03-01	1 - 15	1 - 16
Chapter 74-03-02	1 - 4	1 - 4
Chapter 74-03-03	1 - 2	1 - 2
Chapter 74-03-07.1	1 - 3	1 - 3
Chapter 74-03-08	1 - 2	1 - 2
Chapter 74-03-09	1 - 3	1 - 3
Chapter 74-03-10	1 - 3	1 - 2
Chapter 74-03-11	1 - 4	1 - 4
Chapter 74-03-12	1 - 3	1 - 3
Chapter 74-03-13	1 - 3	1 - 3

	Pages to be Removed	Pages to be Inserted
Article 74-04 (Chapter 74-04-01)	1 - 19	1 - 20
Chapter 75-01-03	1 - 40	1 - 39
Chapter 75-02-02	1 - 41	1 - 43
Chapter 75-02-02.1	1 - 107	1 - 107
Chapter 75-02-02.2	1 - 14	1 - 17
Chapter 75-02-04	1 - 9	1 - 9
Article 75-03 (Chapter 75-03-01)	1 - 2	1 - 2
Chapter 75-03-14	1 - 10	1 - 10
Chapter 75-03-17.1	-	1 - 3
Chapter 75-03-19	1 - 4	1 - 4
Chapter 75-03-19.1	-	1 - 3
Chapter 75-03-34	1 - 4	1 - 4
Article 75-04 (Chapter 75-04-01)	1 - 26	1 - 26
Chapter 75-04-05	1 - 35	1 - 37
Article 89-07 (Chapters 89-07-01 and 89-07-02)	1 - 17	1 -
Chapter 89-07-02	-	1 - 16
Chapter 92-01-02	1 - 71	1 - 69
Chapter 92-01-03	1 - 4	1 - 4
Article 92-05 (Chapter 92-05-01)	1 - 9	1 -
Chapter 92-05-02	-	1 - 4
Chapter 92-05-03	-	1 -
Article 109-02 (Chapter 109-02-01)	1 - 6	1 - 7
Chapter 109-02-02	1 - 10	1 - 10
Chapter 109-02-03	1 - 5	1 - 5
Chapter 109-02-04	1 - 5	1 - 6

CHAPTER 69-06-08 CRITERIA

Section

69-06-08-01

Energy Conversion Facility Siting Criteria

69-06-08-02

Transmission Facility Corridor and Route Criteria

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas shall be excluded in the consideration of a site for an energy conversion facility, and shall include a buffer zone of a reasonable width to protect the integrity of the area. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
 - c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.
 - d. Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, such exclusion shall not apply.
 - e. Irrigated land.
 - f. Areas critical to the life stages of threatened or endangered animal or plant species.
 - g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.

2. **Avoidance areas.** The following geographical areas shall not be approved as a site for an energy conversion facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites. Economic considerations alone shall not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area shall be included. Natural screening may be considered in determining the width of the buffer zone.
 - a. Historical resources which are not designated as exclusion areas.
 - b. Areas within the city limits of a city or the boundaries of a military installation.
 - c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.
 - d. Areas that are geologically unstable.
 - e. Woodlands and wetlands.
 - f. Areas of recreational significance which are not designated as exclusion areas.
3. **Selection criteria.** A site shall be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.
 - a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
 - (4) Surface drainage patterns and ground water flow patterns.
 - (5) The agricultural quality of the cropland.
 - b. The impact upon the availability and adequacy of:

- (1) Law enforcement.
- (2) School systems and education programs.
- (3) Governmental services and facilities.
- (4) General and mental health care facilities.
- (5) Recreational programs and facilities.
- (6) Transportation facilities and networks.
- (7) Retail service facilities.
- (8) Utility services.

c. The impact upon:

- (1) Local institutions.
- (2) Noise-sensitive land uses.
- (3) Rural residences and businesses.
- (4) Aquifers.
- (5) Human health and safety.
- (6) Animal health and safety.
- (7) Plant life.
- (8) Temporary and permanent housing.
- (9) Temporary and permanent skilled and unskilled labor.

d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

- a. Recycling of the conversion byproducts and effluents.
- b. Energy conservation through location, process, and design.

- c. Training and utilization of available labor in this state for the general and specialized skills required.
- d. Use of a primary energy source or raw material located within the state.
- e. Nonrelocation of residents.
- f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.
- g. Economies of construction and operation.
- h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.
- i. Use of citizen coordinating committees.
- j. A commitment of a portion of the energy produced for use in this state.
- k. Labor relations.
- l. The coordination of facilities.
- m. Monitoring of impacts.

History: Amended effective August 1, 1979; July 1, 2006.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

69-06-08-02. Transmission facility corridor and route criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

1. **Exclusion areas.** The following geographical areas shall be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area shall be included. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; monuments; and wilderness areas.

- b. Designated or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.
 - c. County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.
 - d. Areas critical to the life stages of threatened or endangered animal or plant species.
 - e. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
2. **Avoidance areas.** The following geographical areas shall not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility, the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Economic considerations alone shall not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area shall be included unless a distance is specified in the criteria. Natural screening may be considered in determining the width of the buffer zone.
- a. Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.
 - c. Historical resources which are not specifically designated as exclusion or avoidance areas.
 - d. Areas which are geologically unstable.
 - e. Within five hundred feet [152.4 meters] of a residence, school, or place of business. This criterion shall not apply to a water pipeline transmission facility.
 - f. Reservoirs and municipal water supplies.
 - g. Water sources for organized rural water districts.
 - h. Irrigated land. This criterion shall not apply to an underground transmission facility.

- i. Areas of recreational significance which are not designated as exclusion areas.
- 3. **Selection criteria.** A corridor or route shall be designated only when it is demonstrated to the commission by the applicant that any significant adverse effects which will result from the location, construction, and maintenance of the facility as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.
 - a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner can demonstrate has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
 - (4) Surface drainage patterns and ground water flow patterns.
 - b. The impact upon:
 - (1) Noise-sensitive land uses.
 - (2) The visual effect on the adjacent area.
 - (3) Extractive and storage resources.
 - (4) Wetlands, woodlands, and wooded areas.
 - (5) Radio and television reception, and other communication or electronic control facilities.
 - (6) Human health and safety.
 - (7) Animal health and safety.
 - (8) Plant life.
- 4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.
 - a. Location and design.

- b. Training and utilization of available labor in this state for the general and specialized skills required.
- c. Economies of construction and operation.
- d. Use of citizen coordinating committees.
- e. A commitment of a portion of the transmitted product for use in this state.
- f. Labor relations.
- g. The coordination of facilities.
- h. Monitoring of impacts.
- i. Utilization of existing and proposed rights of way and corridors.
- j. Other existing or proposed transmission facilities.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995; July 1, 2006.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

ARTICLE 69-09

PUBLIC UTILITY DIVISION

Chapter	
69-09-01	Standards of Service - Gas
69-09-02	Standards of Service - Electric
69-09-03	Gas Pipeline Safety
69-09-04	Uniform Sign Standards - Railroad
69-09-05	Standards of Service - Telephone
69-09-05.1	Accounting Practices
69-09-06	Prohibition on Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting [Repealed]
69-09-07	Small Power Production and Cogeneration
69-09-08	Renewable Electricity and Recycled Energy Tracking System

CHAPTER 69-09-01 STANDARDS OF SERVICE - GAS

Section	
69-09-01-01	Definitions
69-09-01-02	Heating Value
69-09-01-03	Calorimeter Equipment
69-09-01-04	Purity of Gas
69-09-01-05	Pressure of Gas
69-09-01-06	Pressure Recording Equipment and Records
69-09-01-07	Definition of a Cubic Foot of Gas
69-09-01-08	Testing Facilities
69-09-01-09	Meter Prover
69-09-01-10	Location of Meters
69-09-01-11	Service Meters Required
69-09-01-12	Prepayment Meters
69-09-01-13	Gas Meter Accuracy Requirements
69-09-01-14	Periodic Tests
69-09-01-15	Requests and Referee Tests
69-09-01-16	Meter Test Records
69-09-01-17	Deposits and Guarantees
69-09-01-18	Discontinuance of Service [Superseded]
69-09-01-18.1	Discontinuance of Gas Service
69-09-01-19	Extensions of Service
69-09-01-20	Information to Customers
69-09-01-21	Billing Basis
69-09-01-22	Meter Readings on Bills
69-09-01-23	Adjustment of Bills for Meter Error
69-09-01-24	Refunds
69-09-01-25	Resale
69-09-01-26	Filing of Rates
69-09-01-27	Rate Applications
69-09-01-28	Filing of Additional Rules

69-09-01-29 Advertising by Gas Utilities
69-09-01-30 Automatic Adjustment Clauses

69-09-01-01. Definitions. As used in this article:

1. "Commission" means the public service commission of the state of North Dakota.
2. "Customer" means any person, firm, corporation, municipality, or other political subdivision of North Dakota supplied by any such utility.
3. "Utility" means public utility.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-02. Heating value.

1. **Artificial gas.** Each utility furnishing manufactured gas shall supply gas which shall have an average heating value of five hundred twenty-five British thermal units per cubic foot [28.32 liters]; and at no time shall the heating value of the gas at such point be less than five hundred or more than five hundred fifty British thermal units per cubic foot [28.32 liters]; provided, that before the gas utility may lower its present standard, the commission may make an investigation of the operating condition of the plant to determine whether the rates may not be reduced at the same time. The present standards of the gas utility shall not be changed until specifically relieved by the commission. Tests shall be made at least twice a day, Sundays and holidays excepted.

On or before the tenth day of each month, the above daily heating value averages for the preceding calendar month shall be reported to the commission, together with full explanations of any abnormal operations.

2. **Natural gas.** Each utility furnishing natural gas shall determine the heating value of the gas at regular intervals of not less than thirty days and shall file with the commission, monthly, a report of these tests.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-03. Calorimeter equipment. Each utility shall equip itself with a complete standard calorimeter outfit. This equipment shall be used to test the heating value of gas supplied. The accuracy of all calorimeters, as well as the method of making heating value tests, shall be subject to the approval of the commission.

The heating value tests should be distributed with relation to the time of day in such a manner that the number of tests made will be proportional to the average rate of "sendout" at that time. At least two tests shall be made each day.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-04. Purity of gas.

1. Total sulfur. Manufactured gas distributed in this state shall in no case contain more than thirty grains [1.94 grams] of total sulfur per one hundred cubic feet [2.83 cubic meters] unless specific relief is granted by the commission.
2. Hydrogen sulfide. In no case shall the manufactured or diluted natural gas sold for lighting or heating contain an amount of hydrogen sulfide (sulfurated hydrogen) detectable by the following test:

The gas shall be considered to contain no more than a trace of hydrogen sulfide if a strip of white filter paper freshly moistened with a solution containing five percent by weight of lead acetate is not distinctly darker than a second paper freshly moistened with the same solution after the first paper has been exposed to the gas one minute in an apparatus through which the gas is flowing at the rate of approximately five cubic feet [141.58 liters] per hour, the gas not impinging directly from a jet upon the test paper.

3. Each utility furnishing manufactured gas service shall daily test the gas supplied by it for the presence of hydrogen sulfide and shall mark and preserve the test papers for at least ten days.
4. Each utility furnishing undiluted natural gas shall file with the commission a statement showing an analysis of the gas being furnished.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-05. Pressure of gas.

1. **Maximum and minimum limits.** The pressure of gas supplied by any utility, as measured at the outlet of the service pipe to any customer, or in the case of high pressure systems at the outlet of the house governor, should be maintained as uniform as practicable. For artificial gas service the pressure should never be less than three inches or more than twelve inches of water pressure. For natural gas service the pressure should never be less than three ounces or more than twelve ounces. Customers desiring service at greater than the maximum allowable should request in writing that a higher service be maintained

and shall also pay any additional expense incurred, over and above the regular cost of service at the standard pressure, in providing and maintaining a special service.

2. **Artificial gas.** At any one outlet between the hours of six a.m. and seven p.m. of any one day, the variation of pressure shall not be greater than the following:

Minimum Pressure Maintained	Greatest Variation Permissible
3 inches	2 inches
3-4 inches	2 1/2 inches
4-5 inches	3 inches
5-6 inches	3 1/2 inches
6-8 inches	4 inches

3. **Natural gas.** At any one outlet the variation of pressure shall not be greater than the following:

Established Pressure	Minimum Pressure Allowable	Maximum Pressure Allowable
4 ounces	3 ounces	6 ounces
6 ounces	3 ounces	9 ounces
8 ounces	4 ounces	12 ounces

4. **Variations.** A utility shall not be deemed to have violated this section if it can be shown that the variations occurring in gas pressure were caused by unforeseen demand, temporary conditions beyond the control of the utility, individual customer-owned service lines, or pipelines of such size as to render the maintenance of standard pressure variations impracticable.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-06. Pressure recording equipment and records.

1. Each utility shall be equipped with a sufficient number of portable recording pressure gauges and shall make frequent measurements of the gas pressure variation throughout each separate distribution system. A record shall be kept of the pressure at some point on each system at all times.
2. All pressure charts which have been made shall be filed by the utility for at least two years and shall be sufficiently complete and so arranged

that compliance with the individual requirements of section 69-09-01-05 can be determined easily.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-07. Definition of a cubic foot of gas. For the purpose of testing the gas under this chapter, a cubic foot of gas shall be taken to be that amount of gas which occupies the volume of one cubic foot [28.3168 liters] when saturated with water vapor at sixty degrees Fahrenheit [15.56 degrees Celsius] and under a pressure equal to that of thirty inches [7.62 centimeters] of mercury at a temperature of thirty-two degrees Fahrenheit [0 degrees Celsius]. For the purpose of measurement of gas to a customer, a cubic foot of gas shall be taken to be that amount of gas which occupies a volume of one cubic foot [28.32 liters] under the conditions existing in such customer's meter as and where installed; provided, however, that when gas is metered at a pressure more than twelve inches [30.48 centimeters] of water column in excess of the prevailing barometric pressure (by agreement with the customer or with the written approval of the commission), the volume of gas metered shall be computed on the basis of the mean pressure in the utility's low-pressure system, or other basis ordered by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-08. Testing facilities.

1. Each utility shall, unless specifically excused by the commission, provide such laboratory meter testing equipment and other equipment and facilities as may be necessary to make the tests required of it by this chapter or other orders of the commission. The apparatus and equipment so provided shall be subject to the approval of the commission, and it shall be available at all times for the inspection or use of any member or authorized representative of the commission.
2. Each utility shall make such tests as are prescribed under this chapter with such frequency and in such manner and at such places as are herein provided or as may be approved or ordered by the commission. Unless otherwise directed by the commission, the methods and apparatus recommended by the national bureau of standards in the latest edition of its Circular C48, "Standard Method of Gas Testing", may be used.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-09. Meter prover. Each utility furnishing metered gas service shall maintain the equipment and facilities necessary for accurately testing all types and sizes of meters employed for the measurement of gas to its customers unless arrangements approved by the commission shall have been made to have such

testing done elsewhere. In general, each utility will be required, as a minimum, to provide and maintain a meter prover of approved type and of a capacity of not less than five cubic feet [141.58 liters] for the testing of the most numerous class of customers' meters. Each meter prover shall be supplied with all accessories needed for accurate meter testing and shall be located in a room suitable for the work to be done, protected from drafts and excessive changes of temperature. The utility shall maintain this equipment in good condition and correct adjustment so that it shall be capable of determining accuracy of any service meter to within one-half of one percent.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-10. Location of meters. No meter shall be installed in any location where it may be unnecessarily exposed to heat, cold, dampness, or other cause of damage or in any unduly dirty or inaccessible location. Where these conditions cannot be avoided, a location must be chosen that will least affect the meter's accuracy and condition.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-11. Service meters required.

1. All gas sold by a utility shall be charged for by meter measurements, except that which may be otherwise authorized by the commission.
2. Unless otherwise authorized by the commission, each utility shall provide and install at its own expense and shall continue to own, maintain, and operate all equipment necessary for the regulation and measurement of gas to its customers. Where additional meters are furnished by the utility to be used as submeters, or for the convenience of the customer, a charge for such meters may be made in accordance with a schedule approved by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-12. Prepayment meters. No utility shall use prepayment meters except in special cases or for clearly defined special classes of service authorized by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-13. Gas meter accuracy requirement.

1. **Installation test.** Every gas service meter, whether new or repaired, or that has been removed from the service for any cause, shall be in good

order and shall be correct to within two percent before being installed for the use of any customer. However, a utility which has less than one thousand customers and which has no facilities for opening meter cases and adjusting the mechanism may put a meter back into service, unless it is found to be in error by more than two percent or appears otherwise to be in poor condition.

2. **Method of testing.** For the purpose of determining compliance with this section, the registration of a displacement meter shall be determined by one test at a rate of flow of approximately one-fifth of the rated capacity of that meter and one test at a rate of flow of approximately the rated capacity of the meter. The tests at the two rates shall agree within two percent. The accuracy of the meter at the lower rate of flow shall be considered as its accuracy in determining compliance with subsection 1 and for the purpose of computing refunds. All tests to determine the accuracy of any gas service meter shall be made with a meter prover, unless, because of the unusual capacity or construction of the meter, such method of test shall be considered impracticable and another method of test shall have been approved by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-14. Periodic tests. All service meters shall be tested and adjusted at least once in every eight years, or in accordance with a plan approved by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-15. Requests and referee tests.

1. A gas service utility shall test the accuracy of any meter upon request of the customer, shall provide the customer with a report of the test results, and shall keep the complete original test record and a copy of the report on file in the utility's office.
2. A customer may request in writing to the commission that the utility's test be supervised by a commission representative.
3. The customer shall not be charged for the test provided the customer requests no more than one test each twelve-month period, otherwise the utility may charge a tariffed rate. The charge must be waived if the meter error is more than plus or minus two percent.

History: Amended effective July 1, 1997.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-16. Meter test records.

1. Each utility shall keep a record of meter tests for at least two years. The record shall show the identification of the meter, reading of the meter before the test, the results of the test, and accuracy after adjustment, if adjustment is made.
2. Each utility shall annually file with the commission a summary report of meter tests made during the year. This report shall show the number of meters tested, the number of meters found to be accurate within the allowable limits, the number of meters found to be fast, and the number of meters found to be slow.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-17. Deposits and guarantees.

1. Each gas utility may require each applicant for service to make a deposit not to exceed one and one-half times the estimated amount of one month's average bill. A receipt showing the amount of the deposit, the date the deposit was made, and the depositor's name shall be issued to each depositor. Each utility shall keep a deposit record showing the same information as shown on the depositor's receipt and shall provide a method of repayment in case the depositor's receipt has become lost or destroyed.
2. The utility shall pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year, on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor, or may be deducted from the depositor's indebtedness to the utility for gas service. The payment or deduction for interest must be made during each calendar year or whenever a deposit is refunded or service discontinued.
3. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not to exceed the required cash deposit is guaranteed. The term of such contract shall be indeterminate, but it shall automatically terminate when the customer gives notice of service discontinuance to the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement shall be terminated without the customer having made satisfactory settlement for any balance

which the customer owes the utility. Upon termination of a guarantee contract a new contract or a cash deposit may be required by the utility.

History: Amended effective April 1, 1985.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-18. Discontinuance of service. Superseded by section 69-09-01-18.1.

69-09-01-18.1. Discontinuance of gas service.

1. A utility may disconnect service if the customer is delinquent in payment for services rendered. However, no utility shall discontinue service to a customer for failure to pay for such service until the utility shall first have given the customer notice of its intention to discontinue such service on account of delinquency. The notice shall:
 - a. Be sent by first-class mail addressed to the customer at the place where service is rendered, except that in the case of residential customers sixty-five years of age or older, or for handicapped customers, personal notice by delivery is required. A copy of each notice must also be mailed to the nearest social service office and to any other appropriate financial assistance agency, providing that prior approval has been given by the customer pursuant to subsection 2.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including the right of the customer to stay termination for up to thirty days if the customer advises the utility within the ten-day notice period that dangerous health conditions exist or that the customer is sixty-five years of age or older or that the customer is handicapped. In addition, the notice shall advise the customer of the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts and of the opportunity to enter into equal monthly payment plans for future service.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill.

If the customer elects to enter into a deferred installment agreement for delinquent accounts, service may not be terminated; however, the utility

may discontinue service without further notice if the customer fails to pay the delinquent account on or before the date specified in the notice, or in accordance with the deferred installment agreement. The customer shall have the privilege of paying the delinquent account at any time prior to the actual disconnection of service, and the person directed by the utility to make the disconnection shall be deemed authorized and shall accept payment of the delinquent account if tendered to the person by the customer before actual disconnection of service is made.

2. It shall be the responsibility of all residential customers sixty-five years of age or older, handicapped, or having an emergency medical problem in the household, including life-sustaining appliances, such as kidney dialysis, to notify the utility of such status. To assist in such notification, all utilities shall annually include a preaddressed postage-paid postcard in the monthly billing mailed to all residential customers during the billing period ending October first. Such notice shall also be provided to all new customers in that service area when they are first provided service by the utility.

The postcard shall include the following questions:

	YES	NO
1. Is any member of your household 65 years of age or older, or handicapped?	—	—
2. Do you have any emergency medical problem in your household?	—	—
3. Do you desire that the area social service office or other appropriate financial assistance agency be notified in the event of a proposed disconnect?	—	—
4. Do you desire that some other third party be contacted in the event of a disconnect? If so, name and address of person _____	—	—
5. If you are having difficulty paying your utility bill, please contact our local service representative or business office so that we can work with you on your problem. Utility Telephone Number _____ Office Address _____		
Date _____	Name _____	
	Address _____	
	Signature _____	

3. Service shall not be disconnected under this section on weekends, Fridays, state holidays, the day before a state holiday, or after twelve noon on any day. A report describing the total number of

actual disconnects, date and time, type of customer, and amount of delinquency for each disconnected customer shall be filed monthly with the commission within ten days after the last day of each month.

4. Whenever service has been disconnected for nonpayment of a bill, before reconnection is made the customer shall pay the reconnection fee established in the utility's rate schedules; make a deposit pursuant to section 69-09-02-04 if all or a part of the previous deposit was used in settlement of the delinquent bill; and make a satisfactory settlement for the delinquent bill and for service rendered between the last meter reading date and the date service was disconnected.
5. In the event the customer disputes the amount of a bill for service, the customer may, to prevent disconnection for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility shall not disconnect service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
6. A utility may not disconnect service to a customer for failure of the customer to pay for merchandise purchased from the utility; to pay for a different class of service furnished by the utility; to pay for service rendered to a previous occupant of the premises; or to pay the bill of another customer as guarantor thereof.
7. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and operation of utilization equipment, or for use of equipment which interferes with, or adversely affects, the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
8. A utility may discontinue service to a customer upon ten days' written notice if the meter or other equipment installed by the utility has been tampered with, or if there has been a diversion of service, or if the customer is utilizing gas before the energy has passed through a meter installed by the utility.
9. When a customer who has tenants is including the cost of utility services in the rent charged and the utility bill becomes delinquent, the utility before disconnecting service must also notify the tenants in writing at least ten days prior to the proposed termination date. The utility must allow each tenant to apply to become the customer of the utility in the tenant's own name, to have the service to the rental

facility continued or resumed, and to pay the pro rata share of future bills. Such tenant-customer shall be subject to all the provisions of this chapter.

10. A utility may not discontinue service to a customer for nonpayment of a deposit.

History: Effective October 1, 1980; amended effective May 1, 1996; July 1, 1997; April 1, 2001; January 1, 2002.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-19. Extensions of service.

1. The utility shall make all extensions to its mains and services where the investment is justified by the anticipated revenue to be received.
2. In the event the utility does not believe that the extension is justified, the commission shall, when so requested by one or more prospective customers desiring such extension and upon proper hearing, determine whether or not such extension should be made, and shall determine the respective amounts that the prospective customer or customers and the utility shall pay.
3. When so requested by a prospective customer engaged in the operation of a licensed trailer court for month-to-month parking of mobile homes, the utility shall make extension to its mains and services, subject to the provisions of subsections 1 and 2, to provide natural gas service through a master meter installed in a location within the confines of the mobile trailer court. The trailer court operator shall have service facilities to individual trailer parking locations which the operator shall own and maintain constructed by competent and qualified persons, and shall arrange for inspection by and approval from a responsible inspector to assure that the service facilities from the meter location to the mobile home locations and gas service facilities and appliances to and within mobile homes to be served comply with piping and appliance ordinances or requirements of applicable rules and regulations of any authority vested with jurisdiction of the subject matter.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-20. Information to customers. A utility shall:

1. Keep copies of its rate schedules, rules, and regulations on file in every office where payments are received.

2. Send a statement to each customer containing a clear and concise explanation of the existing rate schedule, and any rate schedule applied for, that is applicable to that customer.
 - a. The statement shall be sent:
 - (1) Not later than sixty days after the date of commencement of service to the customer;
 - (2) Not later than thirty days after filing an increase in a rate schedule applicable to such customer. This statement must include for each of the major classes of customers for which there is a separate rate, a summary analysis which shows the economic impact of the proposed rate change and rate design changes, if any, for an average customer within the class based upon an average annual consumption and a statement that the rates are proposed only and, if the rates are suspended by the commission, the new rates will not be effective until commission action has been taken; and
 - (3) As required by the commission under 69-02-04-01.
 - b. The statement must include notice to customers regarding the availability and location of the information required in subsection 1.
3. Include with each customer bill, at least once each year:
 - a. A clear and concise summary of the existing rate schedules applicable to each of the major classes of customers for which there is a separate rate;
 - b. An identification of any classes whose rates are not summarized; and
 - c. A notice calling the attention of the customer to the availability of alternative rate schedules for the customer's particular class of service and that, upon request, the utility will assist the customer in determining the billing for load conditions specified by the customer under various rate schedules. The customer, after selecting a particular rate schedule, shall take service under the rate schedule for a period of not less than twelve months, unless the rates are changed or there is a material change in the customer's load.
4. Send each customer upon request, without charge, a clear and concise statement of the actual consumption and cost of energy by the customer for each billing period during the prior year, unless the consumption and cost data is not reasonably ascertainable by the utility.

5. Provide, upon request, information and assistance to the extent reasonably possible so that customers may secure safe and efficient service. A utility must inform each customer of any change made or proposed to be made in any condition of service that would affect the efficiency of the service or the operation of appliances which may be in use by the customer.
6. File with the commission a sample copy of the statement format required by subsections 2 and 4 and a copy of the summary and notice required by subsection 3. Any format changes in statements or notices under this section must be filed immediately with the commission.

History: Amended effective April 1, 2001.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-21. Billing basis.

1. Bills for service will be rendered monthly unless service rendered covers a period less than a calendar month, or the customer requests and the utility consents to a more frequent billing. The term "month" for billing purposes will mean the period between any two consecutive readings of the meter by the utility, such readings to be taken as nearly as practicable every thirty days. No customer will be billed more than twelve times a year unless the rate applicable to the particular case specifically provides for exceptions to the monthly basis, or unless a more frequent billing has been agreed upon as specified in this subsection. This will not prohibit the utility from accepting periodic payments during the month.
2. The difference between the gross and net bills constitutes a discount for prompt payment. All customers will be billed each month at gross rates except where schedules provide otherwise. Discounts will be applicable in accordance with the terms of the rate schedule.
3. When one or more consecutive meter readings are missed, the utility may bill the customer on an estimated consumption and the difference adjusted when the meter is again read. The basis for this estimate shall be the normal consumption for corresponding periods in the preceding year or normal consumptions of preceding months. At the first reading subsequent to the nonreading the bill will be computed by multiplying blocks of the rate by the number of months for which the meter reading covers, then compute the bill in accordance with the applicable rate adjusted in accordance with the foregoing provisions. Any minimum bills paid in the period for which the meter reading covers shall be credited to the total amount of the bill.
4. When a meter is overread by an amount that exceeds the following month's consumption, the correct consumption shall be ascertained for

the two months, and the bill computed according to the provisions of subsection 3.

5. The utility shall provide each customer with proper metering equipment to indicate the correct reading to constitute a basis for monthly charges for service in accordance with the applicable rate schedule.
6. A customer may not have the customer's meter readings of more than one meter cumulative except where the utility has for its own convenience installed more than one meter for one class of service, and in such case the meter readings will be cumulated when billed.
7. Each customer will be billed separately on the customer's individual meter reading at the rate applicable to the particular class of service.
8. A customer is defined to include any person, firm, or corporation receiving service of one or more classes, and metered by one or more meters.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-22. Meter readings on bills. Bills rendered periodically to consumers for metered service shall show the readings of the meter at the beginning and end of the period for which the bills are rendered and the dates of the meter readings. On all bills which are computed on any other basis than a definite charge per unit of service, the other factors used in computing the bill shall be clearly stated so that the amount may be readily computed from the information appearing on the bill.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-23. Adjustment of bills for meter error. If on testing of any service meter, either by the utility or by the commission, such meter shall be found to have a percentage of error greater than that allowed by the commission, the following provisions for the adjustment of bills shall be observed:

1. **Fast meters.** When a meter is found to be fast in excess of two percent in tests made at the request of the consumer, the utility shall refund to the customer an amount equal to the excess charged for the gas incorrectly metered. The period over which the correction is to be made shall be one-half of the time elapsed since the last previous test. The period shall not exceed six months. No part of a minimum service charge shall be refunded.
2. **Slow meters.** When a meter is found to be slow in excess of two percent in tests made at the request of the consumer, the utility may make a charge to the consumer for the gas incorrectly metered. The

period over which the correction is to be made shall be one-half of the time elapsed since the last previous test. The period shall not exceed six months. If a meter is found not to register for any period, the utility shall estimate the charge for the gas under similar conditions, preceding or subsequent thereto, or overused by averaging the amounts registered over similar and corresponding periods in previous years. Such action shall be taken only in cases of substantial importance where the utility is not at fault allowing the incorrect meter to be in service.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-24. Refunds. No application for refunds of any payments to a utility claimed to be in excess of the rules, regulations, schedules, rates, or tariffs shall be made to the commission after the expiration of six years from the date of payment.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-25. Resale. Gas service furnished on standard rates or contracts furnished by a public utility shall not be resold or caused to be resold by any customer unless the customer is engaged in the business of distributing gas and has a contract to this effect approved by the commission, and has a certificate of public convenience and necessity granted by the commission.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-26. Filing of rates.

1. Each utility shall file with the commission its scheduled rates, rules, regulations, and practices in accordance with the statutory requirements.
2. Each rate filing shall stipulate the classification of service and application thereto, date effective, and the particular rate to be superseded. The filing shall be accompanied by a statement showing the reasons for making the filing and the estimated amount of annual revenue affected, based upon the previous year's business.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-03

69-09-01-27. Rate applications. Where more than one schedule of rates has been approved by the commission for the same class of service, it shall be the duty of the utility to advise the customer at the beginning of service of the rates and schedules which are available and typical bills for representative consumptions. Upon application by the customer, the utility shall make comparisons on the basis

of past billings of the two rates to show which rate is the most advantageous to the customer. The customer upon selecting a rate after a trial period shall be required to remain on the selected rate for a period of not less than twelve months or unless that rate is sooner superseded.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-03

69-09-01-28. Filing of additional rules. Each utility shall have the right to file additional rules and regulations or terms and conditions of service applicable to the service given by the utility. The additional rules and regulations or terms and conditions are to be subject to approval by the commission in the manner provided by law.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-03

69-09-01-29. Advertising by gas utilities.

1. Definitions. For purposes of this section:

- a. "Advertising" means the commercial use, by a gas utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to the utility's gas customers.
- b. "Institutional advertising" means advertising which has as its primary objective the enhancement or preservation of the corporate image of the utility and to present it in a favorable light to the general public and investors.
- c. "Political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.
- d. "Promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of a gas utility or the selection or installation of any appliance or equipment designed to use the utility's service.
- e. "Institutional advertising", "political advertising", and "promotional advertising" do not include:
 - (1) Advertising which informs gas customers how they can conserve energy or can reduce peak demand for gas energy.
 - (2) Advertising required by law or regulations.

- (3) Advertising relating to service interruptions, safety measures, or emergency conditions.
 - (4) Advertising concerning employment opportunities with a gas utility.
 - (5) Advertising which promotes the conservation of limited resources, the use of more plentiful resources, or the use of energy efficient appliances, equipment, or services.
 - (6) Any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.
 - (7) Advertising determined by the commission to benefit customers and serve the public interest.
2. Any expenditure by the utility for institutional, promotional, or political advertising shall be excluded from operating expenses in the cost of service determination for ratemaking purposes.
 3. Advertising expenditures which are reasonable in amount and which are not excluded by the provisions of this section may be included as operating expenses in the cost of service determination for ratemaking purposes.

History: Effective October 1, 1980.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

69-09-01-30. Automatic adjustment clauses.

1. As used in this section, the term "automatic adjustment clause" means a tariff provision that provides for increases or decreases, or both, without prior hearing, in rates reflecting increases or decreases, or both, in gas supply costs incurred by a natural gas utility.
2. An automatic adjustment clause that does not conform to principles set out in this section may not be in the public interest. This section contemplates that the filing of a proposed tariff which includes a nonconforming automatic adjustment clause may result in suspension of all or part of the tariff.
3. The automatic adjustment clause must be in a form that provides for periodic adjustments per unit of sales equal to the difference between gas supply costs per unit of sales included in base rate schedules and gas supply unit of sales projected for the adjustment period.
4. Gas supply costs included under the adjustment clause must be set forth tariff approved by the commission.

5. The utility shall maintain a balancing account in which the difference between the actual gas supply cost and the amount collected through the adjustment clause is recorded. The balancing account must accrue interest monthly at a rate equal to the three-month treasury bill rate as published monthly by the federal reserve board.
6. An automatic adjustment clause must include a balancing surcharge, which must be recalculated at least annually. The amount of the surcharge must equal the amount in the balancing account at the time of the proposed change that results from the recalculation divided by projected weather normalized sales volumes for the following twelve months.
7. Notice of change in the adjustment must be filed with the commission prior to billing. The notice must include:
 - a. Workpapers calculating the adjustment;
 - b. Copies of applicable pipeline tariffs and an explanation of regulatory approval status;
 - c. A history of the balancing account since the last surcharge update; and
 - d. To the extent possible, an explanation of market and other factors causing the change.
8. If a current price is in litigation or otherwise being collected subject to refund the utility shall so advise the commission, inform the commission of the final outcome, and record the outcome in the balancing account.
9. If a particular circumstance prevents the use of a standard provided in this section, or its use would result in an undue burden, the commission may permit deviation from the standard.
10. The commission may review an automatic adjustment clause at any time to ensure the maximum economies in those operations and purchases which affect the rates to which the clause applies. The commission's review may include an evidentiary hearing. In making its review, the commission may examine and, if appropriate, cause to be audited, the practices of a utility relating to costs subject to an automatic adjustment clause, and may require any filings and reports that may be necessary to carry out the review, including volumes, prices, and contracts for each supply source and a disclosure of any affiliation between the utility and the seller of natural gas or other items to the utility.

11. Each utility shall cause an independent audit of its automatic adjustment clause to be performed annually. A copy of the auditor's report must be filed annually with the commission.

History: Effective February 1, 1995; amended effective July 1, 1997.

General Authority: NDCC 49-02-11

Law Implemented: NDCC 49-02-11

CHAPTER 69-09-03 GAS PIPELINE SAFETY

Section

69-09-03-01

Safety

69-09-03-02

Adoption of Regulations

69-09-03-01. Safety. Gas pipeline facilities used for the intrastate distribution and transmission of gas shall be designed, constructed, and operated to meet the safety standards set forth in regulations of the United States department of transportation adopted in section 69-09-03-02. The commission may require such proof of compliance as it deems necessary.

History: Amended effective July 1, 1986; January 1, 1988.

General Authority: NDCC 28-32-02, 49-02-04

Law Implemented: NDCC 49-02-01.2, 49-02-04

69-09-03-02. Adoption of regulations. The following parts of title 49, Code of Federal Regulations in effect as of October 1, 2005, are adopted by reference:

1. Part 190 - Department of Transportation Pipeline Safety Enforcement Procedures.
2. Part 191 - Department of Transportation Regulations for Transportation of Natural Gas by Pipeline; Reports of Leaks.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards.
4. Part 199 - Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquids Pipelines.

Copies of these regulations may be obtained from:

Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002; November 1, 2003; May 1, 2005; July 1, 2006.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

**CHAPTER 69-09-05
STANDARDS OF SERVICE - TELEPHONE**

Section	
69-09-05-00.1	Definitions
69-09-05-01	Lowest Priced Service Alternatives
69-09-05-02	Discontinuance of Telecommunications Services
69-09-05-02.1	Determination of Delinquency
69-09-05-03	Deposits and Guarantees
69-09-05-04	Rules for Resale of Telecommunications Services
69-09-05-04.1	Identification of IntraLATA Interexchange Carriers
69-09-05-04.2	Unauthorized Service Changes
69-09-05-05	Rules for the Provision of Operator Services
69-09-05-06	Rules for Pay Telephones [Repealed]
69-09-05-07	Customer Trouble Reports
69-09-05-08	Adoption of Regulations
69-09-05-09	911 and E-911 Service
69-09-05-10	Registration - Procedure
69-09-05-11	Certificate of Public Convenience and Necessity for Incumbent Local Telecommunications Company - Procedure
69-09-05-12	Eligible Carrier Applications and Advertising
69-09-05-13	Essential Service Provider Bills
69-09-05-14	Procedure for Filing Negotiated Interconnection Agreements

69-09-05-00.1. Definitions.

1. "Competitive local exchange company" means any telecommunications company providing local exchange service, other than an incumbent local exchange carrier, whether by its own facilities, interconnection, or resale.
2. "Eligible telecommunications carrier" means a telecommunications company designated under section 214(e) of the Telecommunications Act of 1996 as eligible to receive universal service support in accordance with section 254 of the Telecommunications Act of 1996.
3. "End user" means a person who uses telecommunications service for the person's own use.
4. "Incumbent local exchange company" means a telecommunications company that meets the definition of section 251(h) of the Telecommunications Act of 1996.
5. "Lifeline service" means a retail local telecommunications offering for which qualifying low-income consumers pay reduced recurring charges for universal service.

6. "Link-up service" means a reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence.
7. "Local exchange company" means an incumbent or competitive local exchange company.
8. "Telecommunications Act of 1996" means the Telecommunications Act of 1996 [Pub. L. 104-104; 110 Stat. 56; 47 U.S.C. 151 et seq.].

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

69-09-05-01. Lowest priced service alternatives. Upon request of a residential customer or prospective customer for service, the utility shall ask if such customer wishes to be informed of the lowest priced service alternatives available from the utility, and upon an affirmative response shall inform such customer of the lowest priced service alternatives available from the utility at the customer's location, giving full consideration to grades of service, equipment options, and installation charges incident thereto. The lowest priced service alternative includes service under the lifeline and link-up plans.

History: Amended effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:

- a. If the customer is delinquent in payment for nonessential services.
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.
5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency. The notice must:
 - a. Be sent by first-class mail addressed to the billing name and address of the affected account.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6.
 - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
 - a. Pays the fee for resuming service established in the utility's rate schedules;
 - b. Makes a deposit under section 69-09-05-03 (if required by the company); and
 - c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued.

Interexchange carriers are not required to resume long-distance service if local service is not connected.

9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules.

The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

11. a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
 - b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.
12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

History: Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee, effective August 16, 1997; January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-02.1. Determination of delinquency. For the purpose of discontinuing or resuming telecommunications service:

1. If a customer's partial payment on outstanding charges for telecommunications services excluding payments on a deferred installment agreement is less than the outstanding charges for essential services and federal access charges, the customer is delinquent in payment for essential services.
2. If a customer's partial payment on outstanding charges for telecommunications services excluding payments on a deferred

installment agreement is equal to or greater than the outstanding charges for essential services and federal access charges, the customer is not delinquent in payment for essential services.

History: Effective January 1, 1993.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-03. Deposits and guarantees.

1. Each telephone utility subject to the public service commission's jurisdiction may require each applicant for service to make a deposit not to exceed two times the estimated amount of one month's average bill. The utility shall each year pay interest on such deposit at the rate paid by the Bank of North Dakota on a six-month certificate of deposit. Such rate will be determined as of the first business day of each year on a six-month certificate of deposit with the smallest deposit required. The interest may be paid to the depositor or may be deducted from the depositor's indebtedness to the utility for telephone service. The payment or deduction for interest must be made during each calendar year, or whenever a deposit is refunded or service discontinued. The utility may accept in lieu of a cash deposit a contract signed by a guarantor, satisfactory to the utility, whereby the payment of a specified sum not to exceed the required cash deposit is guaranteed. The term of such contract must be indeterminate, but it must automatically terminate when the customer gives notice of service discontinuance to the utility or a change in location covered by the guarantee agreement or thirty days after written request for termination is made to the utility by the guarantor. However, no agreement may be terminated without the customer having made satisfactory settlement for any balance which the customer owes the utility. Upon termination of a guarantee contract, a new contract or a cash deposit may be required by the utility.
2. An eligible telecommunications carrier may not collect a service deposit in order to initiate lifeline service, if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.

History: Effective April 1, 1985; amended effective August 1, 1994; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-04. Rules for resale of telecommunications services.

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
 - b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
 - c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.
 - d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service provider who resells cellular or other wireless service.
 - e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.
 - f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.
2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:
- a. Register with the commission, on a form provided by the commission, indicating the provision of local resale or long-distance resale services in the state of North Dakota.
 - b. If a reseller requires prepayment for service, it shall:
 - (1) Submit a performance bond in an amount specified by the commission; or
 - (2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected

at any given time, and file monthly reports showing escrow account activities and call completion data.

- (3) Under subsection 7 of North Dakota Century Code section 49-03.7-09 the bonding requirement does not apply to a facility-based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.
 - (4) The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.
 - (5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4. The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater. The amount of an escrow account is an amount equal to the prepayments, including prepaid calling cards, at any given time.
- 3. A reseller may not be identified as an optional intrastate interexchange carrier unless it is registered with the commission.
 - 4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
 - 5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
 - 6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.

7. A reseller is subject to revocation of its authority and the penalties provided in North Dakota Century Code chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

History: Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-04.1. Identification of intraLATA interexchange carriers.

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective registration authorizing the provision of intrastate interexchange service.
2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

History: Effective February 1, 1995; amended effective January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-04.2. Unauthorized service changes. A telecommunications company may not change a customer's local or long-distance carrier without authorization from the customer.

History: Effective July 1, 1997.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7, 49-21-02.4, 49-21-07

69-09-05-05. Rules for the provision of operator services.

1. Definitions.
 - a. "End user" means the person to whom operator service is provided.
 - b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not

include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.

- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll-free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.
- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
- e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.
- f. Not charge for incompleting calls.
- 9. Disclose their names on bills which include charges for services they provided.

History: Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-06. Rules for pay telephones. Repealed effective August 1, 1994.

69-09-05-07. Customer trouble reports. When a customer's service is found to be out of order or a customer reports trouble, the local exchange telecommunications company shall test its facilities to determine if the problem is with the local exchange company's facilities. If it is, the local exchange company shall correct the trouble promptly. There may be no charge to the customer to test to determine if the problem is on the local exchange company's facilities or to correct a problem on the local exchange company's facilities. A local exchange company shall inform a customer in advance what charges will be assessed to identify or correct a problem located on the customer's facilities.

History: Effective August 1, 1991; amended effective January 1, 2001.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-21, 49-21-01.7

69-09-05-08. Adoption of regulations. The following parts of title 47, Code of Federal Regulations in effect as of July 17, 1997, are adopted by reference:

Part 54 - Universal Service, Subpart F - Universal Service Support for Schools and Libraries.

Copies of these regulations may be obtained from:

Public Service Commission
State Capitol
Bismarck, North Dakota 58505-0480

History: Effective March 1, 1998.

General Authority: NDCC 28-32-02, 49-02-01

Law Implemented: NDCC 49-21

69-09-05-09. 911 and E-911 service. Each competitive local exchange company shall provide 911 or E-911 service that is comparable to the 911 or E-911 service provided by the incumbent local exchange company operating in each respective service area in which the competitive local exchange company offers service.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7, 49-21-07, 49-21-24

69-09-05-10. Registration - Procedure.

1. A reseller or competitive facilities-based provider desiring authority to provide service in North Dakota shall register on a form provided by the commission. The registration shall include identification of the applicant's authority to do business in North Dakota.
2. A reseller shall follow the procedure set forth in section 69-09-05-04.

3. When a registered company intends to assign its authority to provide telecommunications service in North Dakota to another entity, the assignee must first register with the commission.
4. A registered company may voluntarily, without commission approval, surrender its authority by notifying the commission in writing and updating its registration to reflect this surrender.
5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

History: Effective January 1, 2001; amended effective July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
 - a. The type of service the applicant intends to provide.
 - b. The service area or areas in which the applicant intends to provide service.
 - c. How the applicant meets the issues to be considered in the application.
2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
 - a. A balance sheet of the form and style usually followed in the industry.
 - b. An income statement of the form and style usually followed in the industry.
 - c. If available, an independent accountant's financial opinion.
 - d. Any other information requested by the commission.
3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be

considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:

- a. Fitness and ability of the applicant to provide service.
 - b. Adequacy of the proposed service.
 - c. The technical, financial, and managerial ability of the applicant to provide service.
4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
 5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
 6. Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

History: Effective January 1, 2001; amended effective July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

69-09-05-12. Eligible carrier applications and advertising.

1. Eligible carrier applications:
 - a. A telecommunications company that desires designation as an eligible carrier as that term is defined in the Telecommunications Act of 1996 shall make application for such designation with the commission.
 - b. An application for designation as an eligible carrier must specifically identify:
 - (1) The applicant's service area;
 - (2) How the applicant meets the requirements for designation as an eligible carrier;
 - (3) Whether the applicant requires a waiver of any eligible carrier requirement; and

- (4) If a waiver is required, the specific reasons for the waiver and the length of time for which the waiver is required.
2. Eligible carrier advertising. The following forms of advertising of the availability of universal service are required of an eligible carrier:
 - a. A full description of available services in the eligible carrier's official telephone directory, including the process to be used by customers to qualify for lifeline and link-up service.
 - b. Advertising of the availability of universal services in media of general circulation in each eligible carrier's service areas. Availability may be advertised in newspapers, company newsletters, company or civic internet sites, bill stuffers, direct mailings, or other means intended to convey availability throughout the service area.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7, 49-21-07

69-09-05-13. Essential service provider bills. A provider of essential service, on any bill issued for the provision of essential services, shall:

1. Clearly disclose its name, business address, and a toll-free customer inquiry telephone number. The company name and business address must also be made available via the toll-free customer inquiry number;
2. Clearly and separately identify the essential services for which the bill is issued;
3. Clearly identify all taxes, fees, and surcharges associated with the essential services for which the bill is issued; and
4. Disclose that the provision of essential services may not be discontinued by the provider for nonpayment of charges for nonessential services or use other language that complies with federal billing rules.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-02-01.1, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-14. Procedure for filing negotiated interconnection agreements. Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251; assignments, assumptions or transfers of interconnection agreements; amendments to interconnection agreements; and agreements for Qwest platform plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission internet site for comment by interested parties. The internet listing will include the date each agreement was filed and links to the agreement itself.
4. The commission will accept written comments on a listed agreement for sixty days from the date filed.
5. Absent commission action within ninety days of filing to disapprove an agreement, or portion thereof, the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any assignment, assumption, or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption, or transfer occurs.
7. Any amendment to an interconnection agreement requires a new filing with a new ninety-day review and comment period.

History: Effective July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

CHAPTER 69-09-08
RENEWABLE ELECTRICITY AND RECYCLED ENERGY TRACKING SYSTEM

Section

69-09-08-01	Purpose, Application, and Effective Date
69-09-08-02	Definitions
69-09-08-03	Renewable Energy Certificates Tracking Program
69-09-08-04	Facilities Eligible for Participation in the Renewable Energy Certificates Tracking Program
69-09-08-05	Responsibilities of Program Administrator
69-09-08-06	Production and Transfer of Renewable Energy Certificates
69-09-08-07	Registration and Certification of Renewable Energy Facilities

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording, and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives, and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions. As used in this chapter:

1. "Designated representative" means a responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.
2. "Existing facilities" means renewable energy facilities placed in service before January 1, 2001.
3. "New facilities" means renewable energy facilities placed in service on or after January 1, 2001.
4. "Program administrator" means the independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.

5. "Renewable energy certificate" means a document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. "Renewable energy certificate account" means an account maintained by the program administrator for the purpose of tracking renewable energy certificates.
7. "Renewable energy certificates tracking program" means the process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. "Renewable energy credit" means the intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in section 69-09-08-04.
9. "Renewable energy facility" means a facility generating electricity from one or more generating units that exclusively rely on an energy source or fuel included in North Dakota Century Code section 49-02-25.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under section 69-09-08-07; and

2. Have output that is capable of being physically metered and verified by the program administrator. A renewable energy facility with more than one generating unit may be metered with a single meter.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's web site that provides tracking program information to interested buyers and sellers of renewable energy certificates;
4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate; and
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April fifteenth of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, in megawatts, by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates. The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.
3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a designated representative must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code section 49-02-25.
2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a renewable energy certificate account for the designated representative of the renewable energy resource.
3. The commission or its program administrator may make onsite visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with applicable law and rules.
4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.
5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

**LEGISLATIVE COUNCIL
ADMINISTRATIVE RULES COMMITTEE**

June 13, 2006

**N.D. Admin. Code § 69-09-03 (Gas Pipeline Safety)
N.D. Admin. Code § 69-09-05 (Telecommunications)
N.D. Admin. Code § 69-09-08 (Siting and Electric)**

Mr. Chairman and committee members, my name is Annette Bendish, I am a Public Utility Analyst with the Public Utilities Division of the Public Service Commission. Also here with me today are Patrick Fahn, Chief Engineer and Jerry Lein, Public Utility Analyst with the Public Utilities Division and Alan Moch, director of the Commission's Testing and Safety Division. We are here to respond to questions posed concerning four recent rulemaking proceedings.

Our responses to the questions posed to us by the Legislative Council's staff are presented below. In each case, the question is restated prior to our response. The rules in question involve natural gas pipeline safety, telecommunications, electric regulation and siting.

1. Whether the rules resulted from statutory changes made by the Legislative Assembly.

Gas Pipeline Safety	No
Telecommunications	Interconnection Rules – No Registration Rules – Yes – House Bill 1156
Siting	No
Electric	Yes – House Bill 1314

2. Whether the rules are related to any federal statute or regulation. If so, please indicate whether the rules are mandated by federal law or explain any options your agency had in adopting the rules.

Gas Pipeline Safety Yes
The Gas Pipeline Safety Federal rules adopted by reference will amend and update the state gas pipeline safety regulations fulfilling one of the requirements of the federal/state gas pipeline safety agreement, and facilitating enforcement of those regulations at the state level.

Siting Yes

29

GS-05-341

Administrative Rule
by Public Service Com
06/13/2006

49

PU-05-364

Administrative Rule
by Public Service Co
06/13/2006: Comm

26

PU-05-602

Administrative Rule
by Public Service Co
06/13/2006: Comm

45

PU-05-575

Administrative Rules Committee Testimony for
Interconnection/Registration Rules
by Public Service Commission
06/13/2006: Comm Legal, Ilona Pat, Jerry, Annette

Pages: 17

The proposed rules were not federally mandated, but will help to ensure that the Commission's siting authority for electric transmission lines is not pre-empted under section 216 of the federal Energy Policies Act of 2005.

Telecommunications No

Electric No

3. **A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.**

On November 17, 2005, the Commission issued a Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing. On November 22, 2005, the Commission issued an Amended Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing. The amended notice of the rulemakings was published in daily newspapers throughout the state as required by North Dakota Century Code Chapter 28-32. A public hearing was held at 1:00 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. Comments were received until January 17, 2006.

4. **Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules.**

Gas Pipeline Safety:

Other than staff testimony explaining the proposed rule changes, no comments or testimony were received before, at, or after the hearing. The rules were adopted as proposed.

Telecommunications:

Interconnection Rules

Commission staff testified that proposed new Section 69-09-05-14 of the North Dakota Administrative Code would add a requirement for filing an informational cover sheet and formalize the existing procedure for processing of negotiated interconnection agreements filed for Commission approval under 47 U.S.C section 252(e). The existing procedure is detailed on the Commission's web site and has been working well for several months. Under the existing procedure interconnection agreements are posted on the Commission's web page when filed. The Commission accepts written comments on interconnection agreements for 60 days. Absent Commission action within 90 days, the agreement is deemed approved under 47 U.S.C. section 252(e)(4).

Written comments on the proposed rules were received from a group of North Dakota wireless carriers (Wireless Partnerships). The Wireless Partnerships proposed a modification to exclude the assignment, assumption or transfer of agreements. They contended that Commission approval of the assignment or transfer of an interconnection agreement is not required or authorized under 47 U.S.C. section 252(e) or under North Dakota Century Code Section 49-21-01.7(9). They further contended that requiring such approval is unnecessary and an impediment to any transaction in which an interconnection agreement is assigned.

Staff did not object to eliminating the requirement for Commission approval of assumptions, assignments or transfer of previously approved interconnection agreements. Staff noted that this requirement has been Commission practice all along and believes there is value in maintaining the existing database of interconnection agreements and parties to them. Therefore, staff recommended modifying proposed new subsection 6 to require that a notification be filed with the Commission within 30 days after the assignment, assumption or transfer occurs. No other comments were received.

There were no objections to the staff proposal and the proposed interconnection rules were modified accordingly.

Registration Rules

Staff testified that the proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. Telecommunications companies that are not incumbent local exchange companies are no longer required to obtain a certificate of registration from the Commission. The companies now provide the required information via the internet and no Commission approval is required.

The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

One written comment was received regarding these rules from the Rural Telephone Company Group, but that comment was directed at the need for an existing rule that was not proposed to be repealed. The comment noted no need for North Dakota Administrative Code Section 69-06-05-04.1, concerning the identification of intraLATA interexchange carriers. However, the proposed rule package only proposed a change to that section to delete any reference to certificates of public convenience and necessity or registration certificates, since under the new statutory scheme, certificates will not be granted to any company except incumbent companies. The changes proposed simply make this section consistent with the new law. The issue of the need for the section is not an issue

before the Commission at this time. The Rural Telephone Company Group may petition the Commission for a repeal of this section at any time.

One comment was received at the hearing from Alltel requesting that a definition be included in these rules for the term "facilities-based." Alltel offered to send a written suggestion for such a definition but, none was received. The Commission concluded that because the term "facilities-based" is used in the enabling legislation and has been used in the regulation of the industry for many years, no definition needed to be incorporated into the rules at this time. No other comments were been received.

Siting:

Subsection 69-06-08-01(4) of the North Dakota Administrative Code sets forth policy criteria for the siting of energy conversion facilities and 69-06-08-02(4) sets forth policy criteria for the siting of energy transmission facilities. Both sections provide that the Commission may require, or give preference to an applicant that will maximize benefits that result from, the policies and practices listed therein. The amendment being proposed is identical for both sections and states that the Commission may also give preference to an applicant that will maximize interstate benefits of proposed projects.

Commission staff testified that these amendments were proposed to clarify the Commission's ability to consider interstate benefits of energy conversion and transmission facilities when determining whether to issue siting permits. This clarification is necessary to help ensure that the Commission's siting authority will not be federally pre-empted under the federal Energy Policies Act of 2005. Section 216 of that act provides that the U.S. Department of Energy (Department) is to designate national interest electric transmission corridors and authorizes the Department to issue construction permits within those designated corridors if, among other things, the state does not have authority to approve the siting of facilities or to consider the interstate benefits expected to be achieved from the facilities. No other comments were received.

Electric:

Commission staff presented testimony regarding the creation of North Dakota Administrative Code Chapter 69-09-08 to establish rules for participation in a renewable energy tracking system.

House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may, by rule, establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

House Bill 1314 was enacted with recognition that a Midwest Renewable Energy Tracking System (M-RETS) is being developed in our region. The goal is for M-RETS to be operational by year-end 2006. Voluntary participation in M-RETS is expected to be substantial across several Midwestern states. It is expected that a new regional market will emerge for the trading of renewable energy certificates that can be used to demonstrate the "use of green power," regardless of whether physical delivery of renewable energy actually occurs. For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to a renewable energy objective that 10% of electricity used in Minnesota be from renewable sources by 2015. The proposed rules would enable Minnesota utilities to meet their Minnesota renewable energy objective with renewable energy certificates from North Dakota sources.

During the hearing, Montana-Dakota Utilities Co. recommended minor clarifying language changes and these are incorporated into the proposed rules. On January 17, 2006 Missouri River Energy Services (MRES) filed written comments recommending: 1) Master metering should be allowed for multiple generating units to make reporting requirements easier; and 2) The definition of a Renewable Energy Credit in subsection 69-09-08-02(8) should specify the amount of energy equal to a credit. The Commission agreed with MRES' recommendation for allowing master metering, and relevant language is incorporated into the proposed rules. The proposed rules already included a definition of renewable energy credit with the amount of energy set at one megawatt hour so MRES' recommendation to define the amount of energy equal to a credit was not necessary and no changes regarding that suggestion were made. No other comments were received.

5. **The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules.**

Legal notices associated with this rulemaking proceeding cost \$1,540.00. Other than staff time, no other significant costs were incurred.

6. **An explanation of the subject matter of the rules and the reasons for adopting those rules.**

Gas Pipeline Safety: The Gas Pipeline Safety Federal rules to be adopted by reference will amend the state pipeline safety regulations to: require gas operators to prepare and follow procedures for periodic inspections of pipeline

facilities located in the Gulf of Mexico and its inlets in waters less than 15 feet deep; codify new program requirements concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method; amend the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs; revise all references to the former Research and Special Programs Administration in 49 CFR parts 190 through 199 to reflect the creation of Pipeline and Hazardous Materials Safety Administration.

Telecommunications: Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 U.S.C. Section 252(e).

Siting: Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Electric: Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

7. **Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether that regulatory analysis was issued. Please provide a copy.**

A regulatory analysis was prepared for all of the proposed rules. The proposed rules are not expected to have an impact on the regulatory community in excess of \$50,000.

8. **Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide a copy.**

Gas Pipeline Safety:	Yes; copy attached.
Telecommunications:	Yes; copy attached
Siting	Yes; copy attached
Electric	Yes; copy attached

9. **Whether a constitutional takings assessment was prepared as required by NDCC Section 28-32-09. Please provide a copy if one was prepared.**

Gas Pipeline Safety:	Yes; copy attached.
Telecommunications:	Yes; copy attached
Siting	Yes; copy attached
Electric	Yes; copy attached

10. **If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules.**

These rules were not adopted as emergency rules.

Mr. Chairman, that completes our testimony. We would be happy to respond to any questions that your committee might have.

State of North Dakota

Public service Commission

**Public Service Commission
Gas Pipeline Safety
Rulemaking**

Case No. GS-05-341

Regulatory Analysis and Takings Assessment

October 31, 2005

The 2005 Gas Pipeline Safety rule amendments, enacted by the federal government and adopted by reference into state administrative rule, consist of the following changes to the federal gas safety standards: *49 CFR Part 192 - Amendment No. 98* amends the pipeline safety regulations to require operators of gas and hazardous liquid pipelines to prepare and follow procedures for periodic inspections of pipeline facilities located in the Gulf of Mexico and its inlets in waters less than 15 feet deep. These inspections will inform the operator if the pipeline is exposed or a hazard to navigation. *49 CFR Part 192 - Amendment No. 99* codifies the new program requirements concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method. *49 CFR Part 192 - Amendment No. 100* amends the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs. The changes are part of PHMSA's Office of Pipeline Safety's (OPS) broad pipeline communications initiative to promote pipeline safety. Promoting pipeline safety requires enhanced communications (by pipeline operators) with the public to increase public awareness of pipeline operations and safety issues. The amendments for developing and implementing public awareness programs address the requirements of the Pipeline Safety Improvement Act (PSIA) of 2002 and incorporate by reference the guidelines provided in the American Petroleum Institute (API) Recommended Practice (RP) 1162, "Public Awareness Programs for Pipeline Operators." *49 CFR Part 190, 191, 192, and 199 - Re-organization Amendment* revises all references to the former Research and Special Programs Administration (RSPA) in 49 CFR parts 190 through 199 to reflect the creation of PHMSA. The USDOT's pipeline and hazardous materials safety programs were reorganized into the new Pipeline and Hazardous Materials Safety Administration (PHMSA).

All of the above proposed changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

A Takings Assessment was considered with regard to the amendments offered during this rulemaking. None of the amendments have any affect on takings.

State of North Dakota

Public service Commission

**Public Service Commission
Gas Pipeline Safety
Rulemaking**

Case No. GS-05-341

Small Entity Regulatory Analysis

October 31, 2005

The 2005 Gas Pipeline Safety rule amendments, enacted by the federal government and adopted by reference into state administrative rule, consist of the following changes to the federal gas safety standards: amends the pipeline safety regulations to require operators of gas and hazardous liquid pipelines to prepare and follow procedures for periodic inspections of pipeline facilities located in the Gulf of Mexico and its inlets in waters less than 15 feet deep. These inspections will inform the operator if the pipeline is exposed or a hazard to navigation; codifies the new program requirements concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method; amends the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs. The changes are part of PHMSA's Office of Pipeline Safety's (OPS) broad pipeline communications initiative to promote pipeline safety. Promoting pipeline safety requires enhanced communications (by pipeline operators) with the public to increase public awareness of pipeline operations and safety issues. The amendments for developing and implementing public awareness programs address the requirements of the Pipeline Safety Improvement Act (PSIA) of 2002 and incorporate by reference the guidelines provided in the American Petroleum Institute (API) Recommended Practice (RP) 1162, "Public Awareness Programs for Pipeline Operators;" revises all references to the former Research and Special Programs Administration (RSPA) in 49 CFR parts 190 through 199 to reflect the creation of PHMSA. The USDOT's pipeline and hazardous materials safety programs were reorganized into the new Pipeline and Hazardous Materials Safety Administration (PHMSA).

This regulatory analysis is not required under Chapter 28-32-08.1, N.D.C.C. because the proposed amendments to existing rules are mandated by federal law.

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

**Regulatory Analysis, Takings Assessment, and Small Entity Analysis
November 21, 2005**

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Regulatory Analysis

The proposed changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars because they merely codify existing Commission practice and do not enact additional procedures beyond what the Commission currently does.

Takings Assessment

North Dakota Century Code Section 28-32-09(1) requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private property. The assessment must:

- a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
- b. Clearly and specifically identify the purpose of the proposed rule.
- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.
- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

None of these proposed rule changes affect the use of private real property so they will not result in any taking.

The purpose of the proposed rule is to formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

We do not expect any impact on private property owners as a result of the proposed rule changes.

We do not expect the proposed rules to constitute a taking; therefore, there should be no cost to the state.

Subsection e is not applicable because the proposed rule changes will not limit the use of private real property.

Subsection f is not applicable because the proposed rule changes will not limit the use of private real property.

Small Entity Regulatory Analysis

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. Subsection 2 states that the agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities.
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.
- c. Consolidation or simplification of compliance or reporting requirements for small entities.
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

No additional compliance standards or reporting requirements are proposed by the rule changes.

No additional performance standards are proposed by these rule changes.

Small entities will not be exempt from any part of the requirements contained in the proposed rule.

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

Regulatory Analysis, Takings Assessment, and Small Entity Analysis

November 25, 2005

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

The proposed changes impose no new or additional burdens on any regulated entity. The bond requirement is not new, and the minimum bond amounts are not new. The bond requirement is now described in the proposed rule, and the statutory exception for facilities based wireless companies is spelled out. The existing minimum bond amounts are now codified in the proposed rules.

The changes are needed because a statute enacted in 2005 substitutes a streamlined self registration process for the previous requirement to obtain a registration certificate (applicable to for resellers) or a certificate of public convenience and necessity (applicable to facilities based carriers).

Regulatory Analysis

The proposed changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars because they lessen the regulatory burden on affected companies. There is no fee for registration.

Takings Assessment

North Dakota Century Code Section 28-32-09(1) requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private property. The assessment must:

- a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
- b. Clearly and specifically identify the purpose of the proposed rule.
- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.

- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

None of these proposed rule changes affects the use of private real property so they will not result in any taking and therefore, there should be no cost to the state and no impact on private property owners.

Subsection e is not applicable because the proposed rule changes will not limit the use of private real property.

Subsection f is not applicable because the proposed rule changes will not limit the use of private real property.

Small Entity Regulatory Analysis

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. Subsection 2 states that the agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities.
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.
- c. Consolidation or simplification of compliance or reporting requirements for small entities.
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

The new registration statute establishes a minimal compliance regime. The process is easy, accessible, and free. There is no waiting period and very little required information. The rules simply implement this new streamlined process enacted by law. The rules themselves impose no new or additional reporting or compliance requirements. The new process and the rules implementing it should benefit small entities because they can register to provide telecommunications services more easily and with fewer burdens than ever before.

No additional performance standards are proposed by these rule changes.

Small entities will not be exempt from any part of the requirements contained in the proposed rule because the rules and the law implemented by them make registration easily accessible and affordable for small entities.

**State of North Dakota
Public service Commission**

**Public Service Commission
Public Utilities
Rulemaking**

Case No. PU-05-364

Regulatory Analysis, Takings Assessment and Small Entities Analysis

November 21, 2005

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02- 24 thru 26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

A tracking system administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program. It is expected that a new regional market will emerge for trading of the certificates, which will be used to demonstrate the use of "green power." For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to an objective that 10% of electricity be from renewable sources by 2015.

North Dakota Century Code Section 28-32-08(2) sets forth the requirements of a regulatory analysis.

Subsection a states: "A description of the classes of persons who will likely be affected by the proposed rule, including classes that will bear the cost of the proposed rule and classes that will benefit from the proposed rule."

Analysis: The classes affected will be producers of renewable and recycled waste energy that choose to participate in the tracking program and their customers that purchase renewable energy certificates. Customers in North Dakota will not be required to purchase the certificates, but may if they wish to demonstrate use of such energy.

Subsection b states: "A description of the probable impact, including the economic impact of the proposed rule."

Analysis: Renewable energy certificates are expected to have monetary value, with some estimates now ranging around \$2.00 per MWH. There is a Midwest Renewable Energy Tracking System (M-RETS) being developed in our region. Voluntary participation is expected to be substantial across several Midwestern states. M-RETS expects an initial annual operating budget of approximately \$300,000 or less. M-RETS anticipates funding entirely from user fees, but has not yet determined a

rate structure. For this analysis it is assumed that the MRETS rate structure will be a flat fee paid by the producer for each MWH tracked:

Assume: Total initial generating capacity enrolled in program = 3,000 MW with an average generating capacity factor of 25%. (Generators produce at rated output an average of 25% of the time)

Then: Total annual MWH tracked would be:
 $3,000 \text{ MW} \times .25 \times 365 \text{ days/year} \times 24 \text{ hours/day}$
 $= 6,570,000 \text{ MWH per year.}$

The resulting administrative cost to program participants would be:
 $\$300,000 / 6,570,000 = \$0.0457$ or 4.6 cents per MWH.

Subtracting these administrative costs from the expected value of the renewable energy certificates yields:
 $\$2.00 - \$0.046 = \$1.934$ per MWH gain for participating producers.

Thus a 20 MW wind farm with an average 25% capacity factor that chooses to participate in the tracking program could experience additional revenue of:
 $20 \text{ MW} \times .25 \times 24 \times 365 \times \$1.934 = \$84,709.20$ per year.

For ND customers choosing to purchase renewable energy certificates, the impact would be the market price of the certificates, estimated in this analysis to be \$2.00 per MWH. There would be no impact to ND customers choosing not to purchase renewable energy certificates.

Subsection c states: "The estimated cost to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenues."

Analysis: There is no cost to the agency or the state expected. See fiscal note for House Bill 1314.

Subsection d states: "A description of any alternative methods of achieving the purpose of the proposed rule that were seriously considered by the agency and the reason why the methods were rejected in favor of the proposed rule."

Analysis: No alternative has been considered.

A takings assessment under North Dakota Century Code Section 28-32-09 is not required because the proposed rules will not limit the use of private real property.

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 is not required because the proposed rules will not have an adverse effect on small entities.

JRL

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities - Siting
Rulemaking**

Case No. PU-05-602

Regulatory Analysis, Takings Assessment, and Small Entity Analysis

November 21, 2005

The siting rule amendments propose changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) to add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Regulatory Analysis

The proposed changes merely add another factor that the Commission may use in evaluation energy conversion and transmission facility siting applications and are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Takings Assessment

North Dakota Century Code Section 28-32-09(1) requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private property. The assessment must:

- a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
- b. Clearly and specifically identify the purpose of the proposed rule.
- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.
- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

None of these proposed rule changes affect the use of private real property so they will not result in any taking.

The purpose of the proposed rule is to add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

We do not expect any impact on private property owners as a result of the proposed rule changes.

We do not expect the proposed rules to constitute a taking; therefore, there should be no cost to the state.

Subsection e is not applicable because the proposed rule changes will not limit the use of private real property.

Subsection f is not applicable because the proposed rule changes will not limit the use of private real property.

Small Entity Regulatory Analysis

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. Subsection 2 states that the agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities.
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.
- c. Consolidation or simplification of compliance or reporting requirements for small entities.
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

No additional compliance standards or reporting requirements are proposed by the rule changes.

No additional performance standards are proposed by these rule changes.

Small entities will not be exempt from any part of the requirements contained in the proposed rule.



North Dakota Legislative Council

STATE CAPITOL, 600 EAST BOULEVARD, BISMARCK, ND 58505-0360 (701) 328-2916 TTY: 1-800-366-6888

Bob Stenehjem
State Senator
Chairman

JDHN D. DLSRUD
Director

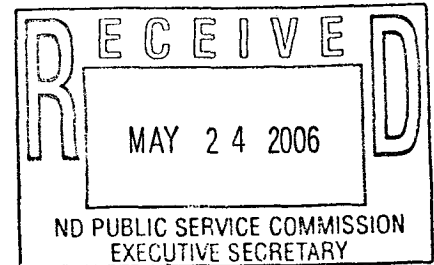
JAY E. BURINGRUD
Assistant Director

JIM W. SMITH
Legislative Budget
Analyst & Auditor

JDHN WALSTAD
Code Revisor

May 23, 2006

Ms. Illona A. Jeffcoat-Sacco
Executive Secretary
Public Service Commission
State Capitol
Bismarck, ND 58505



Dear Ms. Jeffcoat-Sacco:

The Legislative Council's Administrative Rules Committee reviews all rules recently adopted by administrative agencies. The committee will hold its next meeting on Tuesday, June 13, 2006, in the Roughrider Room, State Capitol.

You are invited to appear before the committee and describe the procedure followed by the Public Service Commission in adopting the rules published in the July 2006 supplement to the North Dakota Administrative Code.

You are tentatively scheduled to appear before the committee at 11:10 a.m. Enclosed is a copy of the agenda for your reference. If you or a representative are unable to appear at that time, please notify me as soon as possible.

With respect to the rules published in the July 2006 supplement, the committee is interested in and would like you to testify before the committee concerning the following matters:

1. Whether the rules resulted from statutory changes made by the Legislative Assembly.
2. Whether the rules are related to any federal statute or regulation. If so, please indicate whether the rules are mandated by federal law or explain any options your agency had in adopting the rules.
3. A description of the rulemaking procedure followed in adopting the rules, e.g., the type of public notice given and the extent of public hearings held on the rules.
4. Whether any person has presented a written or oral concern, objection, or complaint for agency consideration with regard to these rules. If so, describe the concern, objection, or complaint and the response of the agency, including any change made in the rules to address the concern, objection, or complaint. Please summarize the comments of any person who offered comments at the public hearings on these rules.
5. The approximate cost of giving public notice and holding any hearing on the rules and the approximate cost (not including staff time) of developing and adopting the rules.
6. An explanation of the subject matter of the rules and the reasons for adopting those rules.

7. Whether a regulatory analysis was required by North Dakota Century Code (NDCC) Section 28-32-08 and whether that regulatory analysis was issued. Please provide a copy.
8. Whether a regulatory analysis or economic impact statement of impact on small entities was required by NDCC Section 28-32-08.1 and whether that regulatory analysis or impact statement was issued. Please provide copies.
9. Whether a constitutional takings assessment was prepared as required by NDCC Section 28 32-09. Please provide a copy if one was prepared.
10. If these rules were adopted as emergency (interim final) rules under NDCC Section 28-32-03, provide the statutory grounds from that section for declaring the rules to be an emergency and the facts that support that declaration and provide a copy of the Governor's approval of the emergency status of the rules.

Please provide the committee with **written** testimony.

Enclosed is a copy of the July 2006 rules of the Public Service Commission in the form they will be presented to the committee at the meeting. The page numbers should be used as references for the committee because committee members will have pages with the same numbering. Please contact this office if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "John Walstad", written over a large, loopy circular flourish.

John Walstad
Code Revisor

JW/AC
Encs.

TITLE 69
PUBLIC SERVICE COMMISSION

JULY 2006

CHAPTER 69-06-08

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

1. **Exclusion areas.** The following geographical areas shall be excluded in the consideration of a site for an energy conversion facility, and shall include a buffer zone of a reasonable width to protect the integrity of the area. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; historic districts; monuments; wilderness areas; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: parks; forests; forest management lands; historic sites; monuments; historical markers; archaeological sites; grasslands; wild, scenic, or recreational rivers; game refuges; game management areas; management areas; and nature preserves.
 - c. County parks and recreational areas; municipal parks; parks owned or administered by other governmental subdivisions; hardwood draws; and enrolled woodlands.
 - d. Prime farmland and unique farmland, as defined by the land inventory and monitoring division of the soil conservation service, United States department of agriculture, in 7 C.F.R. part 657; provided, however, that if the commission finds that the prime farmland and unique farmland that will be removed from use for the life of the facility is of such small acreage as to be of negligible impact on agricultural productions, such exclusion shall not apply.
 - e. Irrigated land.

- f. Areas critical to the life stages of threatened or endangered animal or plant species.
 - g. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
- 2. **Avoidance areas.** The following geographical areas shall not be approved as a site for an energy conversion facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative sites. Economic considerations alone shall not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area shall be included. Natural screening may be considered in determining the width of the buffer zone.
 - a. Historical resources which are not designated as exclusion areas.
 - b. Areas within the city limits of a city or the boundaries of a military installation.
 - c. Areas within known floodplains as defined by the geographical boundaries of the hundred-year flood.
 - d. Areas that are geologically unstable.
 - e. Woodlands and wetlands.
 - f. Areas of recreational significance which are not designated as exclusion areas.
- 3. **Selection criteria.** A site shall be approved in an area only when it is demonstrated to the commission by the applicant that any significant adverse effects resulting from the location, construction, and operation of the facility in that area as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.
 - a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.

- (3) Land which the owner demonstrates has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
- (4) Surface drainage patterns and ground water flow patterns.
- (5) The agricultural quality of the cropland.
- b. The impact upon the availability and adequacy of:
 - (1) Law enforcement.
 - (2) School systems and education programs.
 - (3) Governmental services and facilities.
 - (4) General and mental health care facilities.
 - (5) Recreational programs and facilities.
 - (6) Transportation facilities and networks.
 - (7) Retail service facilities.
 - (8) Utility services.
- c. The impact upon:
 - (1) Local institutions.
 - (2) Noise-sensitive land uses.
 - (3) Rural residences and businesses.
 - (4) Aquifers.
 - (5) Human health and safety.
 - (6) Animal health and safety.
 - (7) Plant life.
 - (8) Temporary and permanent housing.
 - (9) Temporary and permanent skilled and unskilled labor.
- d. The cumulative effects of the location of the facility in relation to existing and planned facilities and other industrial development.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.
- a. Recycling of the conversion byproducts and effluents.
 - b. Energy conservation through location, process, and design.
 - c. Training and utilization of available labor in this state for the general and specialized skills required.
 - d. Use of a primary energy source or raw material located within the state.
 - e. Nonrelocation of residents.
 - f. The dedication of an area adjacent to the facility to land uses such as recreation, agriculture, or wildlife management.
 - g. Economies of construction and operation.
 - h. Secondary uses of appropriate associated facilities for recreation and the enhancement of wildlife.
 - i. Use of citizen coordinating committees.
 - j. A commitment of a portion of the energy produced for use in this state.
 - k. Labor relations.
 - l. The coordination of facilities.
 - m. Monitoring of impacts.

History: Amended effective August 1, 1979; July 1, 2006.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

69-06-08-02. Transmission facility corridor and route criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

1. **Exclusion areas.** The following geographical areas shall be excluded in the consideration of a route for a transmission facility. A buffer zone of a reasonable width to protect the integrity of the area shall be included. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: parks; memorial parks; historic sites and landmarks; natural landmarks; monuments; and wilderness areas.
 - b. Designated or registered state: parks; historic sites; monuments; historical markers; archaeological sites; and nature preserves.
 - c. County parks and recreational areas; municipal parks; and parks owned or administered by other governmental subdivisions.
 - d. Areas critical to the life stages of threatened or endangered animal or plant species.
 - e. Areas where animal or plant species that are unique or rare to this state would be irreversibly damaged.
2. **Avoidance areas.** The following geographical areas shall not be considered in the routing of a transmission facility unless the applicant shows that under the circumstances there is no reasonable alternative. In determining whether an avoidance area should be designated for a facility, the commission may consider, among other things, the proposed management of adverse impacts; the orderly siting of facilities; system reliability and integrity; the efficient use of resources; and alternative routes. Economic considerations alone shall not justify approval of these areas. A buffer zone of a reasonable width to protect the integrity of the area shall be included unless a distance is specified in the criteria. Natural screening may be considered in determining the width of the buffer zone.
 - a. Designated or registered national: historic districts; wildlife areas; wild, scenic, or recreational rivers; wildlife refuges; and grasslands.
 - b. Designated or registered state: wild, scenic, or recreational rivers; game refuges; game management areas; management areas; forests; forest management lands; and grasslands.
 - c. Historical resources which are not specifically designated as exclusion or avoidance areas.
 - d. Areas which are geologically unstable.

- e. Within five hundred feet [152.4 meters] of a residence, school, or place of business. This criterion shall not apply to a water pipeline transmission facility.
 - f. Reservoirs and municipal water supplies.
 - g. Water sources for organized rural water districts.
 - h. Irrigated land. This criterion shall not apply to an underground transmission facility.
 - i. Areas of recreational significance which are not designated as exclusion areas.
3. **Selection criteria.** A corridor or route shall be designated only when it is demonstrated to the commission by the applicant that any significant adverse effects which will result from the location, construction, and maintenance of the facility as they relate to the following, will be at an acceptable minimum, or that those effects will be managed and maintained at an acceptable minimum.
- a. The impact upon agriculture:
 - (1) Agricultural production.
 - (2) Family farms and ranches.
 - (3) Land which the owner can demonstrate has soil, topography, drainage, and an available water supply that cause the land to be economically suitable for irrigation.
 - (4) Surface drainage patterns and ground water flow patterns.
 - b. The impact upon:
 - (1) Noise-sensitive land uses.
 - (2) The visual effect on the adjacent area.
 - (3) Extractive and storage resources.
 - (4) Wetlands, woodlands, and wooded areas.
 - (5) Radio and television reception, and other communication or electronic control facilities.
 - (6) Human health and safety.
 - (7) Animal health and safety.

(8) Plant life.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.
- a. Location and design.
 - b. Training and utilization of available labor in this state for the general and specialized skills required.
 - c. Economies of construction and operation.
 - d. Use of citizen coordinating committees.
 - e. A commitment of a portion of the transmitted product for use in this state.
 - f. Labor relations.
 - g. The coordination of facilities.
 - h. Monitoring of impacts.
 - i. Utilization of existing and proposed rights of way and corridors.
 - j. Other existing or proposed transmission facilities.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995; July 1, 2006.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

CHAPTER 69-09-03

69-09-03-02. Adoption of regulations. The following parts of title 49, Code of Federal Regulations in effect as of ~~August 1, 2004~~ October 1, 2005, are adopted by reference:

1. Part 190 - Department of Transportation Pipeline Safety Enforcement Procedures.
2. Part 191 - Department of Transportation Regulations for Transportation of Natural Gas by Pipeline; Reports of Leaks.
3. Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards.
4. Part 199 - Control of Drug Use in Natural Gas, Liquefied Natural Gas, and Hazardous Liquids Pipelines.

Copies of these regulations may be obtained from:

Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002; November 1, 2003; May 1, 2005; July 1, 2006.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

CHAPTER 69-09-05

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:
 - a. If the customer is delinquent in payment for nonessential services.
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay for a different class of service furnished by the utility, to pay for service

rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.

5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency. The notice must:
 - a. Be sent by first-class mail addressed to the billing name and address of the affected account.
 - b. Show the amount of the delinquency.
 - c. Include the telephone number of the public service commission.
 - d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
 - e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.
6.
 - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed-upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:

- a. Pays the fee for resuming service established in the utility's rate schedules;
- b. Makes a deposit under section 69-09-05-03 (if required by the company); and
- c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued.

Interexchange carriers are not required to resume long-distance service if local service is not connected.

9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules. The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.
11.
 - a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
 - b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.

12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

History: Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee, effective August 16, 1997; January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-04. Rules for resale of telecommunications services.

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
- b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
- c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.
- d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service providers provider who resell-wireline resells cellular or other wireless service as part of their cellular or personal communication service.
- e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.

- f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.
2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:
- a. ~~Obtain a certificate of registration from Register with the commission, on a form provided by the commission, authorizing indicating the provision of local resale or long-distance resale services in the state of North Dakota.~~
- b. If a reseller requires prepayment for service, it shall:
- (1) Submit a performance bond in an amount specified by the commission; or
- (2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected at any given time, and file monthly reports showing escrow account activities and call completion data.
- (3) ~~The requirements of paragraphs 1 and 2 are waived for any company that has provided cellular or personal communication service in North Dakota for one year without a formal complaint having been filed against it. The commission may revoke the waiver after notice and opportunity for hearing if necessary to protect the public interest. Under subsection 7 of North Dakota Century Code section 49-03.7-09 the bonding requirement does not apply to a facility-based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.~~
- (4) The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.
- (5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4.

The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater. The amount of an escrow account is an amount equal to the prepayments, including prepaid calling cards, at any given time.

- ~~c. Forfeit its registration certificate if it is voluntarily dissolved or involuntarily dissolved under North Dakota law. A reseller may not operate and its registration certificate is void on the effective date of involuntary dissolution under North Dakota Century Code section 10-23-02.2.~~
3. A reseller may not be identified as an optional intrastate interexchange carrier ~~without a certificate of registration from~~ unless it is registered with the commission.
 4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
 5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
 6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.
 7. A reseller is subject to ~~reregulation by the commission~~, revocation of its ~~certificate, authority~~ and the penalties provided in North Dakota Century Code ~~chapter~~ chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

History: Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-04.1. Identification of intraLATA interexchange carriers.

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective ~~certificate of public convenience and necessity or a current certificate of~~ registration authorizing the provision of intrastate interexchange service.

2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

History: Effective February 1, 1995; amended effective January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-05. Rules for the provision of operator services.

1. Definitions.

- a. "End user" means the person to whom operator service is provided.
- b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.
- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. ~~Obtain a certificate of registration from~~ Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll-free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.

- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
 - e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.
 - f. Not charge for incompleting calls.
9. Disclose their names on bills which include charges for services they provided.

History: Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001; July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-10. ~~Certificate of registration~~ Registration - Procedure.

- 1. A reseller ~~applying for a certificate of registration or competitive facilities-based provider desiring authority to provide service in North Dakota~~ shall ~~file an application~~ register on a form provided by the commission. The ~~application~~ registration shall include ~~evidence~~ identification of the applicant's authority to do business in North Dakota.
- 2. ~~An applicant for a certificate of registration as a~~ A reseller shall follow the procedure set forth in section 69-09-05-04.
- 3. When the holder of a ~~certificate of registration~~ a registered company intends to assign the ~~its~~ authority to provide telecommunications service in North Dakota to another entity, the assignee must first ~~obtain a certificate of registration from~~ register with the commission.
- 4. A reseller registered company may voluntarily, without commission approval, surrender its ~~certificate of registration~~ authority by notifying the commission in writing and updating its registration to reflect this surrender.

5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

History: Effective January 1, 2001; amended effective July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
 - a. The type of service the applicant intends to provide.
 - b. The service area or areas in which the applicant intends to provide service.
 - c. How the applicant meets the issues to be considered in the application.
2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
 - a. A balance sheet of the form and style usually followed in the industry.
 - b. An income statement of the form and style usually followed in the industry.
 - c. If available, an independent accountant's financial opinion.
 - d. Any other information requested by the commission.
3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:
 - a. Fitness and ability of the applicant to provide service.
 - b. Adequacy of the proposed service.

- c. The technical, financial, and managerial ability of the applicant to provide service.
4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
6. ~~Abandonment of a certificate of public convenience and necessity for a competitive local exchange company requires prior written notice to the commission and thirty days' prior written notice to the company's customers.~~ Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

History: Effective January 1, 2001; amended effective July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

69-09-05-14. Procedure for filing negotiated interconnection agreements. Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251; assignments, assumptions or transfers of interconnection agreements; amendments to interconnection agreements; and agreements for Qwest platform plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission internet site for comment by interested parties. The internet listing will include the date each agreement was filed and links to the agreement itself.
4. The commission will accept written comments on a listed agreement for sixty days from the date filed.
5. Absent commission action within ninety days of filing to disapprove an agreement, or portion thereof, the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).

6. Any assignment, assumption, or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption, or transfer occurs.
7. Any amendment to an interconnection agreement requires a new filing with a new ninety-day review and comment period.

History: Effective July 1, 2006.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

CHAPTER 69-09-08
RENEWABLE ELECTRICITY AND RECYCLED ENERGY TRACKING SYSTEM

Section

<u>69-09-08-01</u>	<u>Purpose, Application, and Effective Date</u>
<u>69-09-08-02</u>	<u>Definitions</u>
<u>69-09-08-03</u>	<u>Renewable Energy Certificates Tracking Program</u>
<u>69-09-08-04</u>	<u>Facilities Eligible for Participation in the Renewable Energy Certificates Tracking Program</u>
<u>69-09-08-05</u>	<u>Responsibilities of Program Administrator</u>
<u>69-09-08-06</u>	<u>Production and Transfer of Renewable Energy Certificates</u>
<u>69-09-08-07</u>	<u>Registration and Certification of Renewable Energy Facilities</u>

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording, and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives, and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions. As used in this chapter:

1. "Designated representative" means a responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.
2. "Existing facilities" means renewable energy facilities placed in service before January 1, 2001.
3. "New facilities" means renewable energy facilities placed in service on or after January 1, 2001.
4. "Program administrator" means the independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.

5. "Renewable energy certificate" means a document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. "Renewable energy certificate account" means an account maintained by the program administrator for the purpose of tracking renewable energy certificates.
7. "Renewable energy certificates tracking program" means the process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. "Renewable energy credit" means the intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in section 69-09-08-04.
9. "Renewable energy facility" means a facility generating electricity from one or more generating units that exclusively rely on an energy source or fuel included in North Dakota Century Code section 49-02-25.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.
Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under section 69-09-08-07; and

2. Have output that is capable of being physically metered and verified by the program administrator. A renewable energy facility with more than one generating unit may be metered with a single meter.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's web site that provides tracking program information to interested buyers and sellers of renewable energy certificates;
4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate; and
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April fifteenth of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, in megawatts, by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates. The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.
3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a designated representative must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code section 49-02-25.
2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a renewable energy certificate account for the designated representative of the renewable energy resource.
3. The commission or its program administrator may make onsite visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with applicable law and rules.
4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.
5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

History: Effective July 1, 2006.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

NORTH DAKOTA LEGISLATIVE COUNCIL
Tentative Agenda
ADMINISTRATIVE RULES COMMITTEE

Tuesday, June 13, 2006
Roughrider Room, State Capitol
Bismarck, North Dakota

- 9:00 a.m. Call to order
 Roll call
 Consideration of the minutes of the previous meeting
- 9:05 a.m. Presentation by representatives of the Department of Public Instruction regarding rules
 carried over for consideration from the April committee meeting
- 9:20 a.m. Comments of interested persons in attendance
- 9:25 a.m. Committee discussion and directives
- 9:30 a.m. Presentation by a representative of the state lottery regarding rules carried over for
 consideration from the April committee meeting
- 9:45 a.m. Comments of interested persons in attendance
- 9:50 a.m. Committee discussion and directives
- 10:00 a.m. Coffee break
- 10:15 a.m. Presentation by a representative of the Secretary of State regarding July 2006 rules of
 the Secretary of State (pages 111-120)
- 10:30 a.m. Presentation by a representative of the State Board of Animal Health regarding July
 2006 rules of the board (pages 1-18)
- 10:50 a.m. Presentation by a representative of the Department of Public Instruction regarding July
 2006 rules of the department (pages 19-28)
- 11:10 a.m. Presentation by a representative of the Public Service Commission regarding July 2006
 rules of the commission (pages 29-54)
- 11:30 a.m. Presentation by a representative of the Public Employees Retirement System Board
 regarding July 2006 rules of the board (pages 55-110)
- 11:45 a.m. Presentation by a representative of the Seed Commission regarding July 2006 rules of
 the commission (pages 121-184)
- 12:00 noon Luncheon recess
- 1:00 p.m. Presentation by a representative of the State Board of Accountancy regarding rules
 carried over for consideration from the April committee meeting
- 1:15 p.m. Comments of interested persons in attendance
- 1:25 p.m. Committee discussion and directives
- 1:30 p.m. Presentation by a representative of the Department of Human Services regarding July
 2006 rules of the department (pages 185-330)
- 2:00 p.m. Coffee break
- 2:15 p.m. Presentation by a representative of the Atmospheric Resource Board regarding July
 2006 rules of the board (pages 331-338)

- 2:30 p.m. Presentation by a representative of Workforce Safety and Insurance regarding July 2006 rules of the organization (pages 339-388)
- 2:50 p.m. Presentation by a representative of the Peace Officer Standards and Training Board regarding July 2006 rules of the board (pages 389-401)
- 3:10 p.m. Presentation by a representative of the Office of Management and Budget State Procurement Office of a request for an extension of time to adopt rules
- 3:20 p.m. Committee discussion and directives
- 3:30 p.m. Adjourn

Committee Members

Representatives William R. Devlin (Chairman), LeRoy G. Bernstein, Randy Boehning, Duane DeKrey, Mary Ekstrom, Rod Froelich, Pat Galvin, Ronald A. Iverson, Kim Koppelman, Jon O. Nelson, Sally M. Sandvig, Margaret Sitte, Blair Thoreson, Dwight Wrangham
Senators John M. Andrist, Dennis Bercier, Richard L. Brown, April Fairfield, Tom Fischer, Layton W. Freborg, Jerry Klein, Gary A. Lee, Constance Triplett



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

May 15, 2006

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

John Walstad, Code Revisor
Legislative Council
State Capitol
Bismarck, North Dakota 58505

Re: Public Service Commission
Electric
Rulemaking
Case No. PU-05-364

Public Service Commission
Telephone
Rulemaking
Case No. PU-05-575

Public Service Commission
Siting
Rulemaking
Case No. PU-05-602

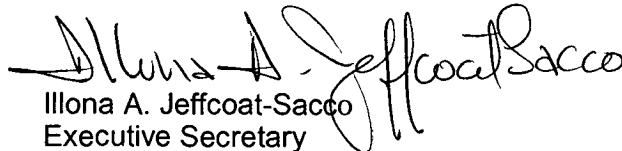
Dear Mr. Walstad:

Enclosed please find a copy of new and amendments to Article 69-06 and 69-09 concerning siting, telecommunications and electric regulations. The Commission's April 12, 2006, order includes a summary of the comments and the written record of the agency's consideration of all comments. A copy of the order is attached.

By letter dated May 15, 2006, the Attorney General approved the proposed rules as to their legality. On May 15, 2006, the Public Service Commission adopted the rules as approved, and is now submitting the rules for publication in the North Dakota Administrative Code.

Thank you for your attention to this matter.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

Attachments

Proposed Telecommunications Registration Rulemaking

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:

- a. If the customer is delinquent in payment for nonessential services.
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay

for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.

5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency.

The notice must:

- a. Be sent by first-class mail addressed to the billing name and address of the affected account.
- b. Show the amount of the delinquency.
- c. Include the telephone number of the public service commission.
- d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
- e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6.
 - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
 8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
 - a. Pays the fee for resuming service established in the utility's rate schedules;

- b. Makes a deposit under section 69-09-05-03 (if required by the company); and
 - c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued. Interexchange carriers are not required to resume long-distance service if local service is not connected.
- 9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
- 10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules. The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller

or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

11. a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
 - b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.
12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service

intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

History: Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee effective, August 16, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-04. Rules for resale of telecommunications services.

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
- b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
- c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and

reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.

- d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service provider who resell-wireline resells cellular or other wireless service as part of their cellular or personal communication service.
- e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.
- f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.

2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:
- a. ~~Obtain a certificate of registration from~~ Register with the commission, on a form provided by the commission, ~~authorizing~~ indicating the provision of local resale or long-distance resale services in the state of North Dakota.
 - b. If a reseller requires prepayment for service, it shall:
 - (1) Submit a performance bond in an amount specified by the commission; or
 - (2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected at any given time, and file monthly reports showing escrow account activities and call completion data.
 - (3) ~~The requirements of paragraphs 1 and 2 are waived for any company that has provided cellular or personal communication service in North Dakota for one year without a formal complaint having been filed against it. The commission may revoke the waiver after notice and opportunity for hearing if necessary to protect the public interest. Under North Dakota~~ Century Code section 49-03.7-09(7) the bonding

requirement does not apply to a facility based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.

4. The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.
- (5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4. The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater.

The amount of an escrow account is an amount equal to the prepayments (including prepaid calling cards) at any given time.

~~e. Forfeit its registration if it is voluntarily dissolved or involuntarily dissolved under North Dakota law. A reseller may not operate and its registration certificate is void on the effective date of involuntary dissolution under North Dakota Century Code section 10-23-02.2.~~

3. A reseller may not be identified as an optional intrastate interexchange carrier ~~without a certificate of registration from~~ unless it is registered with the commission.
4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.

7. A reseller is subject to ~~reregulation by the commission~~, revocation of its ~~certificate authority~~, and the penalties provided in North Dakota Century Code ~~chapter~~ chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

History: Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-04.1. Identification of intraLATA interexchange carriers.

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective ~~certificate of public convenience and necessity or a current certificate of registration~~ authorizing the provision of intrastate interexchange service.
2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that

the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

History: Effective February 1, 1995; amended effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-05. Rules for the provision of operator services.

1. Definitions.

- a. "End user" means the person to whom operator service is provided.
- b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.
- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. ~~Obtain a certificate of registration from~~ Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.
- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
- e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider

which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

- f. Not charge for incompleting calls.
- g. Disclose their names on bills which include charges for services they provided.

History: Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-10. ~~Certificate of registration~~ Registration - Procedure.

1. A reseller ~~applying for a certificate of registration or competitive facilities based provider desiring authority to provide service in North Dakota~~ shall ~~file an application~~ register on a form provided by the commission. The application registration shall include ~~evidence~~ identification of the applicant's authority to do business in North Dakota.
2. ~~An applicant for a certificate of registration as a~~ A reseller shall follow the procedure set forth in section 69-09-05-04.
3. When ~~the holder of a certificate of registration~~ a registered company intends to assign the its authority to provide telecommunications service in North Dakota to another entity, the

assignee must first ~~obtain a certificate of registration from~~ register with the commission.

4. A reseller registered company may voluntarily, without commission approval, surrender its ~~certificate of registration~~ authority by notifying the commission in writing and updating its registration to reflect this surrender.
5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
 - a. The type of service the applicant intends to provide.

- b. The service area or areas in which the applicant intends to provide service.
 - c. How the applicant meets the issues to be considered in the application.
- 2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
 - a. A balance sheet of the form and style usually followed in the industry.
 - b. An income statement of the form and style usually followed in the industry.
 - c. If available, an independent accountant's financial opinion.
 - d. Any other information requested by the commission.
- 3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:
 - a. Fitness and ability of the applicant to provide service.
 - b. Adequacy of the proposed service.

- c. The technical, financial, and managerial ability of the applicant to provide service.
- 4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
- 5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
- 6. ~~Abandonment of a certificate of public convenience and necessity for a competitive local exchange company requires prior written notice to the commission and thirty days' prior written notice to the company's customers.~~ Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

PROPOSED SITING RULES

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

69-06-08-02. Transmission facility corridor and route criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following

policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

AMENDED PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.
3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.
4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.
5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates.

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
9. Renewable energy facility – A facility generating electricity from one or more generating units that exclusively rely on an energy source or fuel included in North Dakota Century Code Section 49-02-25.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to

participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator. A renewable energy facility with more than one generating unit may be metered with a single meter.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;
4. Facilitate private trading of renewable energy certificates;

5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.

3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a designated representative must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.

2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with applicable law and rules.
4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.
5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

**Amended
Proposed Interconnection Agreement Filing Rules**

69-09-05-14. Procedure for filing negotiated interconnection agreements. Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251, assignments, assumptions or transfers of interconnection agreements, amendments to interconnection agreements, and agreements for Qwest Platform Plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission Internet site for comment by interested parties. The Internet listing will include the date each agreement was filed, and links to the agreement itself.

4. The commission will accept written comments on a listed agreement for 60 days from the date filed.
5. Absent commission action within 90 days of filing to disapprove an agreement (or portion thereof), the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any assignment, assumption or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption or transfer occurs.
7. Any amendment to an interconnection agreement requires a new filing with a new 90-day review and comment period.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

ORDER

April 12, 2006

Appearances

Commissioners Tony Clark, Susan Wefald, and Kevin Cramer.

Preliminary Statement

On November 17, 2005, the North Dakota Public Service Commission (Commission) issued its notice of proposed rulemaking, and on November 22, 2005, the Commission issued an amended notice of proposed rulemaking proposing to revise several sections of the Administrative Code including the following:

Public Utilities – Electric: Case No. PU-05-364

Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

Public Utilities – Siting: Case No. PU-05-602

Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Public Utilities – Telephone: Case No. PU-05-575

Case No. PU-05-575 consists of proposals concerning telecommunications registration, eligible carrier applications and advertising, and interconnection agreement filings.

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

Proposed changes to North Dakota Administrative Code Section 69-09-05-12 concern the application requirements for a telecommunications company seeking designation as an eligible carrier for purposes of receiving federal universal service funding, annual reporting requirements of designated eligible carriers, and the criteria to be considered by the Commission in designating an eligible carrier. These proposed changes are not being addressed in this order but will be addressed at a later time.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of adding a requirement for filing an informational cover sheet and formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Reclamation: Case No. RC-05-591

Several changes are proposed to rules that pertain to the coal mining and reclamation regulatory program. The changes will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United State Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; adding a cross reference to another rule for information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and modifying data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. A cross reference error is also being corrected in the general requirements for

roads. These proposed rule changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Public Hearing

A public hearing on the proposed rule changes was noticed for and held at 1:00 p.m. January 4, 2006. The hearing was held in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The notice of rulemaking was published once in all official county newspapers as evidenced by the affidavit of publication on file with the Commission. The notice was also forwarded to the Legislative Council for publication at least 20 days in advance of the January hearing.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until January 17, 2006, during which data, views, or oral arguments concerning the proposed rulemaking could be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

The following discusses the comments that were received in each case listed above:

Public Utilities – Electric – Case No. PU-05-364

Commission staff presented testimony at the hearing explaining changes proposed to the Commission's administrative rules to create Chapter 69-09-08 of the North Dakota Administrative Code pertaining to the establishment of a renewable electricity and recycled energy tracking system.

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

HB 1314 was enacted with recognition that a Midwest Renewable Energy Tracking System (M-RETS) is being developed in our region. The goal is for MRETS to be operational by year-end 2006. Voluntary participation in MRETS is expected to be substantial across several Midwestern states. It is expected that a new regional market

will emerge for the trading of renewable energy certificates that can be used to demonstrate the "use of green power," regardless whether physical delivery of renewable energy actually occurs. For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to a renewable energy objective that 10% of electricity used in Minnesota be from renewable sources by 2015. The proposed rules would enable Minnesota utilities to meet their Minnesota renewable energy objective with renewable energy certificates from North Dakota sources.

During the hearing, Montana-Dakota Utilities Co. recommended minor clarifying language changes and these are incorporated into the proposed rules. The hearing record was left open for further comment and on January 17, 2006 Missouri River Energy Services (MRES) filed written comments recommending: 1) Master metering should be allowed for multiple generating units to make reporting requirements easier; and 2) The definition of a Renewable Energy Credit in subsection 69-09-08-02(8) should specify the amount of energy equal to a credit. The Commission agrees with MRES' recommendation for allowing master metering, and relevant language is incorporated into the proposed rules. The proposed rules already include a definition of renewable energy credit with the amount of energy set at one megawatt hour so MRES' recommendation to define the amount of energy equal to a credit was not necessary and no changes regarding that suggestion were made. No other comments have been received.

Public Utilities – Telephone – Case No. PU-05-575

Commission staff testified that proposed new section 69-09-05-14 of the North Dakota Administrative Code would add a requirement for filing an informational cover sheet and formalize existing procedure for processing of negotiated interconnection agreements filed for Commission approval under 47 U.S.C section 252(e). This existing procedure is detailed on the Commission's web site and has been working well for several months. Under this existing procedure interconnection agreements are posted on the Commission's web page when filed. The Commission accepts written comments on interconnection agreements for sixty days. Absent Commission action within 90 days, the agreement is deemed approved under 47 U.S.C. section 252(e)(4).

Written comments on the proposed rules were received from a group of North Dakota wireless carriers (Wireless Partnerships) in response to the public notice issued by the Commission in this proceeding on November 22, 2005. The Wireless Partnerships propose that the proposed rules should be modified to exclude the assignment, assumption or transfer of agreements. They contend that Commission approval of the assignment or transfer of an interconnection agreement is not required or authorized under 47 U.S.C. section 252(e) or under N.D.C.C. section 49-21-01.7(9). They further contend that requiring such approval is unnecessary and an impediment to any transaction in which an interconnection agreement is assigned.

Staff did not object to eliminating the requirement for Commission approval of assumptions, assignments or transfer of previously approved interconnection agreements. Staff noted that this requirement has been Commission practice all along and believes there is value in maintaining the existing database of interconnection

agreements and parties to them. Therefore, staff recommended modifying proposed new subsection 6 to require that a notification be filed with the Commission within thirty days after the assignment, assumption or transfer occurs. No other comments have been received.

There were no objections to the staff proposal and the proposed rules are modified accordingly.

Staff testified that the proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. Telecommunications companies that are not incumbent local exchange companies are no longer required to obtain a certificate of registration from the Commission. The companies now provide the required information via the internet.

The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

One written comment was received regarding these rules from the Rural Telephone Company Group, but that comment was directed at the need for an existing rule that was not proposed to be repealed. The comment noted no need for North Dakota Administrative Code section 69-06-05-04.1, concerning the identification of intraLATA interexchange carriers. However, the proposed rule package only proposed a change to that section to delete any reference to certificates of public convenience and necessity or registration certificates, since under the new statutory scheme, certificates will not be granted to any company except incumbent companies. The changes proposed to this section simply make this section consistent with the new law. The issue of the need for the section is not an issue before the Commission at this time. The Rural Telephone Company Group may petition the Commission for a repeal of this section at any time.

One comment was received at the hearing from Alltel requesting that a definition be included in these rules for the term "facilities-based." Although a follow-up written suggestion for such a definition was offered by Alltel, none was received. The Commission concludes that because the term "facilities-based" is used in the enabling legislation and has been used in the regulation of the industry for many years, no definition need be incorporated into the rules at this time. No other comments have been received.

Public Utilities – Siting – Case No. PU-05-602

Subsection 69-06-08-01(4) of the North Dakota Administrative Code sets forth policy criteria for the siting of energy conversion facilities and 69-06-08-02(4) sets forth policy criteria for the siting of energy transmission facilities. Both sections provide that the Commission may require, or give preference to an applicant that will maximize

benefits that result from, the policies and practices listed therein. The amendment being proposed is identical for both sections and states that the Commission may also give preference to an applicant that will maximize interstate benefits of proposed projects.

Commission staff testified that these amendments are being proposed to clarify the Commission's ability to consider interstate benefits of energy conversion and transmission facilities when determining whether to issue siting permits. This clarification is necessary to help ensure that the Commission's siting authority will not be federally pre-empted under the federal Energy Policies Act of 2005. Section 216 of that act provides that the U.S. Department of Energy is to designate national interest electric transmission corridors and authorizes the Department to issue construction permits within those designated corridors if, among other things, the state does not have authority to approve the siting of facilities or to consider the interstate benefits expected to be achieved from the facilities. No other comments have been received.

Reclamation – Case No. RC-05-591

The changes are proposed to North Dakota Administrative Code Article 69-05.2, rules for surface coal mining and reclamation operations. Some of the changes are based on suggestions from the Lignite Energy Council and others are staff initiatives.

Additional language is proposed to NDAC 69-05.2-06-03 containing right of entry requirements to allow a permittee to delete coal leases from the permit when mining on the tract covered by a lease is completed and the lease is no longer needed to show surface right of entry, or when a coal lease has been otherwise terminated. However, if the coal lease no longer provides the surface right of entry, other documents granting the permittee right of entry must be added to the permit.

One of the changes proposed to NDAC 69-05.2-10-01 deletes language that requires the newspaper notice for permit applications include a reference to the United States Geological Survey (USGS) map that contains the area and the other limits the listing of coal owners in the notice to those that will be affected by the mining activities.

A change to the bond release application requirements under NDAC 69-05.2-12-12 will require the filing of a copy of the newspaper advertisement within 30 days of submitting the application instead of requiring the submittal of affidavits of publication within 30 days of submittal of the application. This change is proposed since an affidavit cannot be provided until all publications (once a week for 4 consecutive weeks) are complete, which is almost always later than 30 days after the bond release application is filed. Another change adds a cross-reference to another rule that requires additional information if a final bond release application involves an area that contained a premine water supply that is not being replaced.

Changes proposed to NDAC 69-05.2-16-09 on sedimentation pond inspection requirements make a better distinction between inspections that must be conducted while a pond is being constructed versus annual inspection reports that must be

prepared by a registered professional engineer. The changes will also eliminate the requirement that inspection reports prepared during pond construction be submitted to the Commission. However, reports for each of these inspections will still have to be prepared and maintained at or near the mine site.

The proposed changes to the revegetation success standards under NDAC 69-05.2-22-07 are similar to those proposed by the Office of Surface Mining in March of 2005 to the counterpart federal rule. The changes will allow data collected from native grassland, tame pastureland and cropland in any two years after year six of the ten-year revegetation liability period to be used for final bond release purposes. Currently, data from the last two consecutive years of the liability period, or any three years starting no sooner than year six of the liability period (with one being the last year of the liability period), must be used to demonstrate reclamation success. In addition, only one year of vegetation data would be needed to prove reclamation success on reclaimed woodlands, shelterbelts, and fish and wildlife habitat. New language is also proposed for woodland and shelterbelt standards that allow certain volunteer trees and shrubs to count towards meeting the revegetation standards. These changes should result in some reclaimed tracts being bond released sooner. OSM expects to issue its final rule by early 2006.

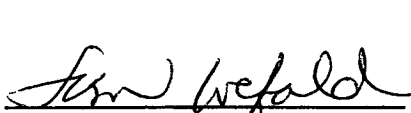
Also, a minor change is proposed to the road performance standards under NDAC 69-05.2-24-01 to correct a cross reference error.

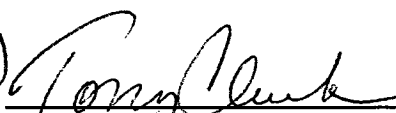
No comments were received as a result of the Commission's comment period ending January 17, 2006.

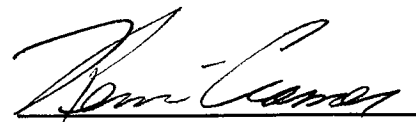
Order

The Commission orders that the proposed changes to several sections of the North Dakota Administrative Code, as attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are in compliance with North Dakota Century Code Section 28-32-14, do not conflict with any provisions of existing state law or rule, and are approved as to their legality.

PUBLIC SERVICE COMMISSION


Susan E. Wefald
Commissioner


Tony Clark
President

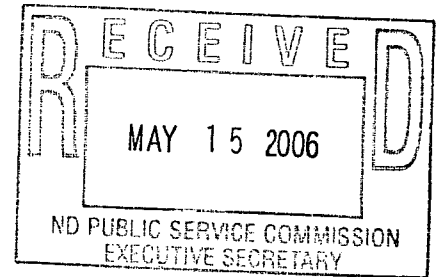

Kevin Cramer
Commissioner



Wayne Stenehjem
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE DEPT 125
BISMARCK, ND 58505-0040
(701) 328-2210 FAX (701) 328-2226



OPINION

May 15, 2006

Ms. Illona Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue, Dept 408
Bismarck, ND 58505-0480

Dear Ms. Jeffcoat-Sacco:

The Office of Attorney General has examined the proposed amendments to N.D.A.C. art. 69-05.2 concerning reclamation, N.D.A.C. art. 69-06 concerning facilities siting, and N.D.A.C. art. 69-09 concerning the renewable electricity and recycled energy tracking system, telephone interconnection agreement filing, and telecommunications registration, along with the notice of the proposed rules, the publication of that notice, and the filing of that notice with the Legislative Council. This office has also determined that 1) a written record of the agency's consideration of any comments to the proposed rules was made, 2) a regulatory analysis was issued, 3) a takings assessment was prepared, 4) a small entity regulatory analysis and economic impact statement were prepared, 5) a stringency justification was not prepared, and 6) the proposed rules are within the agency's statutory authority. Further, as required by federal law, the proposed reclamation rules in N.D.A.C. art. 69-05.2 do not conflict with any provisions of existing state law or rules.

These administrative rules are in substantial compliance with N.D.C.C. ch. 28-32 and are hereby approved as to their legality. Upon final adoption, these rules may be filed with the Legislative Council.

Sincerely,

Wayne Stenehjem
Attorney General

46 PU-05-364 ✓

Pages: 1

Opinion

42 PU-05-575

Pages: 1

Opinion

by Attorney General

05/15/2006: Comm Legal, Illona Pat, Jerry, Annette

26 RC-05-591

Pages: 1

23 PU-05-602

Pages: 1

Opinion

by Attorney General

05/15/2006: Comm Legal, Illona Pat, Jerry, Annette

MOTION

May 15, 2006

APPROVED
DATE: 5-15-06
AS

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

Contingent on receiving approval from the Attorney General, I move the Commission adopt the proposed new and amendments to the following Chapters of the North Dakota Administrative Code, and forward them to the Legislative Council for publication, Case Nos. PU-05-364, PU-05-575 and PU-05-602.

Article 69-06

Amendments to Siting

Article 69-09

New and Amendments to
Telecommunication and Electric

Scott, Sandi L.

From: Erickson, Edward E.
Sent: Friday, May 12, 2006 4:15 PM
To: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: RE: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Illona--

I'm going to send everything up to the AG with a recommendation to approve the rules as being in substantial compliance with ch. 28-32. I expect that Wayne will agree. If so, then we'll hand deliver the approval letter on Monday.

--Edward

From: Jeffcoat-Sacco, Illona
Sent: Friday, May 12, 2006 4:08 PM
To: Scott, Sandi L.; Erickson, Edward E.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Ed,
 I do not think I'll be hearing from Senator Bercier. Please let me know if 5 out of 6 will do. Thanks for everything.

Illona A. Jeffcoat-Sacco
 ND PSC
 701-328-2407 (fax 2410)
 ijs@state.nd.us

From: Bauske, Shelly A.
Sent: Friday, May 12, 2006 4:01 PM
To: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

From: Nelson, Jon O.
Sent: Friday, May 12, 2006 3:59 PM
To: Bauske, Shelly A.
Subject: RE: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Illona: I have reviewed the proposed rules and feel they meet the intention of the original bill. Thank you for your consideration and communication with me in that regard. Best wishes.

44 **PU-05-364**

Pages: 2

Status update to proposed rules

by Attorney General by Ed Erickson, Counsel

05/12/2006: Comm Legal, Illona Pat, Jerry, Annette . .

5/15/2006

Jon

From: Bauske, Shelly A.
Sent: Friday, May 12, 2006 2:25 PM
To: Nelson, Jon O.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:47 PM
To: Nelson, Jon O.; dbercier@tm.edu; ttrenbeath@nd.gov
Cc: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Attached is the letter and proposed rules regarding Public Service Commission Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit Trading and Tracking System.

Sent on behalf of

Illona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
701-328-2400
701-328-2410 (Fax)
ijs@nd.gov

5/15/2006

Scott, Sandi L.

From: Jeffcoat-Sacco, Illona
Sent: Friday, May 12, 2006 4:08 PM
To: Scott, Sandi L.; Erickson, Edward E.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Ed,
I do not think I'll be hearing from Senator Bercier. Please let me know if 5 out of 6 will do. Thanks for everything.

Illona A. Jeffcoat-Sacco
ND PSC
701-328-2407 (fax 2410)
ijs@state.nd.us

From: Bauske, Shelly A.
Sent: Friday, May 12, 2006 4:01 PM
To: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

From: Nelson, Jon O.
Sent: Friday, May 12, 2006 3:59 PM
To: Bauske, Shelly A.
Subject: RE: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Illona: I have reviewed the proposed rules and feel they meet the intention of the original bill. Thank you for your consideration and communication with me in that regard. Best wishes.

Jon

From: Bauske, Shelly A.
Sent: Friday, May 12, 2006 2:25 PM
To: Nelson, Jon O.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

43 **PU-05-364**

Pages: 2

Representative Nelson's approval e-mailed to
Attorney General's office
by Public Service Commission

05/12/2006: Comm Legal, Illona Pat, Jerry, Annette

5/15/2006

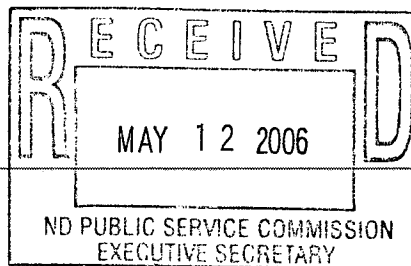
From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:47 PM
To: Nelson, Jon O.; dbercier@tm.edu; ttrenbeath@nd.gov
Cc: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Attached is the letter and proposed rules regarding Public Service Commission Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit Trading and Tracking System.

Sent on behalf of

Illona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
701-328-2400
701-328-2410 (Fax)
ijs@nd.gov

5/15/2006



Scott, Sandi L.

From: Bauske, Shelly A.
Sent: Friday, May 12, 2006 4:01 PM
To: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

From: Nelson, Jon O.
Sent: Friday, May 12, 2006 3:59 PM
To: Bauske, Shelly A.
Subject: RE: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Illona: I have reviewed the proposed rules and feel they meet the intention of the original bill. Thank you for your consideration and communication with me in that regard. Best wishes.

Jon

From: Bauske, Shelly A.
Sent: Friday, May 12, 2006 2:25 PM
To: Nelson, Jon O.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:47 PM
To: Nelson, Jon O.; dbercier@tm.edu; ttrenbeath@nd.gov
Cc: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Attached is the letter and proposed rules regarding Public Service Commission Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit Trading and Tracking System.

Sent on behalf of

Illona A. Jeffcoat-Sacco
 Executive Secretary
 North Dakota Public Service Commission
 600 E Boulevard Ave Dept 408

42 PU-05-364

Pages: 1

Notice that the proposed rules are acceptable/no objection to their adoption by Representative Jon Nelson

05/12/2006: Comm Legal, Illona Pat, Jerry, Annette . .

5/15/2006

Scott, Sandi L.

From: Scott, Sandi L.
Sent: Wednesday, May 10, 2006 2:51 PM
To: Erickson, Edward E.
Cc: Jeffcoat-Sacco, Illona
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System proposed rules
Attachments: Senator Trenbeath's Approval.pdf; Rep. Svedjan approval of proposed rules.pdf; Representative Matthew Klein Response.pdf; Representative Delmore Approval.pdf

Mr. Erickson,

The Commission has received approval responses from Senator Trenbeath, and Representatives Svedjan, Klein and Delmore, concerning the Renewable Electricity and Recycled Energy Credit Trading and Tracking System proposed rules. Copies of their responses are attached.

We spoke to Senator Bercier and Representative Nelson and they gave us the impression that they were fine with the rules however; we have not received written approval from them. We will forward those responses when we get them.

Please advise if there is anything else we can do to facilitate the process. If you have any questions, please contact Illona Jeffcoat-Sacco at 8-2407 or email ijs@nd.gov.

Thank you.

Sandi Scott
ND Public Service Commission
600 E Blvd. Ave., Dept 408
Bismarck, ND 58505-0480
Telephone; 701-328-4081
Fax: 701-328-2410
E-Mail Address: slscott@nd.gov

41 **PU-05-364**

Pages: 1

E-mail to AG w/copies of 4 of the 6 Sponsors
responses
by Public Service Commission by

05/10/2006C: Comm Legal, Illona Pat, Jerry, Annette ..

5/11/2006



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

5 May 2006

The Honorable Jon O. Nelson
North Dakota House of
Representatives
4680 71st Street NE
Wolford, ND 58385-9536
E-mailed to jonelson@nd.gov

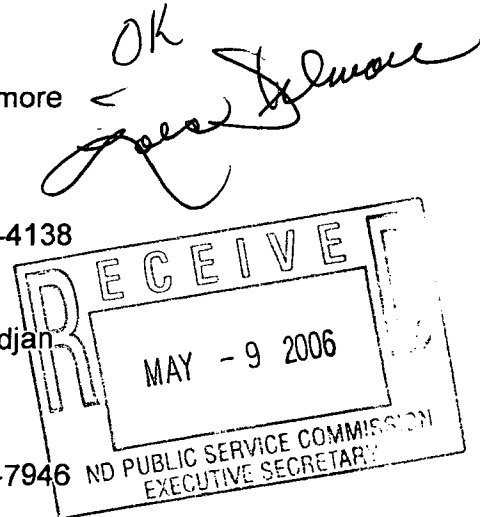
The Honorable Matthew M. Klein
Speaker of the North Dakota House of
Representatives
1815 Seventh Street NW
Minot, ND 58703-1314
Mailed by USPS

The Honorable Dennis Bercier
North Dakota Senate
P.O. Box 1209
Belcourt, ND 58316-1209
E-mailed to dbercier@tm.edu

The Honorable Lois Delmore
North Dakota House of
Representatives
714 South 22nd Street
Grand Forks, ND 58201-4138
Faxed to 701-746-2406

The Honorable Ken Svedjan
North Dakota House of
Representatives
4697 Harvest Circle
Grand Forks, ND 58201-7946
Mailed by USPS

The Honorable Thomas L. Trenbeath
North Dakota Senate
P.O. Box 361
Cavalier, ND 58220-0361
E-mailed to ttrenbeath@nd.gov



Re: PSC Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit
Trading and Tracking System

Dear Senators and Representatives:

As you may have heard the North Dakota Public Service Commission has been diligently drafting rules to implement House Bill 1314 relating to renewable electricity and recycled energy credit trading and tracking system. The Commission issued a Notice of Intent to Adopt and Amend Administrative Rules and Notice of Hearing on 17 November 2005. A hearing was held on these rules 4 January 2006.

It has now come to our attention that you, as a sponsor of House Bill 1314, did not receive a copy of this notice as required by House Bill 1337, also enacted during the

2005 Legislative Session. Please realize that this was merely oversight and not intended to circumvent the rulemaking process or intentionally violate the new law regarding rulemaking notices.

The Commission has been carefully drafting these credit trading rules and held numerous workshops and working sessions on the proposed rules prior to formally proposing the rules in November. The Commissioners and staff have been working closely with the Midwest Renewable Energy Credit Tracking System technical review committee, industry participants and other impacted parties to ensure these rules are technically accurate and practical for all involved. Several individuals provided feedback and comments throughout the entire process.

The rules are now under consideration by the Attorney General. In order for the Attorney General to approve these rules the Commission must receive confirmation from you in writing that the rules are acceptable to you and you have no objection to the Commission adopting these rules. I have included a copy of the rules with this letter for your review.

You may respond by email to ijs@nd.gov, by facsimile to 701-328-2410, or by postal mail to the North Dakota Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck, ND 58505-0480. If you are mailing or faxing your response, feel free to simply indicate your agreement on the bottom of this letter and return it. We ask that you please respond as soon as possible so we may complete the process of adopting the rules by 15 May 2006, the quarterly deadline for filing rules with the Legislative Council.

Thank you in advance for your consideration and assistance. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat-Sacco". The signature is fluid and cursive, with the last name "Sacco" being particularly prominent.

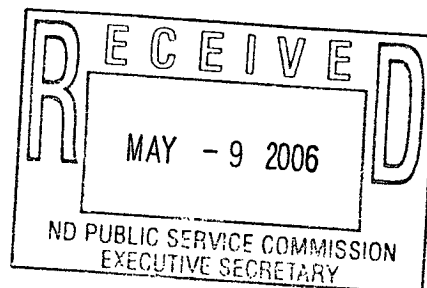
Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosures

Scott, Sandi L.

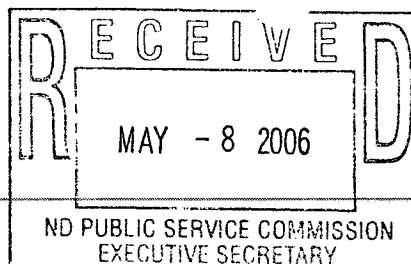
From: Jeffcoat-Sacco, Illona
Sent: Tuesday, May 09, 2006 8:03 AM
To: Scott, Sandi L.
Cc: Bendish, Annette M.
Subject: FW: rules for hb 1314

Illona A. Jeffcoat-Sacco
ND PSC
701-328-2407 (fax 2410)
ijs@state.nd.us



From: Klein, Matthew M.
Sent: Monday, May 08, 2006 10:36 PM
To: Jeffcoat-Sacco, Illona
Subject: rules for hb 1314

I have reviewed the proposed rules to implement house bill 1314 and they appear to accomplish what was intended. It took quite A lot of time to get this going.



Scott, Sandi L.

From: Jeffcoat-Sacco, Illona
Sent: Monday, May 08, 2006 4:17 PM
To: Scott, Sandi L.
Subject: FW: Rules - Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Illona A. Jeffcoat-Sacco
 ND PSC
 701-328-2407 (fax 2410)
 ijs@state.nd.us

From: Svedjan, Ken D.
Sent: Monday, May 08, 2006 4:09 PM
To: Jeffcoat-Sacco, Illona
Subject: Rules - Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Ms. Jeffcoat-Sacco,

Thank you for your letter and the attached proposed rules regarding the Renewable Electricity and Recycled Energy Credit Trading and Tracking System (Case No. PU-05-364).

After reviewing the materials in detail, I am satisfied that the proposed rules satisfy the intent of the legislation, and that the rules establish the necessary framework for the aforementioned system. Therefore, please accept this e-mail as my confirmation that the proposed rules are acceptable to me, and that I have no objection to the Commission adopting these rules.

Rep. Ken Svedjan
 Chairman, House Appropriations Committee
 ND House of Representatives
 4697 Harvest Circle
 Grand Forks, ND 58201

701-780-5601

38 PU-05-364

Pages: 1

Notice that the proposed rules are
 acceptable/no objection to their adoption
 by Representative Ken Svedjan

05/08/2006: Comm Legal, Illona Pat, Jerry, Annette . .

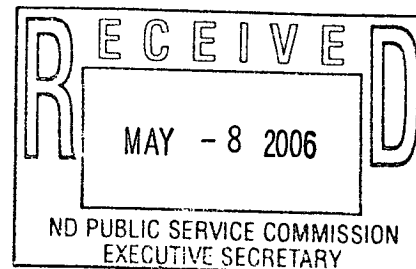
5/9/2006

Scott, Sandi L.

From: Jeffcoat-Sacco, Illona
Sent: Monday, May 08, 2006 9:29 AM
To: Scott, Sandi L.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

For docketing etc.

Illona A. Jeffcoat-Sacco
 ND PSC
 701-328-2407 (fax 2410)
 ijs@state.nd.us



From: Bauske, Shelly A.
Sent: Monday, May 08, 2006 9:28 AM
To: Jeffcoat-Sacco, Illona
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

From: Trenbeath, Thomas L.
Sent: Monday, May 08, 2006 9:17 AM
To: Bauske, Shelly A.
Subject: RE: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Ms. Jeffcoat-Sacco,

The proposed rules, forwarded to me by your communication of May 5th, in PU-05-364, are acceptable to me and I have no objection to their adoption.

Sen. Tom Trenbeath

From: Bauske, Shelly A.
Sent: Fri 5/5/2006 4:50 PM
To: Trenbeath, Thomas L.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Mr. Trenbeath

Illona apologizes for the incorrect email address on the letter.

From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:47 PM
To: Nelson, Jon O.; 'dbercier@tm.edu'; 'ttrenbeath@nd.gov'
Cc: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Attached is the letter and proposed rules regarding Public Service Commission Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit Trading and Tracking System.

Sent on behalf of

Illona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
701-328-2400
701-328-2410 (Fax)
ijs@nd.gov

5/8/2006

Scott, Sandi L.

From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:47 PM
To: Nelson, Jon O.; dbercier@tm.edu; ttrenbeath@nd.gov
Cc: Jeffcoat-Sacco, Illona; Scott, Sandi L.
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System
Attachments: Letter and Proposed Rules.pdf

Attached is the letter and proposed rules regarding Public Service Commission Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit Trading and Tracking System.

Sent on behalf of

Illona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
701-328-2400
701-328-2410 (Fax)
ijs@nd.gov

36 PU-05-364

Pages: 2

Letter e-mailed to sponsors of HB 1314

by Public Service Commission

05/05/2006: Comm Legal, Illona Pat, Jerry, Annette . .

5/8/2006

Scott, Sandi L.

From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:54 PM
To: Scott, Sandi L.
Subject: FW: Renewable Electricity and Recycled Energy Credit Trading and Tracking System
Attachments: Letter and Proposed Rules.pdf

From: Bauske, Shelly A.
Sent: Friday, May 05, 2006 4:53 PM
To: Klein, Matthew M.; Svedjan, Ken D.
Subject: Renewable Electricity and Recycled Energy Credit Trading and Tracking System

Since we were not able to reach you by phone today, the attached letter and proposed rules regarding Public Service Commission Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit Trading and Tracking System were sent by postal mail too.

Sent on behalf of

Illona A. Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
600 E Boulevard Ave Dept 408
Bismarck ND 58505-0480
701-328-2400
701-328-2410 (Fax)
ijs@nd.gov

5/8/2006



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

5 May 2006

The Honorable Jon O. Nelson
North Dakota House of
Representatives
4680 71st Street NE
Wolford, ND 58385-9536
E-mailed to jonelson@nd.gov

The Honorable Lois Delmore
North Dakota House of
Representatives
714 South 22nd Street
Grand Forks, ND 58201-4138
Faxed to 701-746-2406

The Honorable Matthew M. Klein
Speaker of the North Dakota House of
Representatives
1815 Seventh Street NW
Minot, ND 58703-1314
Mailed by USPS

The Honorable Ken Svedjan
North Dakota House of
Representatives
4697 Harvest Circle
Grand Forks, ND 58201-7946
Mailed by USPS

The Honorable Dennis Bercier
North Dakota Senate
P.O. Box 1209
Belcourt, ND 58316-1209
E-mailed to dbercier@tm.edu

The Honorable Thomas L. Trenbeath
North Dakota Senate
P.O. Box 361
Cavalier, ND 58220-0361
E-mailed to ttrenbeath@nd.gov

Re: PSC Case No. PU-05-364, Renewable Electricity and Recycled Energy Credit
Trading and Tracking System

Dear Senators and Representatives:

As you may have heard the North Dakota Public Service Commission has been diligently drafting rules to implement House Bill 1314 relating to renewable electricity and recycled energy credit trading and tracking system. The Commission issued a Notice of Intent to Adopt and Amend Administrative Rules and Notice of Hearing on 17 November 2005. A hearing was held on these rules 4 January 2006.

It has now come to our attention that you, as a sponsor of House Bill 1314, did not receive a copy of this notice as required by House Bill 1337, also enacted during the

35 PU-05-364

Pages: 9

Letter to Sponsors of HB 1314

by Public Service Commission

05/05/2006C: Comm Legal, Illona Pat, Jerry, Annette . .

2005 Legislative Session. Please realize that this was merely oversight and not intended to circumvent the rulemaking process or intentionally violate the new law regarding rulemaking notices.

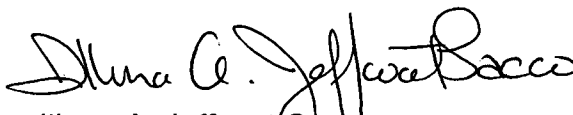
The Commission has been carefully drafting these credit trading rules and held numerous workshops and working sessions on the proposed rules prior to formally proposing the rules in November. The Commissioners and staff have been working closely with the Midwest Renewable Energy Credit Tracking System technical review committee, industry participants and other impacted parties to ensure these rules are technically accurate and practical for all involved. Several individuals provided feedback and comments throughout the entire process.

The rules are now under consideration by the Attorney General. In order for the Attorney General to approve these rules the Commission must receive confirmation from you in writing that the rules are acceptable to you and you have no objection to the Commission adopting these rules. I have included a copy of the rules with this letter for your review.

You may respond by email to ijs@nd.gov, by facsimile to 701-328-2410, or by postal mail to the North Dakota Public Service Commission, 600 E Boulevard Ave Dept 408, Bismarck, ND 58505-0480. If you are mailing or faxing your response, feel free to simply indicate your agreement on the bottom of this letter and return it. We ask that you please respond as soon as possible so we may complete the process of adopting the rules by 15 May 2006, the quarterly deadline for filing rules with the Legislative Council.

Thank you in advance for your consideration and assistance. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Illona A. Jeffcoat-Sacco". The signature is fluid and cursive, with the last name "Sacco" being particularly prominent.

Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosures

PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.

3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.

4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.

5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.

6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates by a program participant.

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
9. Renewable energy facility – A facility generating electricity that exclusively relies on an energy source or fuel included in North Dakota Century Code Section 49-02-25.
10. Renewable energy resource — A resource that generates electricity derived from a renewable energy facility.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;

4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.

3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a power generator must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.

2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with the law and rules.

4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.

5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

May 4, 2006

The Honorable Wayne Stenehjem
Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0040

Re: Administrative Rule Making
Case Nos. PU-05-364, PU-05-575, RC-05-591 and PU-05-602

Dear Attorney General Stenehjem:

On April 24, 2006, our agency submitted a rules package to you for examination as to the legality of the proposed rules so that they may be considered for formal adoption and publication in the North Dakota Administrative Code. It has come to our attention that we inadvertently failed to provide copies of the notice and the proposed electric rules (Case No. PU-05-364) to sponsors of 2005 HB 1314, relating to a renewable electricity and recycled energy credit trading and tracking system by the Public Service Commission. All other proposed rules in the Commission's rules package are either unrelated to any legislation passed during the 2005 session, or are related to legislation sponsored by the Commission, so mailing the notice and rules to legislators in those cases was not required.

We apologize for any inconvenience this has caused. Please advise our office as to how we can rectify this error.

If you have any questions, do not hesitate to contact us.

Thank you.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

May 4, 2006

The Honorable Wayne Stenehjem
Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0040

Re: Administrative Rule Making
Case Nos. PU-05-364, PU-05-575, RC-05-591 and PU-05-602

Dear Attorney General Stenehjem:

On April 24, 2006, our agency submitted a rules package to you for examination as to the legality of the proposed rules so that they may be considered for formal adoption and publication in the North Dakota Administrative Code. It has come to our attention that we inadvertently failed to provide copies of the notice and the proposed electric rules (Case No. PU-05-364) to sponsors of 2005 HB 1314, relating to a renewable electricity and recycled energy credit trading and tracking system by the Public Service Commission. All other proposed rules in the Commission's rules package are either unrelated to any legislation passed during the 2005 session, or are related to legislation sponsored by the Commission, so mailing the notice and rules to legislators in those cases was not required.

We apologize for any inconvenience this has caused. Please advise our office as to how we can rectify this error.

If you have any questions, do not hesitate to contact us.

Thank you.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

April 24, 2006

The Honorable Wayne Stenehjem
Attorney General
State Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0040

Re: Administrative Rule Making
Case Nos. PU-05-364, PU-05-575, RC-05-591 and PU-05-602

Dear Attorney General Stenehjem:

Enclosed please find the proposed new and amendments to N.D. Admin. Code articles 69-05.2, 69-06 and 69-09 by the North Dakota Public Service Commission. The proposed rules have been approved by the Public Service Commission. In accordance with N.D.C.C. § 28-32-14, Public Service Commission requests your examination of these rules as to their legality so they may be considered for formal adoption and publication in the North Dakota Administrative Code. In the case of Reclamation rule changes, as a requirement of the Federal program under which we operate, we also request that the opinion include a statement indicating that the rules do not conflict with any provisions of existing state law or rules. The time for review of these rules should be recorded under 03-31 and 03-106.

Copies of the following Commission documents are enclosed to assist your review:

1. Copy of Order Submitting Rules to Attorney General dated April 12, 2006. This order includes a discussion of the comments and the Commission's consideration of the comments;
2. Copy of proposed rules;
3. Copy of takings assessments, summaries and regulatory analyses, as applicable, and written comments;
4. Commission's Notice of Intent to Amend Administrative Rules and Notice of Public Hearing dated November 17, 2005, and abbreviated notice of intent to adopt;
5. Commission's Amended Notice of Intent to Amend Administrative Rules and Notice of Public Hearing dated November 22, 2005, and abbreviated notice of intent to adopt;
6. Proof of publication; and
7. Proof of filing with Legislative Council;

If you have any questions, do not hesitate to contact us.

Thank you.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

33 PU-05-364

Pages: 1

Letter to Attorney General requesting opinion

by Public Service Commission

04/24/2006: Comm Legal, Illona Pat, Jerry, Annette

APPROVED

DATE: 4-12-06
KMF

MOTION

April 12, 2006

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

I move the Commission adopt the Order submitting rules to the Attorney General for an opinion as to legality and whether they conflict with any other state law or rule, Case Nos. PU-05-364, PU-05-575, RC-05-591, and PU-05-602.

Article 69-05.2

Amendments to Reclamation

Article 69-06

Amendments to Siting

Article 69-09

Amendments to Telecommunication and Electric

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

ORDER

April 12, 2006

Appearances

Commissioners Tony Clark, Susan Wefald, and Kevin Cramer.

Preliminary Statement

On November 17, 2005, the North Dakota Public Service Commission (Commission) issued its notice of proposed rulemaking, and on November 22, 2005, the Commission issued an amended notice of proposed rulemaking proposing to revise several sections of the Administrative Code including the following:

Public Utilities – Electric: Case No. PU-05-364

Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

Public Utilities – Siting: Case No. PU-05-602

Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Public Utilities – Telephone: Case No. PU-05-575

Case No. PU-05-575 consists of proposals concerning telecommunications registration, eligible carrier applications and advertising, and interconnection agreement filings.

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

Proposed changes to North Dakota Administrative Code Section 69-09-05-12 concern the application requirements for a telecommunications company seeking designation as an eligible carrier for purposes of receiving federal universal service funding, annual reporting requirements of designated eligible carriers, and the criteria to be considered by the Commission in designating an eligible carrier. These proposed changes are not being addressed in this order but will be addressed at a later time.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of adding a requirement for filing an informational cover sheet and formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Reclamation: Case No. RC-05-591

Several changes are proposed to rules that pertain to the coal mining and reclamation regulatory program. The changes will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United State Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; adding a cross reference to another rule for information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and modifying data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. A cross reference error is also being corrected in the general requirements for

roads. These proposed rule changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Public Hearing

A public hearing on the proposed rule changes was noticed for and held at 1:00 p.m. January 4, 2006. The hearing was held in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.

The notice of rulemaking was published once in all official county newspapers as evidenced by the affidavit of publication on file with the Commission. The notice was also forwarded to the Legislative Council for publication at least 20 days in advance of the January hearing.

The Commission allowed, after the conclusion of the rulemaking hearing, a comment period until January 17, 2006, during which data, views, or oral arguments concerning the proposed rulemaking could be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

The following discusses the comments that were received in each case listed above:

Public Utilities – Electric – Case No. PU-05-364

Commission staff presented testimony at the hearing explaining changes proposed to the Commission's administrative rules to create Chapter 69-09-08 of the North Dakota Administrative Code pertaining to the establishment of a renewable electricity and recycled energy tracking system.

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

HB 1314 was enacted with recognition that a Midwest Renewable Energy Tracking System (M-RETS) is being developed in our region. The goal is for MRETS to be operational by year-end 2006. Voluntary participation in MRETS is expected to be substantial across several Midwestern states. It is expected that a new regional market

will emerge for the trading of renewable energy certificates that can be used to demonstrate the “use of green power,” regardless whether physical delivery of renewable energy actually occurs. For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to a renewable energy objective that 10% of electricity used in Minnesota be from renewable sources by 2015. The proposed rules would enable Minnesota utilities to meet their Minnesota renewable energy objective with renewable energy certificates from North Dakota sources.

During the hearing, Montana-Dakota Utilities Co. recommended minor clarifying language changes and these are incorporated into the proposed rules. The hearing record was left open for further comment and on January 17, 2006 Missouri River Energy Services (MRES) filed written comments recommending: 1) Master metering should be allowed for multiple generating units to make reporting requirements easier; and 2) The definition of a Renewable Energy Credit in subsection 69-09-08-02(8) should specify the amount of energy equal to a credit. The Commission agrees with MRES’ recommendation for allowing master metering, and relevant language is incorporated into the proposed rules. The proposed rules already include a definition of renewable energy credit with the amount of energy set at one megawatt hour so MRES’ recommendation to define the amount of energy equal to a credit was not necessary and no changes regarding that suggestion were made. No other comments have been received.

Public Utilities – Telephone – Case No. PU-05-575

Commission staff testified that proposed new section 69-09-05-14 of the North Dakota Administrative Code would add a requirement for filing an informational cover sheet and formalize existing procedure for processing of negotiated interconnection agreements filed for Commission approval under 47 U.S.C section 252(e). This existing procedure is detailed on the Commission’s web site and has been working well for several months. Under this existing procedure interconnection agreements are posted on the Commission’s web page when filed. The Commission accepts written comments on interconnection agreements for sixty days. Absent Commission action within 90 days, the agreement is deemed approved under 47 U.S.C. section 252(e)(4).

Written comments on the proposed rules were received from a group of North Dakota wireless carriers (Wireless Partnerships) in response to the public notice issued by the Commission in this proceeding on November 22, 2005. The Wireless Partnerships propose that the proposed rules should be modified to exclude the assignment, assumption or transfer of agreements. They contend that Commission approval of the assignment or transfer of an interconnection agreement is not required or authorized under 47 U.S.C. section 252(e) or under N.D.C.C. section 49-21-01.7(9). They further contend that requiring such approval is unnecessary and an impediment to any transaction in which an interconnection agreement is assigned.

Staff did not object to eliminating the requirement for Commission approval of assumptions, assignments or transfer of previously approved interconnection agreements. Staff noted that this requirement has been Commission practice all along and believes there is value in maintaining the existing database of interconnection

agreements and parties to them. Therefore, staff recommended modifying proposed new subsection 6 to require that a notification be filed with the Commission within thirty days after the assignment, assumption or transfer occurs. No other comments have been received.

There were no objections to the staff proposal and the proposed rules are modified accordingly.

Staff testified that the proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. Telecommunications companies that are not incumbent local exchange companies are no longer required to obtain a certificate of registration from the Commission. The companies now provide the required information via the internet.

The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

One written comment was received regarding these rules from the Rural Telephone Company Group, but that comment was directed at the need for an existing rule that was not proposed to be repealed. The comment noted no need for North Dakota Administrative Code section 69-06-05-04.1, concerning the identification of intraLATA interexchange carriers. However, the proposed rule package only proposed a change to that section to delete any reference to certificates of public convenience and necessity or registration certificates, since under the new statutory scheme, certificates will not be granted to any company except incumbent companies. The changes proposed to this section simply make this section consistent with the new law. The issue of the need for the section is not an issue before the Commission at this time. The Rural Telephone Company Group may petition the Commission for a repeal of this section at any time.

One comment was received at the hearing from Alltel requesting that a definition be included in these rules for the term "facilities-based." Although a follow-up written suggestion for such a definition was offered by Alltel, none was received. The Commission concludes that because the term "facilities-based" is used in the enabling legislation and has been used in the regulation of the industry for many years, no definition need be incorporated into the rules at this time. No other comments have been received.

Public Utilities – Siting – Case No. PU-05-602

Subsection 69-06-08-01(4) of the North Dakota Administrative Code sets forth policy criteria for the siting of energy conversion facilities and 69-06-08-02(4) sets forth policy criteria for the siting of energy transmission facilities. Both sections provide that the Commission may require, or give preference to an applicant that will maximize

benefits that result from, the policies and practices listed therein. The amendment being proposed is identical for both sections and states that the Commission may also give preference to an applicant that will maximize interstate benefits of proposed projects.

Commission staff testified that these amendments are being proposed to clarify the Commission's ability to consider interstate benefits of energy conversion and transmission facilities when determining whether to issue siting permits. This clarification is necessary to help ensure that the Commission's siting authority will not be federally pre-empted under the federal Energy Policies Act of 2005. Section 216 of that act provides that the U.S. Department of Energy is to designate national interest electric transmission corridors and authorizes the Department to issue construction permits within those designated corridors if, among other things, the state does not have authority to approve the siting of facilities or to consider the interstate benefits expected to be achieved from the facilities. No other comments have been received.

Reclamation – Case No. RC-05-591

The changes are proposed to North Dakota Administrative Code Article 69-05.2, rules for surface coal mining and reclamation operations. Some of the changes are based on suggestions from the Lignite Energy Council and others are staff initiatives.

Additional language is proposed to NDAC 69-05.2-06-03 containing right of entry requirements to allow a permittee to delete coal leases from the permit when mining on the tract covered by a lease is completed and the lease is no longer needed to show surface right of entry, or when a coal lease has been otherwise terminated. However, if the coal lease no longer provides the surface right of entry, other documents granting the permittee right of entry must be added to the permit.

One of the changes proposed to NDAC 69-05.2-10-01 deletes language that requires the newspaper notice for permit applications include a reference to the United States Geological Survey (USGS) map that contains the area and the other limits the listing of coal owners in the notice to those that will be affected by the mining activities.

A change to the bond release application requirements under NDAC 69-05.2-12-12 will require the filing of a copy of the newspaper advertisement within 30 days of submitting the application instead of requiring the submittal of affidavits of publication within 30 days of submittal of the application. This change is proposed since an affidavit cannot be provided until all publications (once a week for 4 consecutive weeks) are complete, which is almost always later than 30 days after the bond release application is filed. Another change adds a cross-reference to another rule that requires additional information if a final bond release application involves an area that contained a premine water supply that is not being replaced.

Changes proposed to NDAC 69-05.2-16-09 on sedimentation pond inspection requirements make a better distinction between inspections that must be conducted while a pond is being constructed versus annual inspection reports that must be

prepared by a registered professional engineer. The changes will also eliminate the requirement that inspection reports prepared during pond construction be submitted to the Commission. However, reports for each of these inspections will still have to be prepared and maintained at or near the mine site.

The proposed changes to the revegetation success standards under NDAC 69-05.2-22-07 are similar to those proposed by the Office of Surface Mining in March of 2005 to the counterpart federal rule. The changes will allow data collected from native grassland, tame pastureland and cropland in any two years after year six of the ten-year revegetation liability period to be used for final bond release purposes. Currently, data from the last two consecutive years of the liability period, or any three years starting no sooner than year six of the liability period (with one being the last year of the liability period), must be used to demonstrate reclamation success. In addition, only one year of vegetation data would be needed to prove reclamation success on reclaimed woodlands, shelterbelts, and fish and wildlife habitat. New language is also proposed for woodland and shelterbelt standards that allow certain volunteer trees and shrubs to count towards meeting the revegetation standards. These changes should result in some reclaimed tracts being bond released sooner. OSM expects to issue its final rule by early 2006.

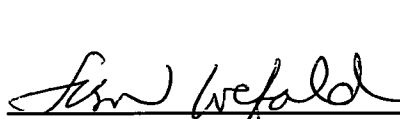
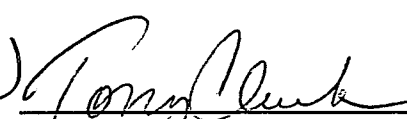
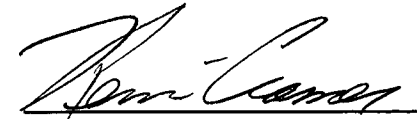
Also, a minor change is proposed to the road performance standards under NDAC 69-05.2-24-01 to correct a cross reference error.

No comments were received as a result of the Commission's comment period ending January 17, 2006.

Order

The Commission orders that the proposed changes to several sections of the North Dakota Administrative Code, as attached to and made a part of this order, be submitted to the Attorney General for an opinion that the rules are in compliance with North Dakota Century Code Section 28-32-14, do not conflict with any provisions of existing state law or rule, and are approved as to their legality.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Tony Clark President	Kevin Cramer Commissioner

PROPOSED RECLAMATION RULES

69-05.2-06-03. Permit applications - Right of entry and operation information.

1. In addition to satisfying subdivision k of subsection 1 of North Dakota Century Code section 38-14.1-14, the application must also contain a narrative and supporting certified copies of the appropriate documents which demonstrate that the applicant has complied with North Dakota Century Code section 38-18-06.
2. Following completion of coal removal operations on the lands covered by a coal lease, the copy of the lease may be deleted from an approved permit if:
 - a. The lease is no longer needed to show the surface right of entry for carrying out reclamation operations; or
 - b. The lease has expired or has been terminated.

If a coal lease is no longer provided for surface right of entry, other documents granting the permittee surface right of entry must be added to the permit.

69-05.2-10-01. Permit applications - Public notices of filing.

1. The advertisement required by North Dakota Century Code section 38-14.1-18 must also include:
 - a. The applicant's name and business address.
 - b. A map or description which must:
 - (1) Clearly show or describe towns, rivers, streams, or other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the permit area.
 - (2) Clearly show or describe the exact location and boundaries of the permit area.
 - (3) ~~Name the United States geological survey 7.5 minute quadrangle map which contains the area shown or described.~~
 - (4) Show the north point (if a map).

(5 4) State the name of each owner of record of surface rights and, if the applicant proposes to mine coal or conduct activities that may impact future coal recovery, the names of each owner of record of coal rights within the permit boundaries.

69-05.2-12-12. Release of performance bond - Bond release application.

3. Within thirty days after filing a request for bond release, the permittee shall submit ~~proof of the publication~~ a copy of the newspaper advertisement that was published as required by North Dakota Century Code section 38-14.1-17. The advertisement published must include the permittee's name.
8. When the permittee requests final bond release under subdivision d of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must include:
 - a. The data collected, analyses conducted, and a narrative detailing compliance with subsection 4 of section 69-05.2-22-07.
 - b. The history of initial and subsequent seedings and fertilization, including mixtures and rates, appropriate soil tests, supplemental irrigation, or other management practices employed.
 - c. Documentation showing the reestablishment of essential hydrologic functions of alluvial valley floors.
 - d. If a premine water delivery system will not be replaced, the bond release application must address the requirements of subdivision b of subsection 90 of section 69-05.2-01-02.

69-05.2-16-09. Performance standards - Hydrologic balance -Sedimentation ponds.

19. Impoundment inspections.
 - a. A registered professional engineer, or other specialist under the direction of a registered professional engineer, shall inspect each impoundment as required under subdivision b, c and d. The registered professional engineer and specialist must be experienced in the construction of impoundments.
 - b. Inspections must be made regularly during construction, ~~upon completion of construction, and at least yearly until removal of the structure or release of the performance bond.~~ Reports for each inspection during construction must be prepared and maintained at or near the minesite.
 - c. ~~After each inspection~~ impoundment construction is complete, the registered professional engineer shall promptly provide the commission a certified report that the impoundment has been inspected during construction on a regular basis and it has been constructed ~~or maintained~~ as designed and according to the approved plan and this chapter. The report must include ~~discussion of any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting~~

stability a summary of the construction inspections, final storage capacity, and if applicable, a discussion of any deviations from the approved plan.

- d. After impoundments are operational, they shall be inspected at least yearly until removal of the structure or release of the performance bond. A registered professional engineer shall promptly provide the commission with an annual impoundment inspection report addressing any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability. A single report can address more than one impoundment; however, the condition of each impoundment must be noted separately.
- e. A copy of the inspection reports must be maintained at or near the minesite.

69-05.2-22-07. Performance standards - Revegetation - Standards for success.

- 4. The success of revegetation on the permit area at the time of final bond release must be determined for each postmining land use according to the following:
 - a. For native grassland, the following must be achieved for ~~the last two consecutive~~ any two years after year six of the responsibility period:
 - (1) Ground cover and productivity of the permit area must be equal to or greater than that of the approved reference area or standard with ninety percent statistical confidence; and
 - (2) Diversity, seasonality, and permanence of the vegetation of the permit area must equal or exceed the approved standard.
 - b. For tame pastureland, ground cover and productivity of the permit area must be equal to or greater than that of the approved standard with ninety percent statistical confidence for ~~the last two consecutive~~ any two years after year six of the responsibility period.
 - c. For cropland, crop production from the permit area must be equal to or greater than that of the approved reference area or standard with ninety percent statistical confidence for ~~the last two consecutive~~ any two years after year six of the responsibility period.
 - d. For prime farmlands, a showing that the requirements for the restoration of productivity as specified in subdivision c of subsection 3 have been met and that the ten-year period of responsibility has elapsed.
 - e. For woodlands and fish and wildlife habitat where the vegetation type is woodland, the following must be achieved during the ~~last two consecutive years~~ growing season of the last year of the responsibility period:
 - (1) The number of woody plants established on the permit area must be equal to or greater than the number of live woody plants of the same life form of the approved

standard with ninety percent statistical confidence. Trees, shrubs, half-shrubs, root crowns, or root sprouts used in determining success of stocking must meet the following criteria:

- (a) Be healthy;
 - (b) Be in place for at least two growing seasons; and
 - (c) ~~At least eighty percent of those counted must have been in place at least six years. This provision will be deemed satisfied if the operator demonstrates that no tree, shrub, or half shrub replanting has occurred during the last six years of the revegetation responsibility period.~~ If any replanting of woody plants took place during the responsibility period, the total number planted during the last six years of that period must be less than twenty percent of the total number of woody plants required. Any replanting must be by means of transplants to allow for adequate accounting of plant stocking; and
 - (d) Volunteer trees and shrubs of approved species will be considered at least two years of age and can be counted towards meeting success standards; however, volunteer trees must be at least thirty inches (76 centimeters) in height to be included in the count. Suckers on shrubby vegetation can be counted as volunteer plants when it is evident the shrub community is vigorous and expanding.
- (2) The ground cover must be equal to or greater than ninety percent of the ground cover of the approved standard with ninety percent statistical confidence and must be adequate to control erosion; and
- (3) Species diversity, seasonal variety, and regenerative capacity of the vegetation on the permit area must be evaluated on the basis of species stocked and expected survival and reproduction rates.
- f. For shelterbelts, the following must be achieved during the ~~last two consecutive years~~ growing season of the last year of the responsibility period:
- (1) Trees, shrubs, half-shrubs, root crowns, or root sprouts used in determining success of stocking must meet the following criteria:
 - (a) Be healthy;
 - (b) Be in place for at least two growing seasons; and
 - (c) ~~At least eighty percent of those counted must have been in place at least six years. This provision will be deemed satisfied if the operator demonstrates that no tree, shrub, or half shrub replanting has occurred during the last six years of the revegetation responsibility period.~~ If any replanting of woody plants took place during the responsibility period, the total number planted during the last six years of that period must be less than twenty percent of the

total number of woody plants required. Any replanting must be by means of transplants to allow for adequate accounting of plant stocking; and

- (d) Volunteer trees and shrubs of approved species will be considered at least two years of age and can be counted towards meeting success standards; however, volunteer trees must be at least thirty inches (76 centimeters) in height to be included in the count. Suckers on shrubby vegetation can be counted as volunteer plants when it is evident the shrub community is vigorous and expanding.
- (2) Shelterbelt density and vigor must be equal to or greater than that of the approved standard; and
- (3) Erosion must be adequately controlled.
- g. For fish and wildlife habitat, where the vegetation type is wetland, vegetation zones and dominant species must be equal to those of the approved standard during the last two consecutive years growing season of the last year of the responsibility period. In addition, wetland permanence and water quality must meet approved standards.
- h. For fish and wildlife habitat, where the vegetation type is grassland, the following must be achieved during the last two consecutive years growing season of the last year of the responsibility period:
 - (1) Ground cover must be equal to or greater than that of the approved standard with ninety percent statistical confidence and must be adequate to control erosion.
 - (2) Species diversity, seasonal variety, and regenerative capacity of the vegetation must meet or exceed the approved standard.
- i. For previously mined areas that were not reclaimed to the requirements of this chapter, any reclamation requirements in effect when the areas were mined must be met. In addition, the ground cover may not be less than can be supported by the best available plant growth material in the reaffected area, nor less than the ground cover existing before redisturbance. Adequate measures must be in place to control erosion as approved by the commission.
- j. For areas to be developed for water, residential, or industrial and commercial uses within two years after the completion of grading or soil replacement, the ground cover on these areas may not be less than required to control erosion.
- k. For areas to be developed for recreation, woody plants must meet or exceed the stocking and plant establishment standards for woodlands or shelterbelts found in paragraph 1 of subdivision e or in subdivision f as applicable. In addition, ground cover must not be less than required to achieve the approved postmining land use.
- l. ~~As an alternative to meeting revegetation success standards for the last two consecutive growing seasons of the responsibility period, an operator may demonstrate that the applicable standards have been achieved for any three years starting no sooner than the sixth year of the responsibility period and with one year being the last~~

~~year of the responsibility period. This alternative does not pertain to success standards for prime farmlands unless a reclaimed tract contains both prime and nonprime farmlands.~~ If a reclaimed tract contains a mixture of prime and nonprime farmlands, the commission may approve a single yield standard for the entire tract based on the soil types that occurred on the prime and nonprime areas prior to mining. The operator must provide a detailed description and comparison of the soil mapping units, acreages, and yield calculations in the reclamation plan as required by subsection 8 of section 69-05.2-09-15. When a single yield standard is approved, the operator must demonstrate that the standard has been achieved for any three years starting no sooner than the sixth year of the responsibility period ~~and with one year being the last year of the responsibility period.~~ If this option is approved, the operator must also meet the applicable requirements of section 69-05.2-26-05 for the entire tract.

69-05.2-24-01. Performance standards - Roads - General requirements.

1. Each road, as defined in subsection ~~92~~ 93 of section 69-05.2-01-02, must be classified as either a primary or ancillary road.

PROPOSED SITING RULES

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

69-06-08-02. Transmission facility corridor and route criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following

policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

AMENDED PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.
3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.
4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.
5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates.

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.

8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.

9. Renewable energy facility – A facility generating electricity from one or more generating units that exclusively rely on an energy source or fuel included in North Dakota Century Code Section 49-02-25.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to

participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator. A renewable energy facility with more than one generating unit may be metered with a single meter.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;
4. Facilitate private trading of renewable energy certificates;

5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.
3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a designated representative must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.
2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with applicable law and rules.

4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.

5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

**Amended
Proposed Interconnection Agreement Filing Rules**

69-09-05-14. Procedure for filing negotiated interconnection agreements. Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251, assignments, assumptions or transfers of interconnection agreements, amendments to interconnection agreements, and agreements for Qwest Platform Plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission Internet site for comment by interested parties. The Internet listing will include the date each agreement was filed, and links to the agreement itself.

4. The commission will accept written comments on a listed agreement for 60 days from the date filed.
5. Absent commission action within 90 days of filing to disapprove an agreement (or portion thereof), the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any assignment, assumption or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption or transfer occurs.
7. Any amendment to an interconnection agreement requires a new filing with a new 90-day review and comment period.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

Proposed Telecommunications Registration Rulemaking

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:

- a. If the customer is delinquent in payment for nonessential services.
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay

for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.

5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency. The notice must:

- a. Be sent by first-class mail addressed to the billing name and address of the affected account.
- b. Show the amount of the delinquency.
- c. Include the telephone number of the public service commission.
- d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
- e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6.
 - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
 8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
 - a. Pays the fee for resuming service established in the utility's rate schedules;

- b. Makes a deposit under section 69-09-05-03 (if required by the company); and
 - c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued. Interexchange carriers are not required to resume long-distance service if local service is not connected.
9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules. The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller

or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

11. a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
 - b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.
12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service

intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

History: Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee effective, August 16, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-04. Rules for resale of telecommunications services.

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
- b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
- c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and

reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.

- d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service ~~providers~~ provider who ~~resell-wireline~~ resells cellular or other wireless service as part of their ~~celluar or personal communication service~~.
- e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.
- f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.

2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:

a. ~~Obtain a certificate of registration from~~ Register with the commission, on a form provided by the commission, authorizing indicating the provision of local resale or long-distance resale services in the state of North Dakota.

b. If a reseller requires prepayment for service, it shall:

(1) Submit a performance bond in an amount specified by the commission; or

(2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected at any given time, and file monthly reports showing escrow account activities and call completion data.

(3) ~~The requirements of paragraphs 1 and 2 are waived for any company that has provided cellular or personal communication service in North Dakota for one year without a formal complaint having been filed against it. The commission may revoke the waiver after notice and opportunity for hearing if necessary to protect the public interest.~~ Under North Dakota Century Code section 49-03.7-09(7) the bonding

requirement does not apply to a facility based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.

4. The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.

- (5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4. The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater.

The amount of an escrow account is an amount equal to the prepayments (including prepaid calling cards) at any given time.

- ~~6. Forfeit its registration if it is voluntarily dissolved or involuntarily dissolved under North Dakota law. A reseller may not operate and its registration certificate is void on the effective date of involuntary dissolution under North Dakota Century Code section 10-23-02.2.~~
3. A reseller may not be identified as an optional intrastate interexchange carrier ~~without a certificate of registration from~~ unless it is registered with the commission.
4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.

7. A reseller is subject to ~~reregulation by the commission~~, revocation of its certificate authority, and the penalties provided in North Dakota Century Code ~~chapter~~ chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

History: Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-04.1. Identification of intraLATA interexchange carriers.

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective ~~certificate of public convenience and necessity or a current certificate of registration~~ authorizing the provision of intrastate interexchange service.
2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that

the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

History: Effective February 1, 1995; amended effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-05. Rules for the provision of operator services.

1. Definitions.

- a. "End user" means the person to whom operator service is provided.
- b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.
- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. ~~Obtain a certificate of registration from~~ Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.
- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
- e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider

which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

- f. Not charge for incompleting calls.
- g. Disclose their names on bills which include charges for services they provided.

History: Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-10. ~~Certificate of registration~~ Registration - Procedure.

1. A reseller ~~applying for a certificate of registration or competitive facilities based provider desiring authority to provide service in North Dakota~~ shall ~~file an application~~ register on a form provided by the commission. The ~~application~~ registration shall include ~~evidence~~ identification of the applicant's authority to do business in North Dakota.
2. ~~An applicant for a certificate of registration as a~~ A reseller shall follow the procedure set forth in section 69-09-05-04.
3. ~~When the holder of a certificate of registration~~ a registered company intends to assign ~~the~~ its authority to provide telecommunications service in North Dakota to another entity, the

assignee must first ~~obtain a certificate of registration from~~ register with the commission.

4. A reseller registered company may voluntarily, without commission approval, surrender its ~~certificate of registration~~ authority by notifying the commission in writing and updating its registration to reflect this surrender.
5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
 - a. The type of service the applicant intends to provide.

- b. The service area or areas in which the applicant intends to provide service.
 - c. How the applicant meets the issues to be considered in the application.
- 2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
 - a. A balance sheet of the form and style usually followed in the industry.
 - b. An income statement of the form and style usually followed in the industry.
 - c. If available, an independent accountant's financial opinion.
 - d. Any other information requested by the commission.
- 3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:
 - a. Fitness and ability of the applicant to provide service.
 - b. Adequacy of the proposed service.

- c. The technical, financial, and managerial ability of the applicant to provide service.
- 4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
- 5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
- 6. ~~Abandonment of a certificate of public convenience and necessity for a competitive local exchange company requires prior written notice to the commission and thirty days' prior written notice to the company's customers.~~ Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

**PUBLIC SERVICE COMMISSION
Reclamation Division**

Memorandum

TO: Case No. RC-05-591

FROM: Jim Deutsch, Reclamation Division

DATE: November 14, 2005

SUBJECT: Regulatory and Takings Assessment for mining and reclamation rule changes proposed in Case No. RC-05-591

The Reclamation Division has prepared Regulatory and Takings Assessments as required by North Dakota Century Code (NDCC) Sections 28-32-08.1 and 28-32-09 for the mining and reclamation rule changes proposed in Case No. RC-05-591. NDCC Section 28-32-08.1 requires an agency to prepare a regulatory analysis with regard to the impact of the proposed rules on small entities. NDCC Section 28-32-09 requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private real property.

NDAC 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. The following addresses the provisions of subsection 2 of NDAC 28-32-08.1 with regard to the rule changes proposed in Case No. RC-05-591:

NDCC 28-32-08.1(2)(a) – Establishment of less stringent compliance or reporting requirements for small entities.

No additional compliance standards or reporting requirements are proposed by the rule changes.

NDCC 28-32-08.1(2)(b) – Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.

No additional compliance standards or reporting requirements are proposed by the rule changes.

NDCC 28-32-08.1(2)(c) – Consolidation or simplification of compliance or reporting requirements for small entities.

As previously noted, no additional compliance standards or reporting requirements are proposed by these rule changes. However, since the Commission's mining and reclamation rules must be consistent with and as effective as counterpart federal rules, we cannot

consolidate or simplify the requirements for small entities and maintain an approved state regulatory program for surface coal mining and reclamation operations.

NDCC 28-32-08.1(2)(d) – Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.

No additional performance standards are proposed by these rule changes. Since the Commission's mining and reclamation rules must be consistent with and as effective as counterpart federal rules, we cannot adopt special performance standards for small entities and maintain an approved state regulatory program for surface coal mining and reclamation operations.

NDCC 28-32-08.1(2)(e) – Exemption of small entities from all or any part of the requirements contained in the proposed rule.

No additional compliance standards or reporting requirements are proposed by these rule changes. Since the Commission's mining and reclamation rules must be consistent with and as effective as counterpart federal rules, we cannot exempt small entities from the rules that are being modified and maintain an approved state regulatory program for surface coal mining and reclamation operations.

While the proposed rule changes in Case No. RC-05-591 will not limit the use of private real property, the six items listed in NDCC 28-32-09 are addressed below:

NDCC 28-32-09(1)(a) – Assess the likelihood that the proposed rule may result in a taking or regulatory taking.

None of these proposed rule changes affect the use of private real property so they will not result in any taking.

NDCC 28-32-09(1)(b) - Clearly and specifically identify the purpose of the proposed rule.

The purpose of the proposed rule is to reduce some information that is currently required for permit and bond release applications, clarify impoundment inspection requirements, reduce some of the vegetation data needed for final bond release and to otherwise revise some for revegetation success standards to be consistent with changes to counterpart federal rules, and correct a cross reference.

NDCC 28-32-09(1)(c) - Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.

We do not expect any impact on private property owners as a result of the proposed rule changes. The changes involve information that must be provided in permit and bond release applications, modify the requirements for impoundment inspections, and revise revegetation success standards for final bond release. The changes may result in some reclaimed lands receiving final bond release a year or two sooner which will also allow the return of these lands to the full control of private property owners somewhat sooner as well.

NDCC 28-32-09(1)(d) - Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.

We do not expect the proposed rules to constitute a taking; therefore, there should be no cost to the state.

NDCC 28-32-09(1)(e) - Identify the source of payment within the agency's budget for any compensation that may be ordered.

Not applicable, the proposed rule changes will not limit the use of private real property.

NDCC 28-32-09(1)(f) - Certify that the benefits of the proposed rule exceed the estimated compensation costs.

Not applicable, the proposed rule changes will not limit the use of private real property.

Testimony for Case No. RC-05-591

Proposed Changes to NDAC Article 69-05.2 Surface Coal Mining and Reclamation Operations

January 4, 2006

I am Jim Deutsch, Director of the Public Service Commission's Reclamation Division. I will explain the rule changes in Case No. RC-05-591. The changes are proposed to North Dakota Administrative Code Article 69-05.2, rules for surface coal mining and reclamation operations. Some of the changes are based on suggestions from the Lignite Energy Council and others are staff initiatives.

Additional language is proposed to NDAC 69-05.2-06-03 containing right of entry requirements to allow a permittee to delete coal leases from the permit when mining on the tract covered by a lease is completed and the lease is no longer needed to show surface right of entry, or when a coal lease has been otherwise terminated. However, if the coal lease no longer provides the surface right of entry, other documents granting the permittee right of entry must be added to the permit.

One of the changes proposed to NDAC 69-05.2-10-01 deletes language that requires the newspaper notice for permit applications include a reference to the United States Geological Survey (USGS) map that contains the area and the other limits the listing of coal owners in the notice to those that will be affected by the mining activities.

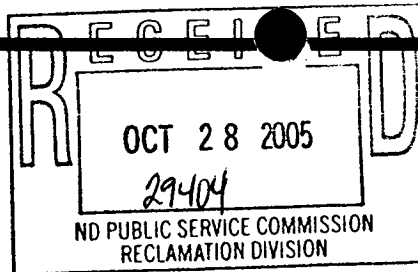
A change to the bond release application requirements under NDAC 69-05.2-12-12 will require the filing of a copy of the newspaper advertisement within 30 days of submitting the application instead of requiring the submittal of affidavits of publication within 30 days of submittal of the application. This change is proposed since an affidavit cannot be provided until all publications (once a week for 4 consecutive weeks) are complete, which is almost always later than 30 days after the bond release application is filed. Another change adds a cross-reference to another rule that requires additional information if a final bond release application involves an area that contained a premine water supply that is not being replaced.

Changes are proposed to NDAC 69-05.2-16-09 on sedimentation pond inspection requirements to make a better distinction between inspections that must be conducted while a pond is being constructed versus annual inspection reports that must be prepared by a registered professional engineer. The changes will also eliminate the requirement that inspection reports prepared during pond construction be submitted to the Commission. However, reports for each of these inspections will still have to be prepared and maintained at or near the mine site.

The proposed changes to the revegetation success standards under NDAC 69-05.2-22-07 are similar to those proposed by the Office of Surface Mining in March of 2005 to the counterpart federal rule. The changes will allow data collected from native grassland, tame pastureland and cropland in any two years after year six of the ten-year revegetation liability period to be used for final bond release purposes. Currently, data from the last two consecutive years of the liability period, or any three years starting no sooner than year six of the liability period (with one being the last year of the liability period), must be used to demonstrate reclamation success. In addition, only one year of vegetation data would be needed to prove reclamation success on reclaimed woodlands, shelterbelts, and fish and wildlife habitat. New language is also proposed for woodland and shelterbelt standards that allow certain volunteer trees and shrubs to count towards meeting the revegetation standards. These changes should result in some reclaimed tracts being bond released sooner. OSM expects to issue its final rule in early 2006.

Also, a minor change is proposed to the road performance standards under NDAC 69-05.2-24-01 to correct a cross reference error.

Regulatory and takings assessments for these rule changes have been prepared and copies are available for review. This concludes my testimony on the mining and reclamation rule changes proposed in Case No. RC-05-591.



JOHN W. DWYER, President
jdwyer@lignite.com

1016 E. Owens Avenue
P.O. Box 2277
Bismarck, ND 58502
Tel (701) 258-7117
Fax (701) 258-2755

October 27, 2005

SERVING:

MINNESOTA

Great River Energy
Minnesota Power
Minnkota Power Cooperative
Otter Tail Power Co.
Xcel Energy

NORTH DAKOTA

Basin Electric Power Cooperative
BNI Coal, Ltd.
Coteau Properties Company
Dakota Gasification Company
Dakota Westmoreland Corporation
Falkirk Mining Co.
Minnkota Power Cooperative
Montana-Dakota Utilities Co.
Otter Tail Power Co.
Xcel Energy

SOUTH DAKOTA

Basin Electric Power Cooperative
Montana-Dakota Utilities Co.
Otter Tail Power Co.
Xcel Energy

MONTANA

Basin Electric Power Cooperative
Dakota Westmoreland Corporation
Montana-Dakota Utilities Co.

CANADA

Luscar Ltd.
SaskPower

Mr. James R. Deutsch
Director, Reclamation Division
North Dakota Public Service Commission
State Capitol - 13th Floor
600 E. Boulevard Avenue - Dept. 408
Bismarck, ND 58505-0480

Dear Mr. Deutsch:

The Lignite Energy Council is providing comments to proposed draft regulations the Public Service Commission may be considering in the near future. This is a follow-up to the several meetings and discussions between your staff and LEC task force members over the past several months. Our comments address specific proposed rule changes.

Lignite Energy Council proposed changes (see Attachment 1):

1. NDAC 69-05.2-10-01. Permit applications – Public notices of filing.
The proposed rule changes would reduce unnecessary information in public notices. Based on our discussions, we understand our suggested rule changes would be acceptable to the PSC, and we submit them as is.
2. NDAC 69-05.2-12-12. Release of performance bond – Bond release information.
The current rule requires proof of publication within 30 days from filing a bond release application. Such proof of publication (affidavit of publication) is not created until all publications have been conducted, which is beyond the 30-day time limit in the rule. This makes compliance with the current rule virtually impossible. The proposed change is consistent with Federal rules, and fulfills the intent of the regulations. We understand the PSC will accept this change. Based on our discussions, we are not proposing a change to NDAC 69-05.2-12-12 (5), regarding topographic maps at this time.
3. NDAC 69-05.2-16-09. Performance standards – Hydrologic balance – Sedimentation ponds.
We are proposing a restructuring of these rules simply to clarify them. We understand the PSC will accept these, based on our previous discussions.
4. NDAC 69-05.2-16-14. Performance standards – Hydrologic balance – Groundwater monitoring.
Based on our discussions with you and your staff, we understand you will accept a reduced frequency of groundwater summary report submittals, from annual to biennial. We prefer the simple change that we've proposed. Your office has also recommended a change in reporting frequency. Our review of your proposed change to the same rule indicates there is no substantive difference between our two proposals. While we are not opposed to your proposed language, if the meaning and intent is the same as ours, we suggest the simplest, briefest change possible, as described by our submittal.

2

RC-05-591

Pages: 8

Lignite Coal: America's Abundant
www.lignite.com

Comments with suggested rule changes

by Lignite Energy Council
10/28/2005

Mr. James R. Deutsch
October 27, 2005
Page Two

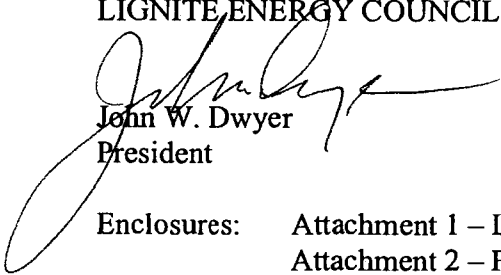
Public Service Commission proposed changes from July 7, 2005 (see Attachment 2):

1. NDAC 69-05.2-06-03 Permit applications – Right of entry and operation information.
Based on discussions between individual LEC task force members and you, we will agree with the change your office has proposed. This will eliminate the inclusion of expired or terminated leases from permits.
2. NDAC 69-05.2-12-12. Release of performance bond – Bond release application.
The PSC's proposal to add a clarifying paragraph to NDAC 69-05.2-16-05 (8) is acceptable to the LEC. This does not change current requirements.
3. NDAC 69-05.2-16-05. Performance standards – Hydrologic balance – Surface water monitoring
In a July 7 draft, your office proposed a rule to require a biennial summary report reviewing surface water conditions, in a manner similar to the current annual groundwater summary report. We do not support a regulation requiring submittal of a new report. While this may be useful information during bond release, and some companies may choose to conduct such a review and prepare a report, the LEC does not believe this should be mandated as a new requirement for all companies.
4. NDAC 69-05.2-24-01. Performance standards – Roads – General requirements
Your proposed change is for editing purposes and we support this change.

The Lignite Energy Council thanks you for your consideration of changes that would streamline the regulatory process while maintaining the nation's highest standards of environmental protection and land reclamation during surface mining operations. We look forward to your formal rulemaking.

Sincerely,

LIGNITE ENERGY COUNCIL



John W. Dwyer
President

Enclosures: Attachment 1 – LEC proposed changes
Attachment 2 – PSC proposed changes from July 7, 2005

cc: Joe Friedlander
Jim Melchior
Troy Leingang
Mike Altavilla
Dave Schouweiler

1.

NDAC 69-05.2-10-01. Permit applications - Public notices of filing.

1. The advertisement required by North Dakota Century Code section 38-14.1-18 must also include:

a. The applicant's name and business address.

b. A map or description which must:

(1) Clearly show or describe towns, rivers, streams, or other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the permit area.

(2) Clearly show or describe the exact location and boundaries of the permit area.

(3) Show the north point (if a map).

(4) State the name of each owner of record of surface rights and, if the applicant proposes to mine coal or conduct activities that may impact future coal recovery, the names of each owner of record of coal rights within the permit boundaries.

Deleted: (3) Name the United States geological survey 7.5-minute quadrangle map which contains the area shown or described.

Deleted: 4

Deleted: 5

2.**NDAC 69-05.2-12-12. Release of performance bond - Bond release application.**

1. The permittee may request the commission release all or part of a bond for lands disturbed after July 1, 1975, as follows:

a. For lands disturbed between July 1, 1975, and June 30, 1979, the application must comply with subsection 1 of North Dakota Century Code section 38-14.1-17 and subsections 3 and 4. The criteria for release of all or part of the bond will be according to the reclamation requirements in effect at the time of the disturbance.

b. For lands disturbed after June 30, 1979, the application must comply with the requirements of this section and section 69-05.2-12-11.

2. The permittee may file bond release applications only at times and seasons that allow the commission to properly evaluate the completed reclamation operations. Each application for bond release shall include a notarized statement by the permittee which certifies that all applicable reclamation activities have been accomplished in accordance with this article, North Dakota Century Code chapter 38-14.1, and the approved reclamation plan.

3. Within thirty days after filing a request for bond release, the permittee shall submit a copy of the advertisement that was published as required by North Dakota Century Code section 38-14.1-17. The advertisement published must include the permittee's name.

Deleted: proof of the publication

3.

NDAC 69-05.2-16-09. Performance standards - Hydrologic balance - Sedimentation ponds.

19. Impoundment inspections.

a. A registered professional engineer, or other specialist under the direction of a registered professional engineer, shall inspect each impoundment as required under subdivision b, c and d. The registered professional engineer and specialist must be experienced in the construction of impoundments.

b. Inspections must be made regularly during construction. Inspection records during construction shall be maintained at or near the minesite.

Deleted: , upon completion of construction, and at least yearly until removal of the structure or release of the performance bond

c. After impoundment construction is complete, the registered professional engineer shall promptly provide the commission a certified report that the impoundment has been inspected during construction on a regular basis and has been constructed as designed and according to the approved plan and this chapter. The report must include a summary of construction inspections, a statement of final storage capacity and, if applicable, a discussion of any deviations from the approved plan.

Deleted: each inspection

Deleted: or maintained

Deleted: discussion of any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing

d. After impoundments are operational, they shall be inspected at least yearly until removal of the structure or release of the performance bond. A registered professional engineer shall provide the commission with an annual impoundment inspection report addressing any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability. A single report can address more than one impoundment; however, the condition of each impoundment shall be noted separately.

Deleted: , any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability

e. A copy of the inspection reports must be maintained at or near the minesite.

Deleted: d

Formatted: Justified

4.

(LEC Proposal)**NDAC 69-05.2-16-14. Performance standards - Hydrologic balance – Ground water monitoring.**

3. Ground water monitoring data must be submitted to the commission every three months or more frequently as prescribed by the commission. Monitoring reports must include analytical results from each sample taken during the reporting period. The operator shall review the data ~~biennially~~ or more frequently if required by the commission. Changes observed in the monitored aquifers in the permit or adjacent areas must be described and interpreted in the monitoring report as to their significance and possible effect on any water supplies. When the analysis of any ground water sample indicates noncompliance with the permit conditions, the operator shall promptly notify the commission and immediately take the actions provided for in subdivision a of subsection 3 of section 69-05.2-10-05 and subsection 2 of section 69-05.2-09-12.

Deleted: annually

(PSC Proposal)**NDAC 69-05.2-16-14. Performance standards - Hydrologic balance - Ground water monitoring.**

3. Ground water monitoring data must be submitted to the commission every three months or more frequently as prescribed by the commission. Monitoring reports must include analytical results from each sample taken during the reporting period. The operator shall review the data regularly ~~annually or more frequently if required by the commission~~. When the analysis of any ground water elevation or quality sample indicates noncompliance with the permit conditions, the operator shall promptly notify the commission and immediately take the actions provided for in subdivision a of subsection 3 of section 69-05.2-10-05 and subsection 2 of section 69-05.2-09-12. The operator shall also submit a report biennially ~~shall review the data annually or more frequently if required by the commission~~ that reviews the condition of water resources in the permitted and adjacent areas. Changes observed in the potentiometric surfaces and quality of the monitored aquifers in the permitted or adjacent areas must be described and interpreted in the ~~monitoring~~ report as to their significance and possible effect on any water supplies.

DRAFT – JULY 7, 2005

1. (Revised 10/05)

NDAC 69-05.2-06-03. Permit applications – Right of entry and operation information.

2. Following completion of coal removal operations on the lands covered by a lease, the copy of the coal lease may be deleted from an approved permit if:

a. The lease is no longer needed to show the surface right of entry for carrying out reclamation operations; or

b. The lease has expired or has been terminated.

If a coal lease is no longer provided for surface right of entry, other documents granting the permittee surface right of entry must be added to the permit.

2. NDAC 69-05.2-12-12. Release of performance bond - Bond release application.

8. When the permittee requests final bond release under subdivision d of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must include:

a. The data collected, analyses conducted, and a narrative detailing compliance with subsection 4 of section 69-05.2-22-07.

b. The history of initial and subsequent seedings and fertilization, including mixtures and rates, appropriate soil tests, supplemental irrigation, or other management practices employed.

c. Documentation showing the reestablishment of essential hydrologic functions of alluvial valley floors.

d. If a premine water delivery system will not be replaced, the bond release application must address the requirements of subdivision b of subsection 90 of section 69-05.2-01-02.

3.

NDAC 69-05.2-16-05. Performance standards - Hydrologic balance - Surface water monitoring.

1. Surface water monitoring must be conducted in accordance with the monitoring program and based on the probable hydrologic consequences determination submitted under section 69-05.2-08-04. The commission will approve the nature of data that relate to the hydrologic reclamation plan in section 69-05.2-09-12, frequency of collection, and determine reporting requirements. The operator shall also submit a report biennially or more frequently if required by the commission that reviews the condition of water resources in the permitted and adjacent areas. Changes observed in the flow, water levels and quality of the monitored streams, lakes and impoundments in the permitted or adjacent areas must be described and interpreted in the report as to their significance and possible effect on any water supplies.
 - a. For locations in surface water bodies, such as streams, lakes, and impoundments, monitoring must:
 - (1) Be adequate to measure accurately and record quantity and quality of discharges from the permit area and identify the extent to which mining affects water quality and quantity in the adjacent area. Water samples taken from all monitoring sites must be analyzed for the parameters specified in subdivision b of subsection 3 of section 69-05.2-08-07. Results must be submitted quarterly to the commission.
 - (2) Be conducted to assure reliable test data according to existing standard procedures and analytical methods.

4.

NDAC 69-05.2-24-01. Performance standards - Roads - General requirements.

1. Each road, as defined in subsection 92 93 of section 69-05.2-01-02, must be classified as either a primary or ancillary road.

**PUBLIC SERVICE COMMISSION
Reclamation Division**

Memorandum

TO: Commissioners Clark, Wefald and Cramer
Illona A. Jeffcoat-Sacco
Bill Binek

FROM: Jim Deutsch

DATE: October 31, 2005

SUBJECT: Proposed reclamation rule changes

Attached are the proposed changes that the Reclamation Division recommends be included as part of the Commission's next rulemaking proceeding. Some of the changes are based on suggestions from the Lignite Energy Council (see the LEC's October 27th letter that is also attached) and others are staff initiatives. We have had several discussions with LEC task members on these proposals over the past several months. The following is a summary of the proposed changes:

NDAC 69-05.2-06-03 – Additional language is being proposed that would allow a permittee to delete a coal lease from the permit when mining on the tract covered by the lease is completed and the lease is no longer needed to show surface right of entry or the lease has been terminated. However, if the coal lease no longer provides surface right of entry, other documents granting the permittee right of entry must be added to the permit. This change is being proposed due to concerns raised by Coteau and Falkirk on the time and cost of recordkeeping associated with outdated lease documents.

NDAC 69-05.2-10-01 – Changes recommended by the LEC are included that propose 1) to delete a provision that requires the newspaper notice for permit applications include a reference to the United States Geological Survey (USGS) map that contains the area and 2) limit the listing of coal owners in the notice to those that will be affected by the mining activities. The corresponding OSM rule has been revised to delete the reference to the USGS map. We believe the proposed change on the listing of coal owners is reasonable.

NDAC 69-05.2-12-12 – Changes to information required for bond release applications include a LEC proposal to change the requirement that the permittee submit proof (an affidavit) of publication within 30 days of submitting the application to submitting a copy of the advertisement that was published. This change is reasonable since an affidavit cannot be provided until all publications (once a week for 4 consecutive weeks) are complete. The change is also consistent with OSM rules. The Reclamation Division also recommends adding a cross-reference to information that is required by the "replacement of water supply" definition in another section of the rules.

NDAC 69-05.2-16-09 – Changes to sedimentation pond inspection requirements are based on the LEC proposal. The proposed changes made better distinction between inspections that must be conducted while a pond is being constructed versus annual inspection reports that must be prepared by registered professional engineer. The changes also eliminate the requirement that inspection reports prepared during pond construction be submitted to the Commission. However, reports for each of these inspections would have to be prepared and maintained at or near the mine site.

NDAC 69-05.2-22-07 – Changes to revegetation success standards are recommended by the Reclamation Division that are similar to those proposed by OSM earlier this year. The changes will allow the use of data collected in any two years following year six of the ten-year revegetation liability period for native grassland, tame pastureland and cropland uses. Currently, data from the last two consecutive years of the liability period or any three years starting no sooner than year six of the liability period (with one being the last year of the liability period) must be provided to demonstrate reclamation success. Also, for woodlands, shelterbelts and fish and wildlife habitat, only one year of data would be needed to prove reclamation success on these land uses. Additional language is proposed for woodland and shelterbelt standards that clearly allow the counting of volunteer trees and shrubs for meeting the standards. Similar changes should be approved by OSM within the next couple of months. These changes may result in some reclaimed tracts being bond released sooner.

NDAC 69-05.2-24-01 – A change to the road performance standards is proposed by the Reclamation Division to correct a cross reference error.

The LEC also recommended that we propose a change to NDAC 69-05.2-16-14 to change the annual ground water monitoring report to a biennial report. The LEC letter indicated the Reclamation Division would accept this proposal; however, this was tied to adding a similar requirement for a biennial surface water report. Industry opposes that requirement and we do not recommend any change to the ground water rule at this time. This matter will be discussed further with LEC task force members in the future.

An item will be added to the administrative agenda for the November 2 Commission meeting to discuss these proposed rule changes.

Attachments

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities - Siting
Rulemaking**

Case No. PU-05-602

**Regulatory Analysis, Takings Assessment, and Small Entity Analysis
November 21, 2005**

The siting rule amendments propose changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) to add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Regulatory Analysis

The proposed changes merely add another factor that the Commission may use in evaluation energy conversion and transmission facility siting applications and are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Takings Assessment

North Dakota Century Code Section 28-32-09(1) requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private property. The assessment must:

- a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
- b. Clearly and specifically identify the purpose of the proposed rule.
- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.
- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

None of these proposed rule changes affect the use of private real property so they will not result in any taking.

The purpose of the proposed rule is to add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

We do not expect any impact on private property owners as a result of the proposed rule changes.

We do not expect the proposed rules to constitute a taking; therefore, there should be no cost to the state.

Subsection e is not applicable because the proposed rule changes will not limit the use of private real property.

Subsection f is not applicable because the proposed rule changes will not limit the use of private real property.

Small Entity Regulatory Analysis

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. Subsection 2 states that the agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities.
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.
- c. Consolidation or simplification of compliance or reporting requirements for small entities.
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

No additional compliance standards or reporting requirements are proposed by the rule changes.

No additional performance standards are proposed by these rule changes.

Small entities will not be exempt from any part of the requirements contained in the proposed rule.

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

**STAFF TESTIMONY
January 4, 2006**

My name is Jerry Lein. I am a Public Utility Analyst in the Public Utility Division of the Public Service Commission. The purpose of my testimony is to explain changes proposed to the Commission's administrative rules to amend subsections 69-06-08-01(4) and 69-06-08-02(4) of the North Dakota Administrative Code pertaining to the siting of energy conversion and transmission facilities.

Subsection 69-06-08-01(4) sets forth policy criteria for the siting of energy conversion facilities and 69-06-08-02 sets forth policy criteria for the siting of energy transmission facilities. Both sections provide that the Commission may require, or give preference to an applicant that will maximize benefits that result from, the policies and practices listed therein. The amendment being proposed is identical for both sections and states that the Commission may also give preference to an applicant that will maximize interstate benefits of proposed projects.

These amendments are being proposed to clarify the Commission's ability to consider interstate benefits of transmission facilities when determining whether to issue siting permits. This clarification is necessary to help ensure that the Commission's siting authority will not be federally pre-empted under the federal Energy Policies Act of 2005. Section 216 of the Act provides that the U.S. Department of Energy is to designate national interest electric transmission corridors and authorizes the Department to issue construction permits within those designated corridors if, among other things, the state does not have authority to approve the siting of facilities or to consider the interstate benefits expected to be achieved from the facilities.

That concludes my testimony in Case No. PU-05-602. Thank you.

**State of North Dakota
Public service Commission**

**Public Service Commission
Public Utilities
Rulemaking**

Case No. PU-05-364

**Regulatory Analysis, Takings Assessment and Small Entities Analysis
November 21, 2005**

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

A tracking system administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program. It is expected that a new regional market will emerge for trading of the certificates, which will be used to demonstrate the use of "green power." For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to an objective that 10% of electricity be from renewable sources by 2015.

North Dakota Century Code Section 28-32-08(2) sets forth the requirements of a regulatory analysis.

Subsection a states: "A description of the classes of persons who will likely be affected by the proposed rule, including classes that will bear the cost of the proposed rule and classes that will benefit from the proposed rule."

Analysis: The classes affected will be producers of renewable and recycled waste energy that choose to participate in the tracking program and their customers that purchase renewable energy certificates. Customers in North Dakota will not be required to purchase the certificates, but may if they wish to demonstrate use of such energy.

Subsection b states: "A description of the probable impact, including the economic impact of the proposed rule."

Analysis: Renewable energy certificates are expected to have monetary value, with some estimates now ranging around \$2.00 per MWH. There is a Midwest Renewable Energy Tracking System (M-RETS) being developed in our region. Voluntary participation is expected to be substantial across several Midwestern states. M-RETS expects an initial annual operating budget of approximately \$300,000 or less. M-RETS anticipates funding entirely from user fees, but has not yet determined a

rate structure. For this analysis it is assumed that the MRETS rate structure will be a flat fee paid by the producer for each MWH tracked:

Assume: Total initial generating capacity enrolled in program = 3,000 MW with an average generating capacity factor of 25%. (Generators produce at rated output an average of 25% of the time)

Then: Total annual MWH tracked would be:

$$3,000 \text{ MW} \times .25 \times 365 \text{ days/year} \times 24 \text{ hours/day} \\ = 6,570,000 \text{ MWH per year.}$$

The resulting administrative cost to program participants would be:

$$\$300,000 / 6,570,000 = \$0.0457 \text{ or 4.6 cents per MWH.}$$

Subtracting these administrative costs from the expected value of the renewable energy certificates yields:

$$\$2.00 - \$0.046 = \$1.934 \text{ per MWH gain for participating producers.}$$

Thus a 20 MW wind farm with an average 25% capacity factor that chooses to participate in the tracking program could experience additional revenue of:

$$20 \text{ MW} \times .25 \times 24 \times 365 \times \$1.934 = \$84,709.20 \text{ per year.}$$

For ND customers choosing to purchase renewable energy certificates, the impact would be the market price of the certificates, estimated in this analysis to be \$2.00 per MWH. There would be no impact to ND customers choosing not to purchase renewable energy certificates.

Subsection c states: "The estimated cost to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenues."

Analysis: There is no cost to the agency or the state expected. See fiscal note for House Bill 1314.

Subsection d states: "A description of any alternative methods of achieving the purpose of the proposed rule that were seriously considered by the agency and the reason why the methods were rejected in favor of the proposed rule."

Analysis: No alternative has been considered.

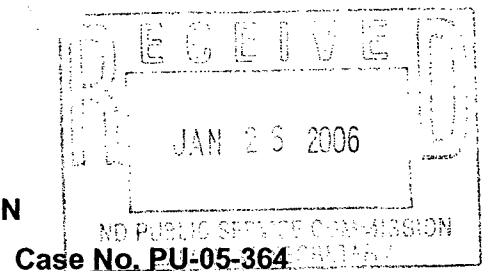
A takings assessment under North Dakota Century Code Section 28-32-09 is not required because the proposed rules will not limit the use of private real property.

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 is not required because the proposed rules will not have an adverse effect on small entities.

JRL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Public Utilities - Electric
Rulemaking



STAFF MEMORANDUM

January 26, 2006

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

SUMMARY OF COMMENTS:

Montana-Dakota Utilities Co.

During the Hearing on January 4, 2006, MDU provided a handout with several recommended minor clarifying language changes. MDU's recommended changes were self-explanatory in nature and staff recommends they be incorporated into the proposed rules. There was one change recommended to proposed section 69-09-08-07 that may need further discussion to determine language changes to identify or narrow which law and rules generating units must comply with to avoid deregistration.

Missouri River Energy Services:

On January 17 MRES filed written comments recommending two changes:

1. The definition of a Renewable Energy Credit in subsection 69-09-08-02(8) should specify the amount of energy equal to a credit. The proposed definition states:

8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
2. The proposed rules should allow facilities with multiple generating units to be master metered to make reporting requirements easier. For example, 69-09-08-04 could be expanded to accommodate master metering.

JRL

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Public Utilities – Electric
Rulemaking

Case No. PU-05-364

STAFF TESTIMONY
January 4, 2006

My name is Jerry Lein. I am a Public Utility Analyst in the Public Utility Division of the Public Service Commission. The purpose of my testimony is to explain changes proposed to the Commission's administrative rules to establish a new Chapter 69-09-08 of the North Dakota Administrative Code pertaining to the establishment of a renewable electricity and recycled energy tracking system.

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

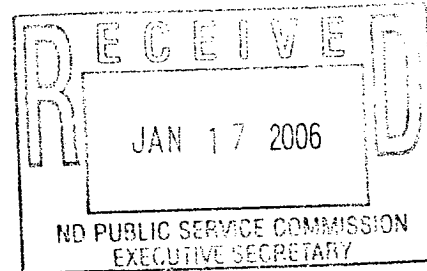
HB 1314 was enacted with recognition that a Midwest Renewable Energy Tracking System (M-RETS) is being developed in our region. The goal is for MRETS to be operational by year-end 2006. Voluntary participation in MRETS is expected to be substantial across several Midwestern states. It is expected that a new regional market will emerge for the trading of renewable energy certificates that can be used to demonstrate the "use of green power," regardless whether physical delivery of renewable energy actually occurs. For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to a renewable energy objective that 10% of electricity used in Minnesota be from renewable sources by 2015. The proposed rules would enable Minnesota utilities to meet their Minnesota renewable energy objective with renewable energy certificates from North Dakota sources.

That concludes my testimony in Case No. PU-05-364. Thank You.

January 16, 2006

Via Overnight Mail

Illona A. Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck ND 58505-0480

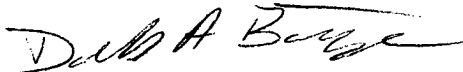


Dear Ms. Jeffcoat-Sacco:

Please find enclosed for filing the Comments of Missouri River Energy Services (MRES) regarding the rulemaking docket PU-05-364. MRES appreciates the opportunity to comment on this matter.

If there are any questions or concerns, please feel free to contact me at 800.678.4042.
Thank you.

Sincerely,



Deborah Birgen
Legislative Associate

enclosure

c: Thomas F. Kelsch

BEFORE THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

In Re: Proposed Rules 69-69-08
Renewable Electricity and Recycled
Energy Tracking System

CASE NO. PU-05-364

COMMENTS OF MISSOURI
RIVER ENERGY SERVICES

COMES NOW, Missouri River Energy Services (MRES) and hereby submits the following comments in response to the Amended Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing issued on November 22, 2005.

I. PROPOSED RULE 69-09-08-02(8) SHOULD DEFINE THE AMOUNT OF ENERGY EQUAL TO A CREDIT

Proposed rule 69-09-08-02(8) does appropriately define a renewable energy credit. However, this section does not define the amount of generation that is equal to a single renewable energy credit. For example, one renewable energy credit could be assigned to one megawatt-hour (MWh) of renewable energy generated. By clearly defining what constitutes a credit, there can be no dispute or misinterpretation of the rules by the Program Administrator, by the utilities, nor by independent renewable energy producers. Therefore, MRES would ask that the Public Service Commission (Commission) consider revising the proposed rules to include a clear definition as to what amount of generation or energy from a renewable facility would constitute a renewable energy credit.

II. PROPOSED RULES SHOULD ADDRESS MULTIPLE UNITS

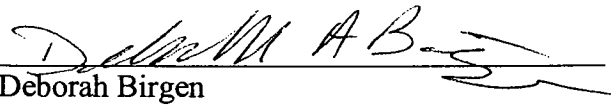
While proposed rules 69-09-08-02 and 69-09-08-04 define renewable energy facilities and the related requirements to participate in the tracking program, the rules do not address renewable energy facilities consisting of more than one generating unit. MRES would ask the Commission to consider addressing multiple units, in particular, addressing the metering of the output. For example, 69-09-08-04 could be expanded to state that if an energy facility consists of more than one generating unit, the output can be master metered. Reporting generation from each individual turbine would be time consuming. Master metering is a more efficient method for the applicant plus it would reduce the amount of database administration for the administrator.

III. CONCLUSIONS

MRES appreciates the opportunity to file its comments with the Commission. The submission of these comments does not preclude any MRES members from filing their own comments.

Respectfully submitted,

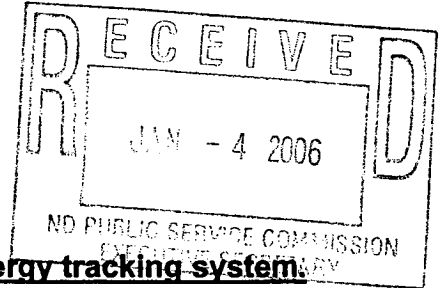
Missouri River Energy Services
January 16, 2006

By: 
Deborah Birgen

Public Service Commission
Public Utilities – Electric
Rulemaking

Case No. PU-05-364

PROPOSED RULES



69-09-08 Renewable electricity and recycled energy tracking system

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.

3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.

4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.

5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.

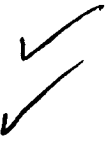
6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates ~~by a program participant.~~

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.

8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.

9. Renewable energy facility – A facility generating electricity that exclusively relies on an energy source or fuel included in North Dakota Century Code Section 49-02-25.

~~10. Renewable energy resource — A resource that generates electricity derived from a renewable energy facility.~~



General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;

4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.

3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, ^{*a designated representative*} ~~a power generator~~ must complete the registration process described in this section. ✓

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.

2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative
of the renewable energy resource.

3. The commission or its program administrator may make on-site visits
to any registered unit of a renewable energy resource and may revoke
the registration of any unit not in compliance with the [law and rules.]

*identify or
narrow the
reference*

4. A renewable energy facility may not be awarded renewable energy
certificates under this program if it is not registered.

5. Any disputes will be resolved using dispute resolution procedures
established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

**Regulatory Analysis, Takings Assessment, and Small Entity Analysis
November 21, 2005**

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Regulatory Analysis

The proposed changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars because they merely codify existing Commission practice and do not enact additional procedures beyond what the Commission currently does.

Takings Assessment

North Dakota Century Code Section 28-32-09(1) requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private property. The assessment must:

- a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
- b. Clearly and specifically identify the purpose of the proposed rule.
- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.
- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

None of these proposed rule changes affect the use of private real property so they will not result in any taking.

The purpose of the proposed rule is to formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

We do not expect any impact on private property owners as a result of the proposed rule changes.

We do not expect the proposed rules to constitute a taking; therefore, there should be no cost to the state.

Subsection e is not applicable because the proposed rule changes will not limit the use of private real property.

Subsection f is not applicable because the proposed rule changes will not limit the use of private real property.

Small Entity Regulatory Analysis

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. Subsection 2 states that the agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities.
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.
- c. Consolidation or simplification of compliance or reporting requirements for small entities.
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

No additional compliance standards or reporting requirements are proposed by the rule changes.

No additional performance standards are proposed by these rule changes.

Small entities will not be exempt from any part of the requirements contained in the proposed rule.

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-051-575

**STAFF TESTIMONY
January 4, 2006**

My name is Jerry Lein. I am a Public Utility Analyst in the Public Utility Division of the Public Service Commission. The purpose of my testimony is to explain changes proposed to the Commission's administrative rules to establish a new section 69-09-05-14 of the North Dakota Administrative Code pertaining to procedure for filing negotiated carrier-to-carrier interconnection agreements.

The proposed rules formalize an existing procedure for processing of negotiated interconnection agreements that are required to be filed for Commission approval under 47 U.S.C section 252(e). This existing procedure is detailed on the Commission's web site and has been working well for several months. Under this existing procedure interconnection agreements are posted on the Commission's web page when filed. The Commission accepts written comments on the agreements for sixty days. Absent Commission action within 90 days, the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).

Written Comments were received from a partnership of North Dakota wireless carriers (Wireless Partnership) in response to the public notice issued by the Commission in this proceeding on November 22, 2005. The Wireless Partnership propose that the proposed rules should be modified to exclude the assignment, assumption or transfer of agreements from its scope. They contend that Commission approval of the assignment or transfer of an interconnection agreement is not required or authorized under 47 U.S.C. section 252(e) or under N.D.C.C. section 49-21-01.7(9). They further contend that requiring such approval is unnecessary and an impediment to any transaction in which an interconnection agreement is assigned.

Staff does not object to eliminating the requirement for Commission approval of assumptions, assignments or transfer of previously approved interconnection agreements. Staff notes that this requirement has been Commission practice all along and believes there is value in maintaining the existing database of interconnection agreements and parties to them. Therefore, if the Commission discontinues its requirement for approval of agreement transfers, then Staff recommends modifying proposed new subsection 6 to require that a notification be filed with the Commission within thirty days after the assignment, assumption or transfer occurs:

69-09-05-14(6). Any assignment, assumption or transfer of an approved interconnection agreement requires notification to be filed with the commission within thirty days after the assignment, assumption or transfer occurs ~~a new filing with a new 90-day review and comment period.~~

That concludes my testimony in Case No. PU-05-575. Thank you.

BRIGGS AND MORGAN

PROFESSIONAL ASSOCIATION

2200 IDS CENTER
80 SOUTH EIGHTH STREET
MINNEAPOLIS, MINNESOTA 55402
TELEPHONE (612) 977-8400
FACSIMILE (612) 977-8650

WRITER'S DIRECT DIAL

(612) 977-8240

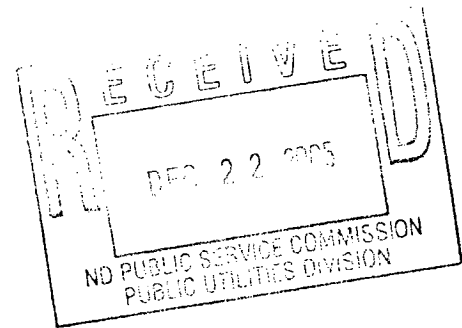
WRITER'S E-MAIL

mayotte@briggs.com

December 22, 2005

VIA FEDERAL EXPRESS

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Service Commission
State Capitol
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480



**Re: In the Matter of Public Service Commission Public Utilities - Telephone
Rulemaking
Case No. PU-05-575**

Dear Ms. Jeffcoat-Sacco:

Please find enclosed an original and seven (7) copies of the following:

- (1) Wireless Partnerships' Comments on Proposed Rules on Eligible Telecommunications Carrier Applications and Advertising; and
- (2) Wireless Partnerships' Comments on Proposed Interconnection Agreement Filing Rules.

An electronic copy of this filing has been sent by electronic mail to Sandy Scott.

If you should have any questions, please contact me.

Very truly yours,

Mark J. Ayotte

MJA/sjc
Enclosures

STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of	)	
	)	Case No. PU-05-575
Public Service Commission Public Utilities –	)	
Telephone Rulemaking	)	

**WIRELESS PARTNERSHIPS' COMMENTS ON
PROPOSED INTERCONNECTION AGREEMENT FILING RULES**

December 22, 2005

BRIGGS AND MORGAN, P.A.
Mark J. Ayotte
2200 IDS Center
80 South Eighth Street
Minneapolis, Minnesota 55402
Phone: (612) 977-8400
Facsimile: (612) 977-8650

Its Counsel

STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of	)	
	)	
Public Service Commission Public Utilities –	)	Case No. PU-05-575
Telephone Rulemaking	)	

**WIRELESS PARTNERSHIPS' COMMENTS ON
PROPOSED INTERCONNECTION AGREEMENT FILING RULES**

I. INTRODUCTION AND SUMMARY

Northwest Dakota Cellular of North Dakota Limited Partnership; North Central RSA 2 of North Dakota Limited Partnership; North Dakota RSA No. 3 Limited Partnership; Badlands Cellular of North Dakota Limited Partnership; North Dakota 5 – Kidder Limited Partnership; and Bismarck MSA Limited Partnership (collectively, “Partnerships”), by and through their undersigned counsel, submit the following comments in response to the Commission’s November 22, 2005, Amended Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing (“*Public Notice*”)¹ relating to the Proposed Interconnection Agreement File Rules.

The proposed rule establishing procedures for filing and approving negotiated interconnection agreements and amendments is consistent with federal law and should be adopted. However, the rule should be modified to exclude the assignment, assumption or transfer of agreements from its scope. The Commission’s approval of assignments or transfers of an interconnection agreement is not required or authorized under 47 U.S.C. § 252(e) or N.D.

¹ As set forth in the *Public Notice*, the Commission invited interested parties to submit written comments and appear in person or through counsel at the Public Hearing scheduled for January 4, 2006. The *Public Notice* also provides that interested persons may submit supplemental data, views or oral argument until January 17, 2006.

Cent. Code § 49-21-01.7(9). Subjecting an approved interconnection agreement to further review and approval, simply because the agreement may be assigned, is also unnecessary. If the Commission imposes an additional 90-day review and approval process, it will only serve as an impediment to closing any transaction in which an interconnection agreement is assigned. The Partnerships' specific recommended language modifications to the proposed rule are set forth in the attached Exhibit A.

II. THE PROPOSED INTERCONNECTION AGREEMENT FILING RULES SHOULD BE MODIFIED TO EXCLUDE THE ASSIGNMENT AND TRANSFER OF AGREEMENTS

The portions of proposed Rule 69-09-05-14 setting forth procedures for the filing and Commission approval of negotiated interconnection agreements and amendments is appropriate. Section 252(a)(1) of the Telecommunications Act of 1996 (the "Act") requires incumbent carriers to negotiate interconnection agreements with competitive carriers.² Once finalized, the agreements must be submitted to a State commission for approval under Section 252(e).³ Section 252(e)(2) also prescribes the limited reasons a State commission may reject an interconnection agreement, including that the agreement discriminates against other telecommunications carriers, is contrary to the public interest, or fails to satisfy the requirements of Section 251 or the FCC's rules.⁴

As noted by the FCC, the filing of all interconnection agreements best promotes Congress' stated goals of opening local markets to competition and permitting interconnection

² 47 U.S.C. § 252(a)(1).

³ 47 U.S.C. § 252(e)(1) ("[a]ny interconnection agreement adopted by negotiation or arbitration shall be submitted for approval by a State commission").

⁴ 47 U.S.C. § 252(e)(2).

on just, reasonable and nondiscriminatory terms.⁵ After an interconnection agreement is approved by the Commission, other carriers may adopt the terms, conditions and rates in the agreement pursuant to Section 252(i) and FCC Rule 51.809(a). The proposed rule setting forth a streamlined process for public filing and approval within 90 days absent Commission action to disapprove a negotiated agreement is consistent with 47 U.S.C. § 252(e)(4) and should be adopted.

However, the portion of proposed Rule 69-09-05-14 which would require Commission review and approval of the “assignments, assumptions or transfers of interconnection agreements” should be deleted as contrary to Section 252(e) and N.D. Cent. Code § 49-21-01.7. Section 252(e) of the Act does not require State commission approval for any assignment or transfer of an interconnection agreement. Similarly, Section 252(e) sets forth no standards governing the approval or rejection of any assignment of an interconnection agreement. Since all negotiated interconnection agreements are required to be approved by the Commission, it is logical to conclude that any proposed assignment or transfer would be of a previously approved interconnection agreement. As a result, the Commission need not again review or reapprove a previously approved agreement in the context of an assignment to another telecommunications carrier. Similarly, nothing in N.D. Cent. Code § 42-21-01.7(8)-(9) authorizes the Commission to approve or reject the assignment of a previously approved interconnection agreement.

Subjecting the assignment of an interconnection agreement to Commission review and approval will also serve as an unwarranted impediment to carriers. Most assignments or transfers will arise in the context of a transaction between telecommunications carriers. An

⁵ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 15583, ¶ 167 (1996).

interconnection agreement is a contract. As such, it may be assigned and transferred to another party pursuant to its terms and conditions. In the case of an asset sale transaction, previously-approved interconnection agreements are often assigned to and assumed by the purchaser. To subject such a transaction to a 90-day Commission review and approval process is unnecessary and may likely serve as an obstacle to closing any transaction.

III. CONCLUSION

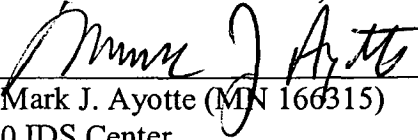
For the reasons set forth above, the Partnerships support the adoption of proposed Rule 69-09-05-14 as modified to exclude the assignment, assumption or transfer of interconnection agreements from the scope of the rule. The Partnerships' recommended modification to proposed Rule 69-09-05-14 are set forth in the attached Exhibit A.

Respectfully submitted,

BRIGGS AND MORGAN, P.A.

Dated: December 22, 2005

By



Mark J. Ayotte (MN 166315)

2200 IDS Center

80 South Eighth Street

Minneapolis, Minnesota 55402

Phone: (612) 977-8400

Facsimile: (612) 977-8650

Its Counsel

EXHIBIT A

Proposed Interconnection Agreement Filing Rules

69-09-05-14 Procedure for filing negotiated interconnection agreements.

Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for Commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251, amendments to interconnection agreements, and agreements for Qwest Platform Plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements or the assignment, assumption or transfer of interconnection agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the Commission.
3. Filed interconnection agreements will be listed on the commission Internet site for comment by interested parties. The Internet listing will include the date each agreement was filed, and links to the agreement itself.
4. The commission will accept written comments on a listed agreement for 60 days from the date filed.

5. Absent commission action within 90 days of filing to disapprove an agreement (or portion thereof), the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any amendment to an interconnection agreement requires a new filing with a new 90-day review and comment period.

History: ?

General Authority: ?

Law Implemented: ?

1854675v2

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

**Regulatory Analysis, Takings Assessment, and Small Entity Analysis
November 25, 2005**

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

The proposed changes impose no new or additional burdens on any regulated entity. The bond requirement is not new, and the minimum bond amounts are not new. The bond requirement is now described in the proposed rule, and the statutory exception for facilities based wireless companies is spelled out. The existing minimum bond amounts are now codified in the proposed rules.

The changes are needed because a statute enacted in 2005 substitutes a streamlined self registration process for the previous requirement to obtain a registration certificate (applicable to for resellers) or a certificate of public convenience and necessity (applicable to facilities based carriers).

Regulatory Analysis

The proposed changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars because they lessen the regulatory burden on affected companies. There is no fee for registration.

Takings Assessment

North Dakota Century Code Section 28-32-09(1) requires an agency to prepare a written assessment of the constitutional takings implications of a proposed rule that may limit the use of private property. The assessment must:

- a. Assess the likelihood that the proposed rule may result in a taking or regulatory taking.
- b. Clearly and specifically identify the purpose of the proposed rule.
- c. Explain why the proposed rule is necessary to substantially advance that purpose and why no alternative action is available that would achieve the agency's goals while reducing the impact on private property owners.
- d. Estimate the potential cost to the government if a court determines that the proposed rule constitutes a taking or regulatory taking.
- e. Identify the source of payment within the agency's budget for any compensation that may be ordered.

- f. Certify that the benefits of the proposed rule exceed the estimated compensation costs.

None of these proposed rule changes affects the use of private real property so they will not result in any taking and therefore, there should be no cost to the state and no impact on private property owners.

Subsection e is not applicable because the proposed rule changes will not limit the use of private real property.

Subsection f is not applicable because the proposed rule changes will not limit the use of private real property.

Small Entity Regulatory Analysis

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 requires a regulatory analysis which considers utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small entities. Subsection 2 states that the agency shall consider each of the following methods of reducing impact of the proposed rule on small entities:

- a. Establishment of less stringent compliance or reporting requirements for small entities.
- b. Establishment of less stringent schedules or deadlines for compliance or reporting requirements for small entities.
- c. Consolidation or simplification of compliance or reporting requirements for small entities.
- d. Establishment of performance standards for small entities to replace design or operational standards required in the proposed rule.
- e. Exemption of small entities from all or any part of the requirements contained in the proposed rule.

The new registration statute establishes a minimal compliance regime. The process is easy, accessible, and free. There is no waiting period and very little required information. The rules simply implement this new streamlined process enacted by law. The rules themselves impose no new or additional reporting or compliance requirements. The new process and the rules implementing it should benefit small entities because they can register to provide telecommunications services more easily and with fewer burdens than ever before.

No additional performance standards are proposed by these rule changes.

Small entities will not be exempt from any part of the requirements contained in the proposed rule because the rules and the law implemented by them make registration easily accessible and affordable for small entities.

**State of North Dakota
Public Service Commission**

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

**Commission Staff Comments on
Proposed Telecommunications Rulemaking
January 4, 2006**

I. Proposed Rules on Eligible Carrier Applications and Advertising

Section 214(e)(2) of the Telecommunications Act of 1996 provides states with the primary responsibility to designate carriers that will be eligible to receive federal universal service funding. State authority for the Public Service Commission power to designate those eligible telecommunications companies is provided under North Dakota Century Code Section 49-21-01.7 (12).

Under current Commission procedure, a telecommunications company seeking designation as an eligible telecommunications carrier (ETC) must file an application with the Commission. The proposed revisions to North Dakota Administrative Code Section 69-09-05-02 codify the application requirements and establish reporting requirements for ETCs, including ETCs previously designated by the Commission. The proposed rules also establish the criteria to be considered by the Commission in designating an eligible carrier.

The Commission's proposed rules largely mirror new ETC application and reporting requirements adopted by the Federal Communications Commission (FCC), codified at 47 C.F.R. §§ 54.202 and 54.209.¹ The FCC states that the reporting requirements are intended to improve the long term sustainability of the federal universal service fund and ensure that eligible carriers satisfy their obligations to provide universal services throughout their designated service areas.² While the FCC adopted its rules to apply to applicants for ETC for designation before the FCC, the FCC encouraged states to apply the FCC's analysis in determining whether to designate a carrier as an ETC³ and encouraged states to require the reporting requirements adopted by the FCC to be filled by all ETCs over which they have jurisdiction.⁴ The FCC also stated that "[w]e do not believe that different ETCs should be subject to different obligations,

¹ *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket 96-45, *Report and Order*, FCC 05-46, released March 17, 2005.

² *Id.* paragraph 5.

³ *Id.* paragraph 3.

⁴ *Id.* paragraph 4.

going forward, because of when they happened to first obtain ETC designation from the Commission or the state.”⁵

The rules propose that ETCs file annual commitments for providing telecommunications service on a timely basis, that it can remain functional in emergency situation, that it will comply with consumer protection and service quality standards, that it offers a local usage plan comparable to the plan offered by the incumbent local exchange company, and that it may be required to provide equal access to long distance carriers. The proposed rules also require the annual filing of a five-year plan demonstrating how federal high-cost universal service support will be used to improve service coverage, service quality or capacity in each wire center for which it seeks to be or is designated as an ETC and expects to receive federal universal service support.

II. Proposed Telecommunications Registration Rulemaking

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

The proposed changes impose no new or additional burdens on any regulated entity. The bond requirement is not new, and the minimum bond amounts are not new. The bond requirement is now described in the proposed rule, and the statutory exception for facilities based wireless companies is spelled out. The existing minimum bond amounts are now codified in the proposed rules.

The changes are needed because a statute enacted in 2005 substitutes a streamlined self registration process for the previous requirement to obtain a registration certificate (applicable to for resellers) or a certificate of public convenience and necessity (applicable to facilities based carriers).

⁵ Id. paragraph 20.

DONALD A. NEGAARD
JAMES E. NOSTDAHL
CAROL K. LARSON
DAVID J. HOGUE
REED A. SODERSTROM
BRENT M. OLSON
DEBRA L. HOFFARTH
SCOTT M. KNUDSVIG
ERIKA L. SLEGER
RYAN D. SANDBERG

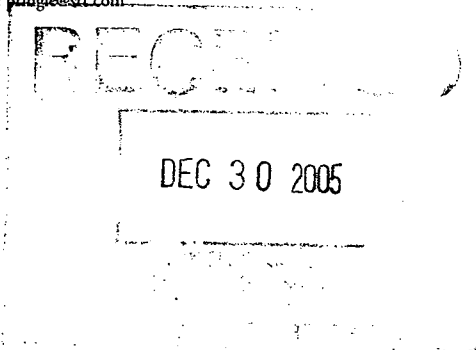
PH
LAW OFFICES OF
PRINGLE & HERIGSTAD, P.C.

2525 ELK DRIVE
POST OFFICE BOX 1000
MINOT, NORTH DAKOTA 58702
(701) 852-0381
FAX (701) 857-1361
E-mail: pringle@prc.com

OF COUNSEL
HERBERT L. MESCHKE

RETIRED
THOMAS A. WENTZ
MARK F. PURDY
JAN M. SEBBY

KENNETH G. PRINGLE
(1914-1983)
MITCHELL H. MAHONEY
(1929-1996)
ROGER O. HERIGSTAD
(1919-2003)



December 29, 2005

Illona A. Jeffcoat-Sacco, Executive Secretary
PUBLIC SERVICE COMMISSION
600 East Boulevard Avenue, Department 408
Bismarck, ND 58505-0480

**PUBLIC SERVICE COMMISSION
PUBLIC UTILITIES —TELEPHONE RULEMAKING
CASE NO. PU-05-575**

Enclosed for filing in the above-captioned matter are an original and seven copies of the comments of the Rural Telephone Company Group in regard to the proposed telecommunications registration rulemaking.

Don Negaard

jt

Enclosures

STATE OF NORTH DAKOTA
BEFORE THE PUBLIC SERVICE COMMISSION

DEC 30 2005

PUBLIC SERVICE COMMISSION
PUBLIC UTILITIES – TELEPHONE
RULEMAKING

CASE NO. PU-05-575

Proposed Telecommunications Registration Rulemaking

The Rural Telephone Company Group (hereinafter RTCG), composed of those companies set forth in Exhibit A hereto, submit the following comments on proposed Telephone Rulemaking propounded by the North Dakota Public Service Commission.¹

69-09-05-02. Discontinuance of telecommunications services. The RTCG makes no comment on this proposed change.

69-09-05-04. Rules for resale of telecommunications services. The RTCG makes no comment on the proposed change.

69-09-05-04.1. Identification of intraLATA interexchange carriers. The RTCG does not, at this time, see any need for this regulation. It creates more unnecessary burden on local exchange companies because there is no similar requirement for interstate interexchange traffic. In the business world, there is no distinction between interstate and intrastate IXC carriers, and the distinction under this rule creates more administrative burdens for the local exchange carrier.

69-09-05-05. Rules for the provision of operator services. The RTCG makes no comment on the proposed changes.

¹ The RTCG does not, by comments submitted, agree to waive any legal rights they may have, including, but not limited to, their right to later challenge any administrative rule or regulation as contrary to legislative intent or any other basis upon which administrative regulations might be challenged.

69-09-05-10. Registration – Procedure. The RTCG makes no comment on this proposed change.

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company – Procedure. The RTCG makes no comment on the proposed change.

69-09-05-12. Eligible carrier applications and advertising. The RTCG does not, at this time, see the need for the proposed ETC rules. The RTCG could be in jeopardy of losing a significant portion of their USF funds for unintentional non-compliance whereas a carrier operating in a multitude of states or jurisdictions would face a less severe penalty, in terms of a percentage of revenue lost, for a finding of non-compliance at the North Dakota level. Further, without agreeing on the necessity of the proposed rules, the RTCG offers the following comments:

a. Subpart 3b requiring companies to submit a five-year plan. In competitive situations, this would require a company to lay its business plan out in a public document. There is no confidentiality for these documents, and it would require companies to disclose confidential information to competitors or potential competitors.

b. Subpart 4: The RTCG believes its members have met the commitment to use USF funds for network installation, maintenance, and upgrades through local managers who know their local service areas and have responded to local service quality issues. They did so long before the FCC, which created a huge funding problem by allowing new carriers to access USF funding, realized a problem existed with certain carriers using USF funds for purposes other than local support. As such, the RTCG sees no need for companies who are currently certified as ETCs to comply. It is a

solution for a problem that does not exist. The RTCG does not believe there is currently a problem other than the formulas used to disburse USF funds.

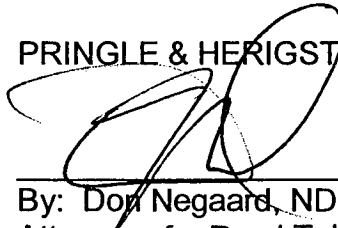
c. While there may be some need for a CMRS carrier to certify information on wire center basis, the RTCG believes a wire line carrier should be allowed to provide information required on a company-wide basis. Most of the RTCG companies do not calculate information on a wire center basis and providing this information could require costly studies to be conducted on an annual basis, all at an added cost to the end user, for most companies who do not segregate this data.

d. The RTCG believes the rules should address situations where the ETC in question is not receiving current funding. In some situations, companies designated as an ETC have not activated a business plan and being required to submit another annual report is another bookkeeping cost.

e. With no criticism intended, the RTCG also has practical questions about how the Commission will review, police, and enforce the new regulations. What procedure would the North Dakota Public Service Commission follow to enforce these regulations? What due process requirements and safeguards would there be for a company wishing to dispute a PSC finding of non-compliance? Does the PSC intend to revoke an ETC status? If so, what safeguards would then be to make sure USF funds are not lost pending a dispute process?

Dated this 29th day of December, 2005.

PRINGLE & HERIGSTAD, P.C.

A handwritten signature in black ink, appearing to be 'Don Negaard', is written over a horizontal line.

By: Don Negaard, ND Bar ID #03598
Attorneys for Rural Telephone Company
Group (RTCG)
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381
Fax (701) 857-1361
donn@srt.com

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Gas Pipeline Safety
Rulemaking**

Case No. GS-05-341

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Licensing – Grain Buyer
Rulemaking**

Case No. GE-05-594

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

**AMENDED
NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 22, 2005

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to several articles of the North Dakota Administrative Code. The hearing will be held at 1:00 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The proposed revisions to the North Dakota Administrative Code are as follows:

Gas Pipeline Safety: Case No. GS-05-341

The Gas Pipeline Safety Federal rules to be adopted by reference will amend the state pipeline safety regulations to: require gas operators to prepare and follow procedures for periodic inspections of pipeline facilities located in the Gulf of Mexico

and its inlets in waters less than 15 feet deep; codify new program requirements concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method; amend the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs; revise all references to the former Research and Special Programs Administration in 49 CFR parts 190 through 199 to reflect the creation of Pipeline and Hazardous Materials Safety Administration.

Public Utilities – Electric: Case No. PU-05-364

Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

Public Utilities – Siting: Case No. PU-05-602

Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Public Utilities – Telephone: Case No. PU-05-575

Case No. PU-05-575 consists of proposals concerning telecommunications registration, eligible carrier applications and advertising, and interconnection agreement filings.

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

Proposed changes to North Dakota Administrative Code Section 69-09-05-12 concern the application requirements for a telecommunications company seeking designation as an eligible carrier for purposes of receiving federal universal service funding, annual reporting requirements of designated eligible carriers, and the criteria to be considered by the Commission in designating an eligible carrier.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing

negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Reclamation: Case No. RC-05-591

Several changes are proposed to rules that pertain to the coal mining and reclamation regulatory program. The changes will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United State Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; adding a cross reference to another rule for information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and modifying data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. A cross reference error is also being corrected in the general requirements for roads. These proposed rule changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Licensing – Grain Buyer: Case No. GE-05-594

On October 7, 2005, the North Dakota Dry Pea and Lentil Association formally asked the Commission to consider a change to North Dakota Administrative Code Section 69-07-01-14. The North Dakota Dry Pea and Lentil Association proposes to change the existing rule to exempt a grain buyer from the licensing requirement when the grain buyer purchases dry peas, lentils or chickpeas owned by a licensed entity. The current rule exempts a grain buyer from the licensing requirement when purchasing any grain that is owned by a licensed entity and also has been substantially altered by processing or blending, or cleaned and bagged for consumption.

The Notice of Intent to Adopt and Amend Administrative Rules and an abbreviated notice were issued on November 17, 2005. Late that afternoon the North Central Bean Dealers Association filed in support of the existing proposal and formally asked the Commission to consider an additional change in the proposed rule to exempt a grain buyer from the licensing requirement when the grain buyer purchases dry edible beans owned by a licensed entity. The proposed rule itself has not been revised at this time to incorporate this request, but this amended notice is being issued to notify interested parties of the possible inclusion of dry edible beans in the exemption. The abbreviated notice was also revised prior to publication to indicate the support of the North Central Bean Dealers Association.

All of the proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes, or

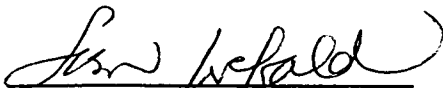
any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses, contact the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400. The proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be viewed at <http://www.psc.state.nd.us> (see Formal Actions: Notices).

Interested persons may submit written data, views, arguments, or appear in person or through counsel concerning the proposals. Written comments should be filed with Illona A. Jeffcoat-Sacco, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480.

The Commission will allow after the conclusion of the rulemaking hearing, a comment period until January 17, 2006, during which data, views, or oral arguments concerning the proposed rulemaking will be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

If individuals require any auxiliary aids or services, such as readers, signers, or braille materials, please notify, Illona A. Jeffcoat-Sacco, Executive Secretary, at least 24 hours prior to the hearing. She can be contacted at the following numbers: 701-328-2400 and Relay North Dakota TTY: 1-800-366-6888.

PUBLIC SERVICE COMMISSION


Susan E. Wefald
Commissioner


Tony Clark
President


Kevin Cramer
Commissioner

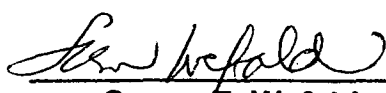
AMENDED
NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING

November 22, 2005

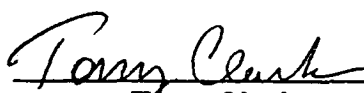
TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to gas safety, electric, telecommunications, siting, reclamation and grain buyers, at 1 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The proposed grain buyer rule change was formally requested by the North Dakota Dry Pea and Lentil Association, and is supported by the North Central Bean Dealers Association.

A copy of the proposed rule changes may be obtained by calling the Public Service Commission at 701-328-2400, TDD 800-366-6888, or view at www.psc.state.nd.us (see Formal Notices). Also, written comments may be submitted to the Public Service Commission, 600 East Boulevard Ave., Bismarck, ND 58505-0480 until 5:00 PM CST, January 17, 2006. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

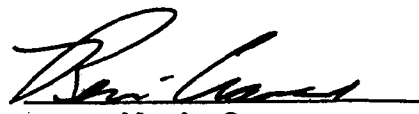
PUBLIC SERVICE COMMISSION



Susan E. Wefald
Commissioner



Tony Clark
President



Kevin Cramer
Commissioner

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Gas Pipeline Safety
Rulemaking**

Case No. GS-05-341

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Licensing – Grain Buyer
Rulemaking**

Case No. GE-05-594

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

**NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 17, 2005

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to several articles of the North Dakota Administrative Code. The hearing will be held at **1:00 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** The proposed revisions to the North Dakota Administrative Code are as follows:

Gas Pipeline Safety: Case No. GS-05-341

The Gas Pipeline Safety Federal rules to be adopted by reference will amend the state pipeline safety regulations to: require gas operators to prepare and follow procedures for periodic inspections of pipeline facilities located in the Gulf of Mexico and its inlets in waters less than 15 feet deep; codify new program requirements

concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method; amend the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs; revise all references to the former Research and Special Programs Administration in 49 CFR parts 190 through 199 to reflect the creation of Pipeline and Hazardous Materials Safety Administration.

Public Utilities – Electric: Case No. PU-05-364

Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

Public Utilities – Siting: Case No. PU-05-602

Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Public Utilities – Telephone: Case No. PU-05-575

Case No. PU-05-575 consists of proposals concerning telecommunications registration, eligible carrier applications and advertising, and interconnection agreement filings.

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

Proposed changes to North Dakota Administrative Code Section 69-09-05-12 concern the application requirements for a telecommunications company seeking designation as an eligible carrier for purposes of receiving federal universal service funding, annual reporting requirements of designated eligible carriers, and the criteria to be considered by the Commission in designating an eligible carrier.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Reclamation: Case No. RC-05-591

Several changes are proposed to rules that pertain to the coal mining and reclamation regulatory program. The changes will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United State Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; adding a cross reference to another rule for information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and modifying data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. A cross reference error is also being corrected in the general requirements for roads. These proposed rule changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Licensing – Grain Buyer: Case No. GE-05-594

On October 7, 2005, the North Dakota Dry Pea and Lentil Association formally asked the Commission to consider a change to North Dakota Administrative Code Section 69-07-01-14. The North Dakota Dry Pea and Lentil Association proposes to change the existing rule to exempt a grain buyer from the licensing requirement when the grain buyer purchases dry peas, lentils or chickpeas owned by a licensed entity. The current rule exempts a grain buyer from the licensing requirement when purchasing any grain that is owned by a licensed entity and also has been substantially altered by processing or blending, or cleaned and bagged for consumption.

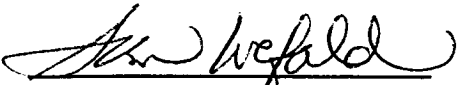
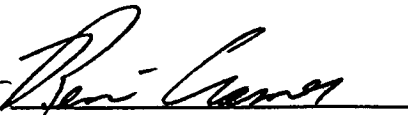
All of the proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes, or any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses, contact the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400. The proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be viewed at <http://www.psc.state.nd.us> (see Formal Actions: Notices).

Interested persons may submit written data, views, arguments, or appear in person or through counsel concerning the proposals. Written comments should be filed with Illona A. Jeffcoat-Sacco, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480.

The Commission will allow after the conclusion of the rulemaking hearing, a comment period until January 17, 2006, during which data, views, or oral arguments concerning the proposed rulemaking will be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

If individuals require any auxiliary aids or services, such as readers, signers, or braille materials, please notify, Illona A. Jeffcoat-Sacco, Executive Secretary, at least 24 hours prior to the hearing. She can be contacted at the following numbers: 701-328-2400 and Relay North Dakota TTY: 1-800-366-6888.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Tony Clark President	Kevin Cramer Commissioner

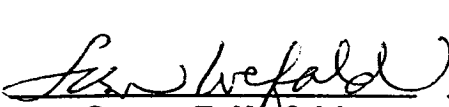
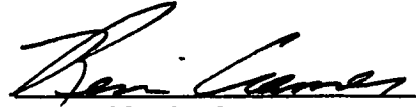
**NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 17, 2005

TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to gas safety, electric, telecommunications, siting, reclamation and grain buyers, at 1 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The proposed grain buyer rule change was formally requested by the North Dakota Dry Pea and Lentil Association.

A copy of the proposed rule changes may be obtained by calling the Public Service Commission at 701-328-2400, TDD 800-366-6888, or view at www.psc.state.nd.us (see Formal Notices). Also, written comments may be submitted to the Public Service Commission, 600 East Boulevard Ave., Bismarck, ND 58505-0480 until 5:00 PM CST, January 17, 2006. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Tony Clark President	Kevin Cramer Commissioner

Saudi
Scott

**NOTICE OF INTENT TO
ADOPT AND AMEND
ADMINISTRATIVE
RULES**

relating to gas safety, electric, telecommunications, siting, reclamation and grain buyers. The proposed grain buyer rule change was formally requested by the ND Dry Pea and Lentil Association, and is supported by the North Central Bean Dealers Association.

**Public Service
Commission**

will hold a public hearing to address proposed amendments to the N.D. Admin. Code.

**Commission Hearing
Room**

12th Floor

**State Capitol
Bismarck**

**Wed., Jan. 4, 2006
1:00 p.m. CT**

A copy of the proposed rule changes may be obtained by calling the Public Service Commission at (701) 328-2400, TDD (800) 366-6888, or view at www.psc.state.nd.us (see Formal Notices). Also, written comments may be submitted to the Public Service Commission, 600 East Boulevard Ave., Bismarck, ND 58505-0480 until 5:00 PM CST, January 17, 2006. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

Susan E. Wefald Tony Clark Kevin Cramer
Commissioner President Commissioner

13 **GS-05-341** ✓ Pages: 1

Display ad proof

by North Dakota Advertising Service, Inc.

16 **PU-05-364** Pages: 1

Display ad proof

by North Dakota Advertising Service, Inc.

11/18/2005 CC: Comm Legal Illona

11 **PU-05-575** Pages: 1

Display ad proof

13 **RC-05-591** Pages: 1

Display ad proof

by North Dakota Advertising Service, Inc.
11/18/2005

12 **GE-05-594** Pages: 1

Display ad proof

by North Dakota Advertising Service, Inc.

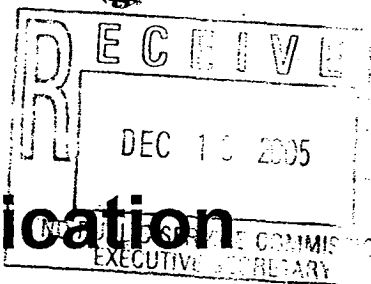
8 **PU-05-602** Pages: 1

Display ad proof

by North Dakota Advertising Service, Inc.
11/18/2005

BT8ZZT02 :

ORDINANCE



Affidavit of Publication

Colleen Park

, being duly sworn, state as follows:

I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

The newspapers listed on the exhibits published the advertisement of:

PSC, Case Safety in Brain Buyers

1 time(s) as required by law or ordinance.

All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

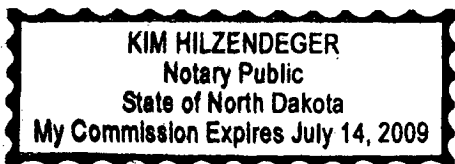
Signed: Colleen Park

Date of ND

County of Burleigh

Subscribed and sworn to before me this 15 day of December 20 05.

Kim Hilzenegger



20	PU-05-575	Pages: 1
	Affidavit of Service	
20	RC-05-591	Pages: 1
21	GE-05-594	Pages: 1
	Affidavit of Service	
16	PU-05-602	Pages: 11
	Affidavit of Service	
	by Dakota Valley Electric Cooperative, Inc.	
	12/19/2005	

GS-05-341 Pages: 1

Affidavit of Publication

PU-05-364 Pages: 1

Affidavit of Publication

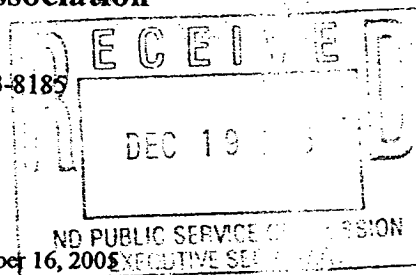
by North Dakota Advertising Service, Inc.

CC: Comm Legal Illness

North Dakota Newspaper Association

1435 Interstate Loop
Bismarck, ND 58503-0567
Ph (701) 223-6397 • Fax (701) 223-8185

INVOICE



Order 21339-05115PP0

Invoice # 64902

December 16, 2005

Advertiser: Public Service Commission

P.O.#:

Amount Due

\$1,540.00

Amount Paid

Attn: ILLONAA. JEFFCOAT-SACCO
PUBLIC SERVICE COMMISSION
600 E. BOULEVARD AVE.
STATE CAPITOL
BISMARCK, ND 58505

Voice: 701-328-4076

Please detach and return this portion with your payment

Public Service Commission Invoice # 21339-05115PP0-64902

Ad Size	Rate Type	Rate	Total	Discount (%)	Caption	Page	Run Date
COUNTY95							
Ashley Tribune (Ashley ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Beach Golden Valley News (Beach ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Bismarck Tribune (Bismarck ND)							
5.50	SPR1	10.00	55.00	0.00	Gas Safety - Grain Buy		11/25/05
Bottineau Courant (Bottineau ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/29/05
Bowbells Burke County Tribune (Bowbells ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Bowman County Pioneer (Bowman ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Cando Towner Co Record Herald (Cando ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/26/05
Carrington Foster Co Independent (Carrington ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/28/05
Carson Press (Elgin ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Cavalier Chronicle (Cavalier ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Center Republican (Washburn ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Cooperstown Griggs Co. Sentinel-Courier (Cooperstown ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Crosby The Journal (Crosby ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Devils Lake Daily Journal (Devils Lake ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Dickinson Press (Dickinson ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Elgin Grant County News (Elgin ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05

Rate	Total	Discount (%)	Caption	Page	Run Date
COUNTY95					
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
10.00	55.00	0.00	Gas Safety - Grain Buy	11/28/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
10.00	55.00	0.00	Gas Safety - Grain Buy	11/26/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/26/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/29/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/26/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/26/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/26/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/24/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	

Rate Type	Rate	Total	Discount (%)	Caption	Page	Run Date
COUNTY95						
and The Herald (New England ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
Rockford Transcript (New Rockford ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
Rolla Turtle Mountain Star (Rolla ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
Rugby Pierce County Tribune (Rugby ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/26/05	
Stanley Mountrail Co Promoter (Stanley ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Steele Ozone-Press (Steele ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Towner Mouse River Journal (Towner ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Valley City Times-Record (Valley City ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
Wahpeton Daily News (Wahpeton ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
Watford City McKenzie Co Farmer (Watford City ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Williston Herald (Williston ND)	5.50 SPR1 5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	

Gross Advertising	1,540.00	Total Misc	0.00	Amount Paid	0.00
Agency Discount		Tax	0.00	Adjustments	0.00
Other Discount	0.00	Total Billed	1,540.00	Payment Date	
Service Charge	0.00	Unbilled	0.00	Balance Due	1,540.00

19 GS-05-341 Pages: 1

24 PU-05-364 Pages: 1

20 PU-05-575 Pages: 1

20 RC-05-591 Pages: 1

21 GE-05-594 Pages: 1

Affidavit of Service

16 PU-05-602 Pages: 11

Affidavit of Service

by Dakota Valley Electric Cooperative, Inc.
12/19/2005

s Santa Claus
will also be a
nd treats for
Kemmet's
litter's Store.
4, 1975
stage rates
master. First
Rate-13
e first ounce
ts for each
ounce. Post
rts, air mail-17
ie first ounce
its for each
ounce up to 10

rs. David
Ashley will be a
the cadette girl
of Ashley, it
this

a seventh
ugh, senior high
in joining
ntact her or
nabel.

Motor is proud
ice that Darrell
and Dennis
ave joined their
partment. Both
good, experi-
chanics.

9, 1995
On June 22 ear-
ear that a 15
aze damaged
theatre, the
audromat and
Daycare, all
y Jeff and Darcie
of Ashley. A free
fit breakfast for

is being
ay, Dec. 3
a.m. to 2 p.m. at
ay Legion Hall to
e funds to offset
osses the
as endured that
covered by
The breakfast
by the
ost No.
amount
by the
d by

The thirty-day public comment period for the draft permit will begin December 2, 2005 and end on January 2, 2006. Public comments should be directed to Terry L. O'Clair, Director, Air Quality Division, 1200 Missouri Avenue, Room 304, Box 5520, Bismarck, North Dakota 58506-5520. All comments received will be considered in the final determination concerning issuance of the Title V Permit to Operate. A public hearing regarding issuance of the Title V Permit to Operate will be held if a significant degree of public interest exists as determined by the Department. Requests for a public hearing must be addressed, in writing, to the Department at the above-mentioned address before the end of the public comment period. The permit application, statement of basis and draft Title V Permit to Operate are available for inspection at the above address and at the McIntosh County Auditor's office in Ashley, North Dakota. A copy of the above-mentioned documents may be obtained by writing the aforementioned address or contacting Mr. Gary Helbling of the Department at (701) 328-5188 or email to gheblin@state.nd.us. Dated this 21st day of November 2005.
Terry L. O'Clair, P.E.
Director, Air Quality Division

NOTICE OF MCINTOSH COUNTY COMMISSION MEETING

The regular monthly meeting of the McIntosh County Commissioners will be Tues., December 6, 2005, at 9 a.m. in the commission room at the courthouse. Also the Water Resource Board will meet on Tues., December 6, 2005 at 9 a.m. in the courthouse. The Disaster Emergency Manager, DeLoris Rudolph, will have the Tier II chemical facility reports available for public review from 9 a.m. until 10 a.m. in the auditor's office.

got his limit again. Again he had dropped two with one shot from the 20 gauge Browning he had gone to in concession to the years. "He just couldn't miss with that gun," Tim says. He hadn't missed in getting his limit. His dog, Cutty, a 13-year-old Chesapeake Bay retriever, performed like a pup. She retrieved the last bird of the day. "He must have said it

NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES

relating to gas safety, electric, telecommunications, siting, reclamation and grain buyers. The proposed grain buyer rule change was formally requested by the ND Dry Pea and Lentil Association, and is supported by the North Central Bean Dealers Association.

Public Service Commission

will hold a public hearing to address proposed amendments to the N.D. Admin. Code.

Commission Hearing Room

12th Floor
State Capitol
Bismarck

Wed., Jan. 4, 2006
1:00 p.m. CT

A copy of the proposed rule changes may be obtained by calling the Public Service Commission at (701) 328-2400, TDD (800) 366-8888, or view at www.psc.state.nd.us (see Formal Notices). Also, written comments may be submitted to the Public Service Commission, 600 East Boulevard Ave., Bismarck, ND 58505-0480 until 5:00 PM CST, January 17, 2006. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

Susan E. Wefald
Commissioner

Tony Clark
President

Kevin Cramer
Commissioner

Then he composed
"That was typical of Father," Tim says, smiling, tears welling, "shaking a guy's hand, telling him what a good dog he had." CPR started Tommy breathing again and in those frantic moments Cutty stood over him and barked. "Get up goddam it," Tim translates.

At the hospital, Dr. Mattson told Tim, "He might be able to hear you."

"I love you, Dad," Tim said to his father as he squeezed his hand. And in his darkness, Tommy heard. "He squeezed back... with his trigger finger," Tim says, choking back the tears.

It was his last signal to the world, but his heart beat on. "C'mon Dad, give it up," Tim implored as the days dragged on. "Goddam Dad, give it up!"

After Orma and Linda, Tim's sister, had arrived to say their goodbyes, the oxygen was turned off. And then, and only then, did that great heart stop beating. Now Tim continues the hunt but "I don't attack it with the same intensity. It's not that important for me to shoot anything." For his elk hunt in Wyoming, ten days removed from the funeral, Tim loaded up his father's Remington 30-06, the one with open sights. Tommy didn't use a scope and this year neither will Tim. Tim will be back for pheasant season in Hettinger next year. "Oh yeah. But I don't think I could do opening day... Too tough." He shakes his head slowly. "Too many memories..."

— 1994

Bender's mother and father in law in response to Tony's incredibly funny recent column exposing them as Williams and Ree groupies. They cannot take a joke. They gave Tony bad water and and burnt toast on Thanksgiving. Really.

Dear Tony,

Your column does insult us, we didn't think our son-in-law would offend us like that. We have never driven over 290 miles to see Williams and Ree. On our cruise to Cozumel they just happened to also be on the ship.

We are not geriatric groupies, in fact groupies are usually teenage teeny boppers. If you want to belittle us we will tell it like it is (Ashley Tribune's motto.)

Every town or city you have lived in or visited you have caused great loss, hardship, suffering. Ashley was glad to see you move many years ago but you were let back in when some residents had forgotten about your younger escapades and others thought that you had changed. Were they wrong!

Since you have returned, school board members get grouchy, police officials stay about 2 months and hunters are antagonized.

Ashley has a celebration everytime you go on vacation, you spent some time in Frederick, the law stated you could stay until you finished high school, then the town gave you a one way bus ticket to western South Dakota.

Frederick has been a nice town to live in ever since in spite of some Republicans living there.

You landed a radio job in South Carolina where after a hurricane devastated the town, they fired you.

and the Exxon Valdez went aground and spilled millions of gallons of oil to spread havoc among wildlife and Alaska's beaches.

You moved to Sturgis, they wanted you out of there so bad they had a tar and feather Tony Bender Day.

When you lived in Hettinger, they had a record snowfall and ice storm that started there and covered all of eastern North Dakota and western Minnesota.

You visited Mexico one time now the United States is talking about putting a fence between the countries, not to keep illegal aliens out as you might read in the press, but just in case you go to Mexico again the fence will go up very quick.

You visited New York the week of Nov. 11-18. Let us all pray for New York.

Ashley citizens wanted you to visit us each month but we restricted you to three times a year and when you do come, we keep you locked up in an upstairs bedroom and only let you out one time a day for pumpkin bars.

After you disparaged us one time a year and will only be let out for bread and water.

Yes, we are mild Viking fans, we do not want lap dances from Fred Smoot but we might go on a cruise with the team. Poor Fred, you mention him in your "That's Life" and he suffers a broken collar bone and may be out for the season. Thanks Tony!!!

Now, you can get rid of Tice. Tony can you write something about Tice?

No more pumpkin bars for you for a long time.

Gary and Marilyn Lovgren
Verona, ND

11/30 Ashley



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Ilona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

22 November 2005

Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505-0360

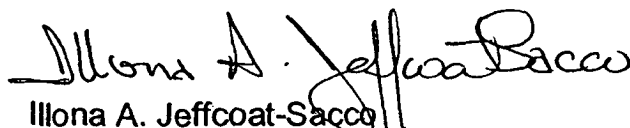
Re: Amended Notice of Intent to Adopt and Amend Administrative Rules
Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591,
GE-05-594 and PU-05-602

Dear Mr. Walstad:

Enclosed is an Amended Notice of Intent to Adopt and Amend Administrative Rules required by N.D.C.C. § 28-32-10(1), along with an amended abbreviated Notice of Hearing. The proposed rule changes were previously filed with your office on November 17, 2005.

If you have any questions, please contact us. Thank you.

Sincerely,


Ilona A. Jeffcoat-Sacco
Executive Secretary

Enclosure

Received in the office of Legislative Council this 22 day of November 2005.

By: Della Schick



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

NOV 17 2005

17 November 2005

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

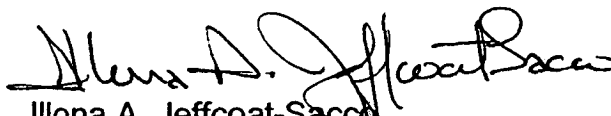
Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505-0360

Re: Notice of Intent to Adopt and Amend Administrative Rules
Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591,
GE-05-594 and PU-05-602

Dear Mr. Walstad:

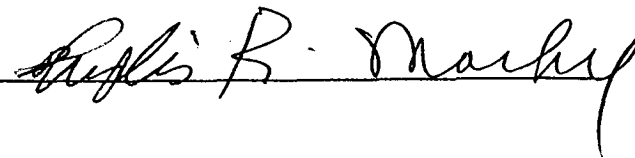
The Notice of Intent to Adopt and Amend Administrative Rules required by N.D.C.C. § 28-32-10(1), along with an abbreviated Notice of Hearing and a copy of the proposed rule changes are enclosed.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosure

Received in the office of Legislative Council this _____ day of November 2005.

By: 

AMENDED PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.
3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.
4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.
5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates.

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
9. Renewable energy facility – A facility generating electricity from one or more generating units that exclusively rely on an energy source or fuel included in North Dakota Century Code Section 49-02-25.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to

participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator. A renewable energy facility with more than one generating unit may be metered with a single meter.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;
4. Facilitate private trading of renewable energy certificates;

5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.
3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a designated representative must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.
2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with applicable law and rules.

4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.

5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

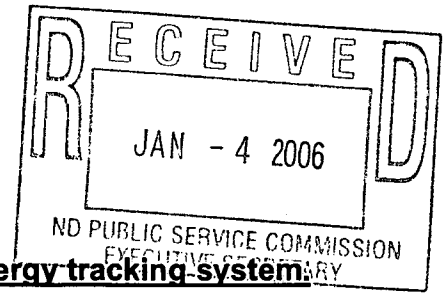
General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

Public Service Commission
Public Utilities – Electric
Rulemaking

Case No. PU-05-364

PROPOSED RULES



69-09-08 Renewable electricity and recycled energy tracking system

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

- 1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must**

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.

3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.

4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.

5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.

6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates ~~by a program participant.~~



7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.

8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.

9. Renewable energy facility — A facility generating electricity that exclusively relies on an energy source or fuel included in North Dakota Century Code Section 49-02-25.

~~10. Renewable energy resource — A resource that generates electricity derived from a renewable energy facility.~~



General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;

4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.

3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, ^{*a designated representative*} ~~a power generator~~ must complete the registration process described in this section. ✓

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.

2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative
of the renewable energy resource.

3. The commission or its program administrator may make on-site visits
to any registered unit of a renewable energy resource and may revoke
the registration of any unit not in compliance with the law and rules.

*identify or
narrow the
reference*

4. A renewable energy facility may not be awarded renewable energy
certificates under this program if it is not registered.

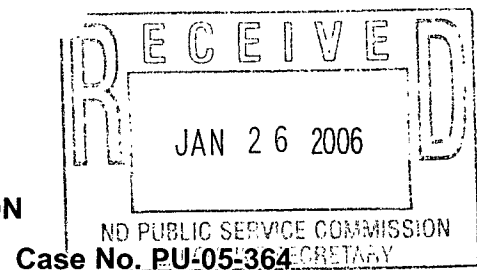
5. Any disputes will be resolved using dispute resolution procedures
established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Public Utilities - Electric
Rulemaking



STAFF MEMORANDUM

January 26, 2006

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

SUMMARY OF COMMENTS:

Montana-Dakota Utilities Co.

During the Hearing on January 4, 2006, MDU provided a handout with several recommended minor clarifying language changes. MDU's recommended changes were self-explanatory in nature and staff recommends they be incorporated into the proposed rules. There was one change recommended to proposed section 69-09-08-07 that may need further discussion to determine language changes to identify or narrow which law and rules generating units must comply with to avoid deregistration.

Missouri River Energy Services:

On January 17 MRES filed written comments recommending two changes:

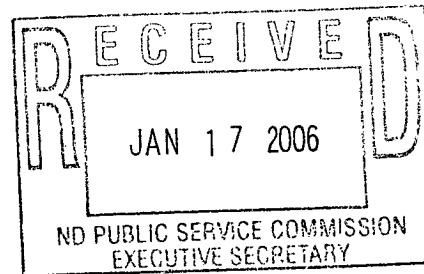
1. The definition of a Renewable Energy Credit in subsection 69-09-08-02(8) should specify the amount of energy equal to a credit. The proposed definition states:
8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
2. The proposed rules should allow facilities with multiple generating units to be master metered to make reporting requirements easier. For example, 69-09-08-04 could be expanded to accommodate master metering.

JRL

January 16, 2006

Via Overnight Mail

Illona A. Jeffcoat-Sacco
Executive Secretary
Public Service Commission
600 East Boulevard Avenue
Department 408
Bismarck ND 58505-0480

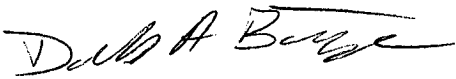


Dear Ms. Jeffcoat-Sacco:

Please find enclosed for filing the Comments of Missouri River Energy Services (MRES) regarding the rulemaking docket PU-05-364. MRES appreciates the opportunity to comment on this matter.

If there are any questions or concerns, please feel free to contact me at 800.678.4042.
Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Deborah Birgen".

Deborah Birgen
Legislative Associate

enclosure

c: Thomas F. Kelsch

BEFORE THE NORTH DAKOTA PUBLIC SERVICE COMMISSION

In Re: Proposed Rules 69-69-08
Renewable Electricity and Recycled
Energy Tracking System

CASE NO. PU-05-364

COMMENTS OF MISSOURI
RIVER ENERGY SERVICES

COMES NOW, Missouri River Energy Services (MRES) and hereby submits the following comments in response to the Amended Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing issued on November 22, 2005.

I. PROPOSED RULE 69-09-08-02(8) SHOULD DEFINE THE AMOUNT OF ENERGY EQUAL TO A CREDIT

Proposed rule 69-09-08-02(8) does appropriately define a renewable energy credit. However, this section does not define the amount of generation that is equal to a single renewable energy credit. For example, one renewable energy credit could be assigned to one megawatt-hour (MWh) of renewable energy generated. By clearly defining what constitutes a credit, there can be no dispute or misinterpretation of the rules by the Program Administrator, by the utilities, nor by independent renewable energy producers. Therefore, MRES would ask that the Public Service Commission (Commission) consider revising the proposed rules to include a clear definition as to what amount of generation or energy from a renewable facility would constitute a renewable energy credit.

II. PROPOSED RULES SHOULD ADDRESS MULTIPLE UNITS

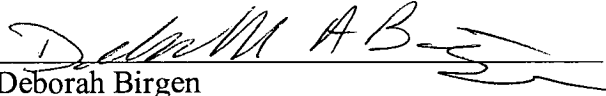
While proposed rules 69-09-08-02 and 69-09-08-04 define renewable energy facilities and the related requirements to participate in the tracking program, the rules do not address renewable energy facilities consisting of more than one generating unit. MRES would ask the Commission to consider addressing multiple units, in particular, addressing the metering of the output. For example, 69-09-08-04 could be expanded to state that if an energy facility consists of more than one generating unit, the output can be master metered. Reporting generation from each individual turbine would be time consuming. Master metering is a more efficient method for the applicant plus it would reduce the amount of database administration for the administrator.

III. CONCLUSIONS

MRES appreciates the opportunity to file its comments with the Commission. The submission of these comments does not preclude any MRES members from filing their own comments.

Respectfully submitted,

Missouri River Energy Services
January 16, 2006

By: 
Deborah Birgen

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
Public Utilities – Electric
Rulemaking

Case No. PU-05-364

STAFF TESTIMONY
January 4, 2006

My name is Jerry Lein. I am a Public Utility Analyst in the Public Utility Division of the Public Service Commission. The purpose of my testimony is to explain changes proposed to the Commission's administrative rules to establish a new Chapter 69-09-08 of the North Dakota Administrative Code pertaining to the establishment of a renewable electricity and recycled energy tracking system.

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02-24 thru 49-02-26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

The proposed rules provide that the Commission may designate a tracking system administrator. The proposed rules set forth the responsibilities of the designated administrator and conditions under which the administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program.

HB 1314 was enacted with recognition that a Midwest Renewable Energy Tracking System (M-RETS) is being developed in our region. The goal is for MRETS to be operational by year-end 2006. Voluntary participation in MRETS is expected to be substantial across several Midwestern states. It is expected that a new regional market will emerge for the trading of renewable energy certificates that can be used to demonstrate the "use of green power," regardless whether physical delivery of renewable energy actually occurs. For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to a renewable energy objective that 10% of electricity used in Minnesota be from renewable sources by 2015. The proposed rules would enable Minnesota utilities to meet their Minnesota renewable energy objective with renewable energy certificates from North Dakota sources.

That concludes my testimony in Case No. PU-05-364. Thank You.

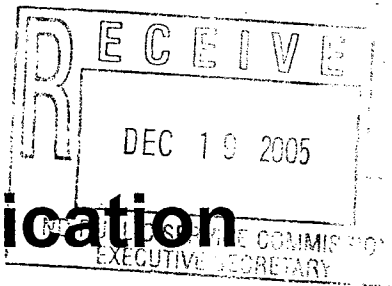


ATTENDANCE SHEET
PUBLIC SERVICE COMMISSION
ADMINISTRATION DIVISION
 SFN 19730 (1-94)

Date	January 4, 2006
Case Number	GS-05-341, PU-05-364, PU-05-575, RC-05-591, GE-05-594 PU-05-602

Attendance At	Administrative Rules Hearing
Location	Public Service Commission, Commission Hearing Room, Bismarck, ND

NAME	ADDRESS	REPRESENTING
Don Ball		MDU
DUANE STEEN		MDU
JIM MELCHIOR		COTEAU
DAVID CROTHERS		ND Assoc of Tel Co-ops
Ilona Jeffcoat Bicus		PSC
Rick F. Hbrandt		PSC
Sue Richter		PSC
Eric Bartsch	1710 Burnt Boat Drive Bismarck ND 58503	ND Dry Pea and Lentil Assoc
Mick GROSS	Hazen	WRT
Justin Milam		Quest
Kent Blickensderfer		Quest
JOAN C PETERSON	200 South 5th St. #2200 Minneapolis MN 55402	Quest
Keith Larson		DeKorte Contract
Don Negaard	Minot	NDATC/RTCG
Dave Schouweiler	Center Mine	BOI COAC Ltd.
Alan G Moch		
	21 GS-05-341	Pages: 1
	25 PU-05-364 ✓	Pages: 1
	33 PU-05-575	Pages: 1
	21 RC-05-591	Pages: 1
	25 GE-05-594	Pages: 1
	17 PU-05-602	Pages: 1
	Hearing Attendance Sheet	
	by Public Service Commission	
	01/04/2006	



Affidavit of Publication

Colleen Park

, being duly sworn, state as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

2. The newspapers listed on the exhibits published the advertisement of:

PSC, Case Safety in Brain Buyers

1 time(s) as required by law or ordinance.

3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

Signed:

Colleen Park

State of

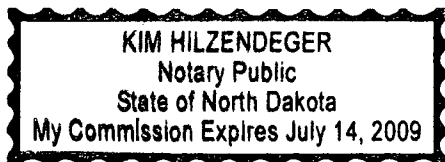
ND

County of

Burleigh

Subscribed and sworn to before me this 15 day of December 20 05.

Kim Hilzendeger



19 GS-05-341

Pages: 1

Affidavit of Publication

✓ 24 PU-05-364

Pages: 1

Affidavit of Publication

by North Dakota Advertising Service, Inc.

12/19/2005

CC: Comm Legal Illona . .

20 PU-05-575

Pages: 1

Affidavit of Service

20 RC-05-591

Pages: 1

21 GE-05-594

Pages: 1

Affidavit of Service

16 PU-05-602

Pages: 11

Affidavit of Service

by Dakota Valley Electric Cooperative, Inc.

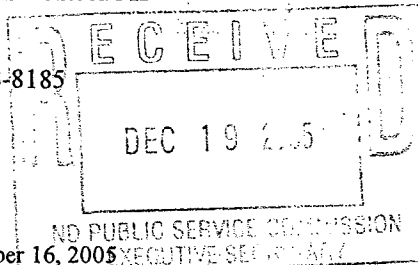
12/19/2005



North Dakota Newspaper Association

1435 Interstate Loop
Bismarck, ND 58503-0567
Ph (701) 223-6397 • Fax (701) 223-8185

INVOICE



Order **21339-05115PP0**

Invoice # **64902**

December 16, 2005

Attn: **ILLONAA. JEFFCOAT-SACCO**
PUBLIC SERVICE COMMISSION
600 E. BOULEVARD AVE.
STATE CAPITOL
BISMARCK, ND 58505

Voice: 701-328-4076

Advertiser: **Public Service Commission**

P.O.#:

Amount Due

\$1,540.00

Amount Paid

Please detach and return this portion with your payment

Public Service Commission Invoice # 21339-05115PP0-64902

Ad Size	Rate Type	Rate	Total	Discount	(%)	Caption	Page	Run Date
COUNTY95								
Ashley Tribune (Ashley ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/23/05
Beach Golden Valley News (Beach ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/24/05
Bismarck Tribune (Bismarck ND)								
5.50	SPR1	10.00	55.00	0.00		Gas Safety - Grain Buy		11/25/05
Bottineau Courant (Bottineau ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/29/05
Bowbells Burke County Tribune (Bowbells ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/23/05
Bowman County Pioneer (Bowman ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/25/05
Cando Towner Co Record Herald (Cando ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/26/05
Carrington Foster Co Independent (Carrington ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/28/05
Carson Press (Elgin ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/23/05
Cavalier Chronicle (Cavalier ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/23/05
Center Republican (Washburn ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/24/05
Cooperstown Griggs Co. Sentinel-Courier (Cooperstown ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/25/05
Crosby The Journal (Crosby ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/23/05
Devils Lake Daily Journal (Devils Lake ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/25/05
Dickinson Press (Dickinson ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/25/05
Elgin Grant County News (Elgin ND)								
5.50	SPR1	5.00	27.50	0.00		Gas Safety - Grain Buy		11/23/05

<i>Ad Size</i>	<i>Rate Type</i>	<i>Rate</i>	<i>Total</i>	<i>Discount (%)</i>	<i>Caption</i>	<i>Page</i>	<i>Run Date</i>
COUNTY95							
Ellendale Dickey Co Leader (Ellendale ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Fargo, The Forum (Fargo ND)							
5.50	SPR1	10.00	55.00	0.00	Gas Safety - Grain Buy		11/28/05
Finley Steele County Press (Finley ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Garrison McLean Co Independent (Garrison ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Grafton * Walsh County Record (Grafton ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Grand Forks Herald (Grand Forks ND)							
5.50	SPR1	10.00	55.00	0.00	Gas Safety - Grain Buy		11/26/05
Harvey The Herald-Press (Harvey ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/26/05
Hazen Star (Hazen ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Hettinger Adams Co Record (Hettinger ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/29/05
Jamestown Sun (Jamestown ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/26/05
Killdeer Dunn County Herald (Killdeer ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Lakota American (Lakota ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
LaMoure Chronicle (LaMoure ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Langdon Cavalier Co Republican (Langdon ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/28/05
Linton Emmons County Record (Linton ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Lisbon Ransom County Gazette (Lisbon ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/28/05
Mandan News (Mandan ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Mayville * Traill County Tribune (Mayville ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/26/05
McClusky Gazette (McClusky ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Medora Billings County Pioneer (Beach ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/24/05
Milnor The Teller (Milnor ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/25/05
Minnewaukan Benson Co Farmers Press (Minnewaukan ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Minot Daily News (Minot ND)							
5.50	SPR1	10.00	55.00	0.00	Gas Safety - Grain Buy		11/25/05
Mohall Renville County Farmer (Mohall ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05
Napoleon Homestead (Napoleon ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy		11/23/05

Ad Size	Rate Type	Rate	Total	Discount (%)	Caption	Page	Run Date

COUNTY95

New England The Herald (New England ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
New Rockford Transcript (New Rockford ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
Rolla Turtle Mountain Star (Rolla ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
Rugby Pierce County Tribune (Rugby ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/26/05	
Stanley Mountrail Co Promoter (Stanley ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Steele Ozone-Press (Steele ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Towner Mouse River Journal (Towner ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Valley City Times-Record (Valley City ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/28/05	
Wahpeton Daily News (Wahpeton ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	
Watford City McKenzie Co Farmer (Watford City ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/23/05	
Williston Herald (Williston ND)							
5.50	SPR1	5.00	27.50	0.00	Gas Safety - Grain Buy	11/25/05	

Gross Advertising	1,540.00	Total Misc	0.00	Amount Paid	0.00
Agency Discount		Tax	0.00	Adjustments	0.00
Other Discount	0.00	Total Billed	1,540.00	Payment Date	
Service Charge	0.00	Unbilled	0.00	Balance Due	1,540.00

19 GS-05-341 Pages: 1

24 PU-05-364 Pages: 1

20 PU-05-575 Pages: 1

20 RC-05-591 Pages: 1

21 GE-05-594 Pages: 1

Affidavit of Service

16 PU-05-602 Pages: 11

Affidavit of Service

by Dakota Valley Electric Cooperative, Inc.
12/19/2005

**State of North Dakota
Public service Commission**

**Public Service Commission
Public Utilities
Rulemaking**

Case No. PU-05-364

**Regulatory Analysis, Takings Assessment and Small Entities Analysis
November 21, 2005**

2005 House Bill 1314, now codified as North Dakota Century Code Sections 49-02- 24 thru 26, authorizes that the Commission may by rule establish or participate in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. The purpose of this rulemaking is to establish rules for participation in a renewable energy tracking system.

A tracking system administrator would issue renewable energy certificates to certify renewable energy production by facilities registered in the program. It is expected that a new regional market will emerge for trading of the certificates, which will be used to demonstrate the use of "green power." For example, Minnesota will require utilities to submit renewable energy certificates demonstrating commitment to an objective that 10% of electricity be from renewable sources by 2015.

North Dakota Century Code Section 28-32-08(2) sets forth the requirements of a regulatory analysis.

Subsection a states: "A description of the classes of persons who will likely be affected by the proposed rule, including classes that will bear the cost of the proposed rule and classes that will benefit from the proposed rule."

Analysis: The classes affected will be producers of renewable and recycled waste energy that choose to participate in the tracking program and their customers that purchase renewable energy certificates. Customers in North Dakota will not be required to purchase the certificates, but may if they wish to demonstrate use of such energy.

Subsection b states: "A description of the probable impact, including the economic impact of the proposed rule."

Analysis: Renewable energy certificates are expected to have monetary value, with some estimates now ranging around \$2.00 per MWH. There is a Midwest Renewable Energy Tracking System (M-RETS) being developed in our region. Voluntary participation is expected to be substantial across several Midwestern states. M-RETS expects an initial annual operating budget of approximately \$300,000 or less. M-RETS anticipates funding entirely from user fees, but has not yet determined a



rate structure. For this analysis it is assumed that the MRETS rate structure will be a flat fee paid by the producer for each MWH tracked:

Assume: Total initial generating capacity enrolled in program = 3,000 MW with an average generating capacity factor of 25%. (Generators produce at rated output an average of 25% of the time)

Then: Total annual MWH tracked would be:
 $3,000 \text{ MW} \times .25 \times 365 \text{ days/year} \times 24 \text{ hours/day}$
 $= 6,570,000 \text{ MWH per year.}$

The resulting administrative cost to program participants would be:
 $\$300,000 / 6,570,000 = \$0.0457$ or 4.6 cents per MWH.

Subtracting these administrative costs from the expected value of the renewable energy certificates yields:
 $\$2.00 - \$0.046 = \$1.934$ per MWH gain for participating producers.

Thus a 20 MW wind farm with an average 25% capacity factor that chooses to participate in the tracking program could experience additional revenue of:
 $20 \text{ MW} \times .25 \times 24 \times 365 \times \$1.934 = \$84,709.20$ per year.

For ND customers choosing to purchase renewable energy certificates, the impact would be the market price of the certificates, estimated in this analysis to be \$2.00 per MWH. There would be no impact to ND customers choosing not to purchase renewable energy certificates.

Subsection c states: "The estimated cost to the agency of implementation and enforcement of the proposed rule and any anticipated effect on state revenues."

Analysis: There is no cost to the agency or the state expected. See fiscal note for House Bill 1314.

Subsection d states: "A description of any alternative methods of achieving the purpose of the proposed rule that were seriously considered by the agency and the reason why the methods were rejected in favor of the proposed rule."

Analysis: No alternative has been considered.

A takings assessment under North Dakota Century Code Section 28-32-09 is not required because the proposed rules will not limit the use of private real property.

An economic impact analysis under North Dakota Century Code Section 28-32-08.1 is not required because the proposed rules will not have an adverse effect on small entities.

JRL

APPROVED

DATE: 11-30-05
KMF

MOTION

November 30, 2005

**Public Service Commission
Gas Safety
Rulemaking**

Case No. GS-05-341

**Public Service Commission
Public Utilities – Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Licensing – Grain Buyer
Rulemaking**

Case No. GE-05-594

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

I move the Commission acknowledge the issuance of an Amended Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing, and the amended abbreviated Notice of Hearing, in Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591, GE-05-594 and PU-05-602.

18 GS-05-341 Pages: 1

Motion to acknowledge issuance of Amended
Notice
by Public Service Commission
11/30/2005

22 PU-05-364 ✓ Pages: 1

Motion to acknowledge issuance of Amended
Notice
by Public Service Commission
11/30/2005 CC: Comm Legal Illona . .

18 PU-05-575 Pages: 1

Motion to acknowledge issuance of Amended
Notice
by Public Service Commission
11/30/2005 CC: Comm Legal Illona . .

19 RC-05-591 Pages: 1

Motion to acknowledge issuance of Amended
Notice
by Public Service Commission

17 GE-05-594 Pages: 1

Motion to acknowledge issuance of Amended
Notice
by Public Service Commission

15 PU-05-602 Pages: 1

Motion to acknowledge issuance of Amended
Notice
by Public Service Commission
11/30/2005

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

AFFIDAVIT OF SERVICE BY ORDINARY MAIL AND E-MAIL

STATE OF NORTH DAKOTA
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **22nd day of November, 2005**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

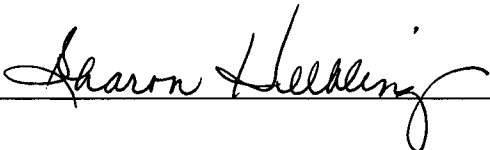
**Amended Notice of Intent to Amend Administrative Rules
and Notice of Public Hearing**

The envelopes and e-mails were addressed as follows:

See Attached List

Each address shown is the respective addressee's last reasonably ascertainable post office address.

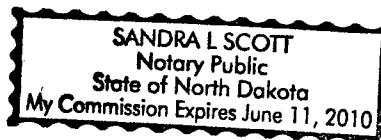
Subscribed and sworn to before me
this **22nd day of November, 2005**.





Notary Public

SEAL



akemp@tminc.com
Ann-Marie Kemp

nanso@cableone.net
James M Nessa

3500 8th Ave S #201
Moorhead MN 56560

shandy@kwh.com
Scott Handy
Cass County Electric Coop
4100 32nd Ave SW
Fargo ND 58104

bschmidt@kwh.com
Brad Schmidt
Cass County Electric Coop
4100 32nd Ave SW
Fargo ND 58104

Mark.Hanson@grandforks.af.mil
Mark Hanson
Grand Forks Air Force Base
319 ARW/JA
460 Steen Blvd Ste 201
Grand Forks ND 58205

arsmith@invisimax.com

KAOC, KAUI, KYTZ FM and KXPO AM radio
856 W 12 St
Grafton ND 58237

bdenver@btinet.net
News Director
KBMR AM-KQDY FM
3500 E Rosser Ave
Bismarck ND 58501

gary.rogers@kbmwam.com
KBMW-AM
PO Box 1115
Wahpeton ND 58074-1115

rickstensby@clearchannel.com
KCJB, KRRZ AM and KMXA, KYYZ, KIZZ
PO Box 10
Minot ND 58702-0010

kdakam@daktel.com
News Director
KDAK AM
Box 50
Carrington ND 58421-0050

kdix@kdix.net
News Director
KDLX AM Radio
119 2nd Ave W
Dickinson ND 58601-5115

kzzynews@stellarnet.com
News Director
KDLR AM and KDVL, KQZZ FM Radio
Box 190
Devils Lake ND 58301-0190

dthompson@prairiepublic.org
News Director
KDSU KCND KPRJ KMPR KPPR KDPR
1814 North 15th Street
Bismarck ND 58501

richard.mattern@ndsu.nodak.edu
Rich Mattern
KDSU-FM Radio
PO Box 5347
Fargo ND 58105-5347

earlg@nccray.net
News Director
KEYZ AM, KHTC FM and KYYZ FM Radio
PO Box 2048
Williston ND 58802-2048

dickvoight@clearchannel.com
KFGO
Box 2966
Fargo ND 58102-2966

patmclean@clearchannel.com

KKXL AM and KKXL, KQHT, KJKJ, KSNR
PO Box 13598
Grand Forks ND 58208-3598

sfrank@kmot.com

KMOT TV
Box 1120
Minot ND 58702-1120

news@ksjbam.com
News Director
KSJB AM and KSJZ FM Radio
PO Box 5180
Jamestown ND 58402-5180

kumv@kumv.com

KUMV-TV
PO Box 1287
Williston ND 58802-1287

mail@kvlytv11.com

KXJB-TV 4
4302 13th Ave S
Fargo ND 58103-3313

treiten@kxnet.com

KXMB TV
Box 1617
Bismarck ND 58502-1617

cwalz@kxnet.com

KXMD-TV
PO Box 790
Williston ND 58802-0790

harking@oz.net
Harriet King
McGraw-Hill/Platts

sales@kmavradio.com

KMAV AM/FM RADIO
PO Box 216
Mayville ND 58257-0216

kndk1080@utma.com

KNDK-AM
HCR 5 Box 9
Langdon ND 58249

ktgo@nccray.com

KTGO-AM
Box 457
Tioga ND 58852-0457

bigdog@daktel.com

KXGT and KYNV FM, KQDJ AM Radio
203 1st Ave S
PO Box 1170
Jamestown ND 58402-1170

kxma@kxnet.com
News Director
KXMA-TV
Drawer B
Dickinson ND 58601

jolson@kxmcnews.com

KXMC TV
Box 1686
Minot ND 58701-1686

kzzj@kzzj.com

KZZJ-AM
230 Highway 2 SE
Rugby ND 58368-2446

jason_gustafson@bobcat.com
Jason Gustafson
Melroe Company
P O Box 128
Gwinner ND 58040-0128

craig_scott@bobcat.com
Craig Scott
Melroe Company
P O Box 128
Gwinner ND 58040-0128

don.ball@mdu.com
Don Ball
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

hfuglest@ndarec.com
Harlan Fugelsten
ND Assn Rural Electric Coops
PO Box 727
Mandan ND 58554-0727

kchristianson@state.nd.us
Kim Christianson
ND Department of Commerce

pbeithon@otpc.com
Pete Beithon
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

dellefson@otpc.com
Dennis Ellefson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

llaugtug@otpc.com
Loren Laugtug
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

dross@otpc.com
David Ross
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

mbring@minnkota.com
Mark Bring
Minnkota Power Cooperative, Inc
Box 13200
Grand Forks ND 58208-3200

karen.collins@mdu.com; tamie.aberle@mdu.com
Karen Collins
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

jiszler@state.nd.us
Jocie Iszler
ND Corn Utilization Council
1325 23rd ST S
Fargo ND 58103

rdenault@otpc.com
Russ Denault
Otter Tail Power Company
P O Box 400
Devils Lake ND 58301

bbrutlag@otpc.com
Bernadeen Brutlag
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

tgreene@otpc.com
Tim Greene
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

rmontonye@otpc.com
Ron Montoyne
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

sschultz@otpc.com
Steve Schultz
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

dweiby@otpc.com
Dan Weiby
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

gcoyne@otpc.com
Geri Coyne
Otter Tail Power Company
PO Box 410
Oakes ND 58474-0410

wpp@pearce-durick.com
William Pearce
Pearce & Durick Attorneys
PO Box 400
Bismarck ND 58502-0400

lakeleader@aol.com
John M Wylie II
Platts Electric Power Publications
109 S Maple St
Oologah OK 74053-1175

mdickerson@state.nd.us
Marcy Dickerson
State Tax Department
State Capitol
Bismarck ND 58505

alaamodt@wday.com
WDAY AM-FM & TV
PO Box 2466
Fargo ND 58108-2466

news@wdaz.com
WDAZ-TV
PO Box 12639
Grand Forks ND 58208-2639

mark.nisbet@xcelenergy.com
Mark Nisbet
Xcel Energy
PO Box 2747
Fargo ND 58108-2747

dave.sederquist@xcelenergy.com
Dave Sederquist
Xcel Energy
PO Box 2747
Fargo ND 58108-2747

James Roache
P O Box 564
Crosby ND 58730

Steven Tomac
2498 59th St
St Anthony ND 58566-9640

F James Moriarty
3 Litzsinger Ln
St Louis MO 63124-1416

Will Kaul
Cooperative Power Association
P O Box 800
Elk River MN 55330-0800

Patricia Estes
Daily News
PO Box 760
Wahpeton ND 58074-0760

William Jackson
Dakota Justice
38 8th Ave W
Dickinson ND 58601

Laurie Baranko
Dakota Resource Council
PO Box 1095
Dickinson ND 58602-1095

Mark Frederiksen
Economic Insights
416 Center St #365
Washington Grove MD 20880

Jerry Tuchscherer
Grand Forks Board of Realtors
1407 24th Ave S #340
Grand Forks ND 58201-6761

Jay Casler
INDEPTH DATA INC
44 S Bdwy 18th Fl
White Plains NY 10601-4425

News Director
KHND AM Radio
PO Box 6
Harvey ND 58341-0006

KHRT AM
PO Box 1210
Minot ND 58702-1210

KLXX AM
4303 Memorial Hwy
Mandan ND 58554

Myer Shark
Knollwood Place Apts #221
3630 Phillips Pkwy
St Louis Park MN 55426

KNOX-AM & KRRK-FM
PO Box 13638
Grand Forks ND 58208-3638

KOVC AM and KQDJ FM Radio
136 North Central Avenue
P O Box 994
Valley City ND 58072-0994
Bruce Imsdahl
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

KTHI-TV
Fargo ND 58107-1878

Ron Tipton
Montana-Dakota Utilities Co
400 N 4th St
Bismarck ND 58501

Mike Foley
NARUC
1101 Vermont Avenue NW Ste 200
Washington DC 20005

Dennis Lavallee
Nat'l Assoc Plumbing-Htng-Cooling
PO Box 6808
Falls Church VA 22046-6808

Harlan Fuglesten
ND Association of RECs
PO Box 727
Mandan ND 58554-0727

Andrew Anderson
Otter Tail Power Company
215 S Cascade Street
Fergus Falls MN 56538-0496

Telecommunications Reports
1333 H St NW 11th Fl W Tower
Washington DC 20005

LeRoy Neubauer
Valley City Public Works
254 2nd Ave NE
Valley City ND 58072

Scott Speaker
Natural Gas Week
1401 New York Ave NW Ste 500
Washington DC 20005-2150

Everett Morris
NJ Public Service Electric & Gas
80 Park Pl
Newark NJ 07101

Public Utilities Reports Inc
Law Dept
8229 Boone Blvd Ste 401
Vienna VA 22182

John Kapsner
The Vogel Law Firm
P O Box 2097
Bismarck ND 58502-2097



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

22 November 2005

Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505-0360

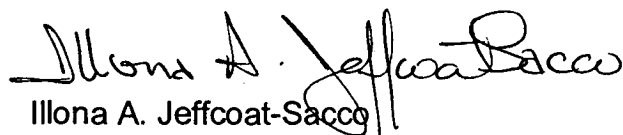
Re: Amended Notice of Intent to Adopt and Amend Administrative Rules
Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591,
GE-05-594 and PU-05-602

Dear Mr. Walstad:

Enclosed is an Amended Notice of Intent to Adopt and Amend Administrative Rules required by N.D.C.C. § 28-32-10(1), along with an amended abbreviated Notice of Hearing. The proposed rule changes were previously filed with your office on November 17, 2005.

If you have any questions, please contact us. Thank you.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosure

Received in the office of Legislative Council this 22 day of November 2005.

By: Della Schick



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

22 November 2005

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505-0360

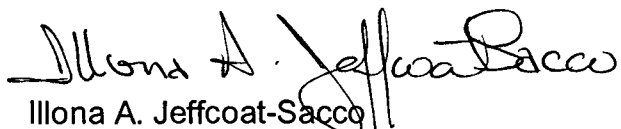
Re: Amended Notice of Intent to Adopt and Amend Administrative Rules
Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591,
GE-05-594 and PU-05-602

Dear Mr. Walstad:

Enclosed is an Amended Notice of Intent to Adopt and Amend Administrative Rules required by N.D.C.C. § 28-32-10(1), along with an amended abbreviated Notice of Hearing. The proposed rule changes were previously filed with your office on November 17, 2005.

If you have any questions, please contact us. Thank you.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosure

Received in the office of Legislative Council this _____ day of November 2005.

By: _____

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Gas Pipeline Safety
Rulemaking**

Case No. GS-05-341

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Licensing – Grain Buyer
Rulemaking**

Case No. GE-05-594

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

**AMENDED
NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 22, 2005

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to several articles of the North Dakota Administrative Code. The hearing will be held **at 1:00 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** The proposed revisions to the North Dakota Administrative Code are as follows:

Gas Pipeline Safety: Case No. GS-05-341

The Gas Pipeline Safety Federal rules to be adopted by reference will amend the state pipeline safety regulations to: require gas operators to prepare and follow procedures for periodic inspections of pipeline facilities located in the Gulf of Mexico

and its inlets in waters less than 15 feet deep; codify new program requirements concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method; amend the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs; revise all references to the former Research and Special Programs Administration in 49 CFR parts 190 through 199 to reflect the creation of Pipeline and Hazardous Materials Safety Administration.

Public Utilities – Electric: Case No. PU-05-364

Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

Public Utilities – Siting: Case No. PU-05-602

Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Public Utilities – Telephone: Case No. PU-05-575

Case No. PU-05-575 consists of proposals concerning telecommunications registration, eligible carrier applications and advertising, and interconnection agreement filings.

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

Proposed changes to North Dakota Administrative Code Section 69-09-05-12 concern the application requirements for a telecommunications company seeking designation as an eligible carrier for purposes of receiving federal universal service funding, annual reporting requirements of designated eligible carriers, and the criteria to be considered by the Commission in designating an eligible carrier.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing

negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Reclamation: Case No. RC-05-591

Several changes are proposed to rules that pertain to the coal mining and reclamation regulatory program. The changes will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United State Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; adding a cross reference to another rule for information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and modifying data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. A cross reference error is also being corrected in the general requirements for roads. These proposed rule changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Licensing – Grain Buyer: Case No. GE-05-594

On October 7, 2005, the North Dakota Dry Pea and Lentil Association formally asked the Commission to consider a change to North Dakota Administrative Code Section 69-07-01-14. The North Dakota Dry Pea and Lentil Association proposes to change the existing rule to exempt a grain buyer from the licensing requirement when the grain buyer purchases dry peas, lentils or chickpeas owned by a licensed entity. The current rule exempts a grain buyer from the licensing requirement when purchasing any grain that is owned by a licensed entity and also has been substantially altered by processing or blending, or cleaned and bagged for consumption.

The Notice of Intent to Adopt and Amend Administrative Rules and an abbreviated notice were issued on November 17, 2005. Late that afternoon the North Central Bean Dealers Association filed in support of the existing proposal and formally asked the Commission to consider an additional change in the proposed rule to exempt a grain buyer from the licensing requirement when the grain buyer purchases dry edible beans owned by a licensed entity. The proposed rule itself has not been revised at this time to incorporate this request, but this amended notice is being issued to notify interested parties of the possible inclusion of dry edible beans in the exemption. The abbreviated notice was also revised prior to publication to indicate the support of the North Central Bean Dealers Association.

All of the proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes, or

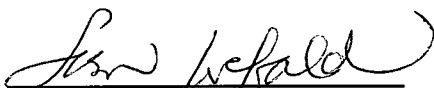
any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses, contact the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400. The proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be viewed at <http://www.psc.state.nd.us> (see Formal Actions: Notices).

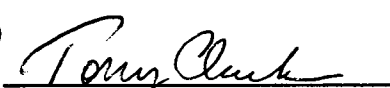
Interested persons may submit written data, views, arguments, or appear in person or through counsel concerning the proposals. Written comments should be filed with Illona A. Jeffcoat-Sacco, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480.

The Commission will allow after the conclusion of the rulemaking hearing, a comment period until January 17, 2006, during which data, views, or oral arguments concerning the proposed rulemaking will be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

If individuals require any auxiliary aids or services, such as readers, signers, or braille materials, please notify, Illona A. Jeffcoat-Sacco, Executive Secretary, at least 24 hours prior to the hearing. She can be contacted at the following numbers: 701-328-2400 and Relay North Dakota TTY: 1-800-366-6888.

PUBLIC SERVICE COMMISSION


Susan E. Wefald
Commissioner


Tony Clark
President


Kevin Cramer
Commissioner

**AMENDED
NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 22, 2005

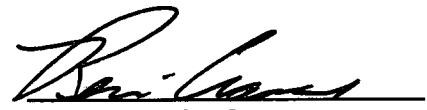
TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to gas safety, electric, telecommunications, siting, reclamation and grain buyers, at 1 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The proposed grain buyer rule change was formally requested by the North Dakota Dry Pea and Lentil Association, and is supported by the North Central Bean Dealers Association.

A copy of the proposed rule changes may be obtained by calling the Public Service Commission at 701-328-2400, TDD 800-366-6888, or view at www.psc.state.nd.us (see Formal Notices). Also, written comments may be submitted to the Public Service Commission, 600 East Boulevard Ave., Bismarck, ND 58505-0480 until 5:00 PM CST, January 17, 2006. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION


Susan E. Wefald
Commissioner


Tony Clark
President


Kevin Cramer
Commissioner

Saudi
Scott

**NOTICE OF INTENT TO
ADOPT AND AMEND
ADMINISTRATIVE
RULES**

relating to gas safety, electric, tele-
communications, siting, reclama-
tion and grain buyers. The
proposed grain buyer rule change
was formally requested by the ND
Dry Pea and Lentil Association,
and is supported by the North
Central Bean Dealers Association.

**Public Service
Commission**

will hold a public hearing to
address proposed amendments
to the N.D. Admin. Code.

**Commission Hearing
Room**

**12th Floor
State Capitol
Bismarck**

**Wed., Jan. 4, 2006
1:00 p.m. CT**

A copy of the proposed rule changes
may be obtained by calling the Public
Service Commission at (701) 328-
2400, TDD (800) 366-6888, or view at
www.psc.state.nd.us (see Formal
Notices). Also, written comments may
be submitted to the Public Service
Commission, 600 East Boulevard
Ave., Bismarck, ND 58505-0480 until
5:00 PM CST, January 17, 2006. If
you plan to attend the public hearing
and will need special facilities or
assistance relating to a disability,
please contact the Public Service
Commission at the above telephone
number or address at least 24 hours
prior to the public hearing.

Susan E. Wefald Tony Clark Kevin Cramer
Commissioner President Commissioner

- 13 **GS-05-341** Pages: 1
Display ad proof
by North Dakota Advertising Service, Inc.
11/18/2005 CC: Comm. Legal Illona.
- 16 **PU-05-364** ✓ Pages: 1
Display ad proof
by North Dakota Advertising Service, Inc.
11/18/2005 CC: Comm. Legal Illona.
- 11 **PU-05-575** Pages: 1
Display ad proof
by North Dakota Advertising Service, Inc.
11/18/2005
- 13 **RC-05-591** Pages: 1
Display ad proof
by North Dakota Advertising Service, Inc.
11/18/2005

- 12 **GE-05-594** Pages: 1
Display ad proof
by North Dakota Advertising Service, Inc.
11/18/2005

- 8 **PU-05-602** Pages: 1
Display ad proof
by North Dakota Advertising Service, Inc.
11/18/2005



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

NOV 17 2005

17 November 2005

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

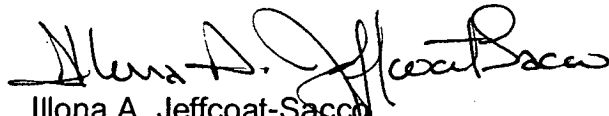
Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505-0360

Re: Notice of Intent to Adopt and Amend Administrative Rules
Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591,
GE-05-594 and PU-05-602

Dear Mr. Walstad:

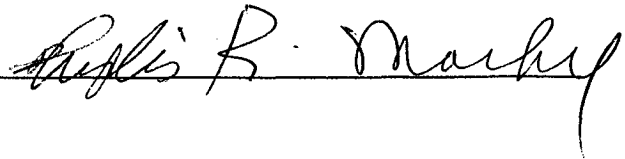
The Notice of Intent to Adopt and Amend Administrative Rules required by N.D.C.C. § 28-32-10(1), along with an abbreviated Notice of Hearing and a copy of the proposed rule changes are enclosed.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosure

Received in the office of Legislative Council this ____ day of November 2005.

By: 

Scott, Sandi L.

From: Colleen Park [colleenp@ndna.com]

Sent: Thursday, November 17, 2005 11:25 AM

To: Scott, Sandi L.

Subject: RE: Abbreviated Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing

Received. I will schedule the notice to run from November 23 - 29 on the paper's various publishing days.

I will fax a proof to you by Friday morning at the latest.

Thanks!

Colleen

From: Scott, Sandi L. [mailto:slscott@state.nd.us]

Sent: Thursday, November 17, 2005 10:56 AM

To: colleenp@ndna.com

Cc: Scott, Sandi L.

Subject: Abbreviated Notice of Intent to Adopt and Amend Administrative Rules and Notice of Public Hearing

Colleen:

Please send the enclosed public notice to each official county newspaper for publication ^{one} ~~on~~ time as soon as possible. Note that the publication of the notice must be in a display-type format with a minimum width of one column of approximately two inches [5.08 centimeters] and a depth of [between three inches [7.62 centimeters] and four inches [10.16 centimeters]]. Please also note that the notice must include a headline describing the general topic of the proposed rules.

Please send the billing along with the Affidavit of Publication and tear sheets to the Public Service Commission, 600 East Boulevard Avenue, Dept. 408, Bismarck, ND 58505-0480. If you have any questions, please contact me at 328-4081. Thank you.

Sandi Scott

ND Public Service Commission

600 E Blvd. Ave., Dept 408

Bismarck, ND 58505-0480

Telephone: 701-328-4081

Fax: 701-328-2410

E-Mail Address: slscott@state.nd.us



Public Service Commission

State of North Dakota

COMMISSIONERS

Tony Clark, President
Susan E. Wefald
Kevin Cramer

Executive Secretary
Illona A. Jeffcoat-Sacco

17 November 2005

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.psc.state.nd.us
e-mail: ndpsc@state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

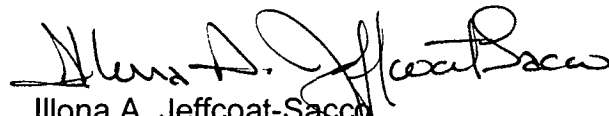
Mr. John Walstad
Code Revisor
North Dakota Legislative Council
State Capitol
Bismarck, North Dakota 58505-0360

Re: Notice of Intent to Adopt and Amend Administrative Rules
Case Nos. GS-05-341, PU-05-364, PU-05-575, RC-05-591,
GE-05-594 and PU-05-602

Dear Mr. Walstad:

The Notice of Intent to Adopt and Amend Administrative Rules required by N.D.C.C. § 28-32-10(1), along with an abbreviated Notice of Hearing and a copy of the proposed rule changes are enclosed.

Sincerely,


Illona A. Jeffcoat-Sacco
Executive Secretary

Enclosure

Received in the office of Legislative Council this _____ day of November 2005.

By: _____

APPROVED

DATE: 11-17-05
Kmf

MOTION

November 17, 2005

**Public Service Commission
Gas Safety
Rulemaking**

Case No. GS-05-341

**Public Service Commission
Public Utilities – Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities – Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Licensing – Grain Buyer
Rulemaking**

Case No. GE-05-594

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

I move the Commission propose the following amendments to the North Dakota Administrative Code, schedule a hearing for 1 p.m., CST, January 4, 2006, issue a Notice of Proposed Rules and Public Hearing, and issue an abbreviated Notice of Hearing for publication in each official county newspaper throughout the state as required by law.

Article 69-05.2

Amendments to Reclamation Rules

Article 69-06

Amendments to Siting Rules

Article 69-07

Amendments to Grain Buyers Rules

Article 69-09

Amendments to Gas Safety, Electric and
Telecommunications Rules

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Public Service Commission
Gas Pipeline Safety
Rulemaking**

Case No. GS-05-341

**Public Service Commission
Public Utilities - Electric
Rulemaking**

Case No. PU-05-364

**Public Service Commission
Public Utilities - Telephone
Rulemaking**

Case No. PU-05-575

**Public Service Commission
Reclamation
Rulemaking**

Case No. RC-05-591

**Public Service Commission
Licensing – Grain Buyer
Rulemaking**

Case No. GE-05-594

**Public Service Commission
Public Utilities – Siting
Rulemaking**

Case No. PU-05-602

**NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 17, 2005

PLEASE TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to several articles of the North Dakota Administrative Code. The hearing will be held **at 1:00 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota.** The proposed revisions to the North Dakota Administrative Code are as follows:

Gas Pipeline Safety: Case No. GS-05-341

The Gas Pipeline Safety Federal rules to be adopted by reference will amend the state pipeline safety regulations to: require gas operators to prepare and follow procedures for periodic inspections of pipeline facilities located in the Gulf of Mexico and its inlets in waters less than 15 feet deep; codify new program requirements

concerning personnel training, notice of program changes, government review and verification of programs, and use of on-the-job performance as a qualification method; amend the requirements for pipeline operators to develop and implement public awareness (also known as public education) programs; revise all references to the former Research and Special Programs Administration in 49 CFR parts 190 through 199 to reflect the creation of Pipeline and Hazardous Materials Safety Administration.

Public Utilities – Electric: Case No. PU-05-364

Proposed rules for establishing or participating in a program to track, record and verify the trading of credits for electricity generated from renewable electricity sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states as authorized and defined by newly-enacted North Dakota Century Code Sections 49-02-24 through 26.

Public Utilities – Siting: Case No. PU-05-602

Proposed changes to North Dakota Administrative Code Subsections 69-06-08-01(4) and 69-06-08-02(4) add to the policy criteria used in evaluating energy conversion and transmission facility siting applications an indication that the Commission may give preference to applicants that maximize the interstate benefits of proposed projects.

Public Utilities – Telephone: Case No. PU-05-575

Case No. PU-05-575 consists of proposals concerning telecommunications registration, eligible carrier applications and advertising, and interconnection agreement filings.

Proposed changes to North Dakota Administrative Code Section 69-09-05-02 implement new North Dakota Century Code Section 49-03.1-09 which was designed to streamline the regulatory process for telecommunications companies that are not incumbent local exchange companies. The proposed changes also clarify the definition of prepayment, and set forth the performance bond and escrow account requirements for resellers.

Proposed changes to North Dakota Administrative Code Section 69-09-05-12 concern the application requirements for a telecommunications company seeking designation as an eligible carrier for purposes of receiving federal universal service funding, annual reporting requirements of designated eligible carriers, and the criteria to be considered by the Commission in designating an eligible carrier.

New North Dakota Administrative Code Section 69-09-05-14 is being proposed for the purpose of formalizing existing Commission procedures for processing negotiated telecommunications carrier to carrier interconnection agreements filed for Commission approval under 47 USC Section 252(e).

Reclamation: Case No. RC-05-591

Several changes are proposed to rules that pertain to the coal mining and reclamation regulatory program. The changes will allow some lease documents to be deleted from a mining permit once mining is completed or when a lease is otherwise terminated; dropping the name of the United State Geological Survey map containing the permit area and not listing the names of subsurface owners who are not affected by mining activities in newspaper notices for permit applications; adding a cross reference to another rule for information that must be submitted with bond release applications; clarifying inspection requirements for sedimentation ponds and other impoundments; and modifying data requirements for proving reclamation success and adding new language to revegetation success standards on the counting of volunteer trees and shrubs. A cross reference error is also being corrected in the general requirements for roads. These proposed rule changes are not expected to have an impact on the regulated community in excess of fifty thousand dollars.

Licensing – Grain Buyer: Case No. GE-05-594

On October 7, 2005, the North Dakota Dry Pea and Lentil Association formally asked the Commission to consider a change to North Dakota Administrative Code Section 69-07-01-14. The North Dakota Dry Pea and Lentil Association proposes to change the existing rule to exempt a grain buyer from the licensing requirement when the grain buyer purchases dry peas, lentils or chickpeas owned by a licensed entity. The current rule exempts a grain buyer from the licensing requirement when purchasing any grain that is owned by a licensed entity and also has been substantially altered by processing or blending, or cleaned and bagged for consumption.

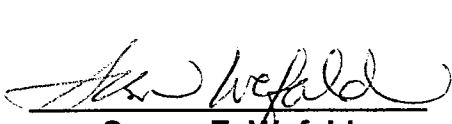
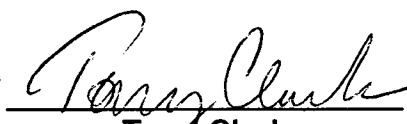
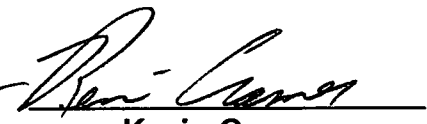
All of the proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be reviewed at the Public Service Commission's offices on the 12th floor of the State Capitol, Bismarck, North Dakota. To obtain a copy of the proposed rule changes, or any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses, contact the Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480, 701-328-2400. The proposed rule changes and any statements concerning Regulatory Analyses and Takings Assessments, and Small Entity Regulatory Analyses may be viewed at <http://www.psc.state.nd.us> (see Formal Actions: Notices).

Interested persons may submit written data, views, arguments, or appear in person or through counsel concerning the proposals. Written comments should be filed with Illona A. Jeffcoat-Sacco, Executive Secretary, Public Service Commission, 600 East Boulevard Avenue, Department 408, Bismarck, North Dakota 58505-0480.

The Commission will allow after the conclusion of the rulemaking hearing, a comment period until January 17, 2006, during which data, views, or oral arguments concerning the proposed rulemaking will be received by the Commission and made a part of the rulemaking record to be considered by the Commission.

If individuals require any auxiliary aids or services, such as readers, signers, or braille materials, please notify, Illona A. Jeffcoat-Sacco, Executive Secretary, at least 24 hours prior to the hearing. She can be contacted at the following numbers: 701-328-2400 and Relay North Dakota TTY: 1-800-366-6888.

PUBLIC SERVICE COMMISSION

		
Susan E. Wefald Commissioner	Tony Clark President	Kevin Cramer Commissioner

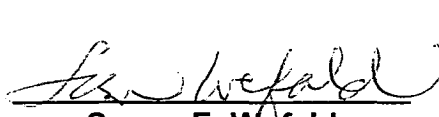
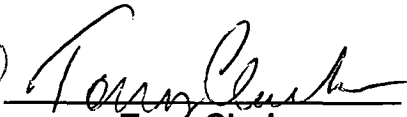
**NOTICE OF INTENT TO ADOPT AND AMEND ADMINISTRATIVE RULES
AND NOTICE OF PUBLIC HEARING**

November 17, 2005

TAKE NOTICE that the Public Service Commission will hold a public hearing to address proposed amendments to the N.D. Admin. Code, relating to gas safety, electric, telecommunications, siting, reclamation and grain buyers, at 1 p.m., CST, January 4, 2006, in the Commission Hearing Room, 12th floor, State Capitol, Bismarck, North Dakota. The proposed grain buyer rule change was formally requested by the North Dakota Dry Pea and Lentil Association.

A copy of the proposed rule changes may be obtained by calling the Public Service Commission at 701-328-2400, TDD 800-366-6888, or view at www.psc.state.nd.us (see Formal Notices). Also, written comments may be submitted to the Public Service Commission, 600 East Boulevard Ave., Bismarck, ND 58505-0480 until 5:00 PM CST, January 17, 2006. If you plan to attend the public hearing and will need special facilities or assistance relating to a disability, please contact the Public Service Commission at the above telephone number or address at least 24 hours prior to the public hearing.

PUBLIC SERVICE COMMISSION

 Susan E. Wefald Commissioner	 Tony Clark President	 Kevin Cramer Commissioner

PROPOSED RECLAMATION RULES

69-05.2-06-03. Permit applications - Right of entry and operation information.

1. In addition to satisfying subdivision k of subsection 1 of North Dakota Century Code section 38-14.1-14, the application must also contain a narrative and supporting certified copies of the appropriate documents which demonstrate that the applicant has complied with North Dakota Century Code section 38-18-06.
2. Following completion of coal removal operations on the lands covered by a coal lease, the copy of the lease may be deleted from an approved permit if:
 - a. The lease is no longer needed to show the surface right of entry for carrying out reclamation operations; or
 - b. The lease has expired or has been terminated.

If a coal lease is no longer provided for surface right of entry, other documents granting the permittee surface right of entry must be added to the permit.

69-05.2-10-01. Permit applications - Public notices of filing.

1. The advertisement required by North Dakota Century Code section 38-14.1-18 must also include:
 - a. The applicant's name and business address.
 - b. A map or description which must:
 - (1) Clearly show or describe towns, rivers, streams, or other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the permit area.
 - (2) Clearly show or describe the exact location and boundaries of the permit area.
 - (3) ~~Name the United States geological survey 7.5 minute quadrangle map which contains the area shown or described.~~
 - (4) Show the north point (if a map).

- (5 4) State the name of each owner of record of surface rights and, if the applicant proposes to mine coal or conduct activities that may impact future coal recovery, the names of each owner of record of coal rights within the permit boundaries.

69-05.2-12-12. Release of performance bond - Bond release application.

3. Within thirty days after filing a request for bond release, the permittee shall submit ~~proof of the publication~~ a copy of the newspaper advertisement that was published as required by North Dakota Century Code section 38-14.1-17. The advertisement published must include the permittee's name.
8. When the permittee requests final bond release under subdivision d of subsection 7 of North Dakota Century Code section 38-14.1-17, the application must include:
 - a. The data collected, analyses conducted, and a narrative detailing compliance with subsection 4 of section 69-05.2-22-07.
 - b. The history of initial and subsequent seedings and fertilization, including mixtures and rates, appropriate soil tests, supplemental irrigation, or other management practices employed.
 - c. Documentation showing the reestablishment of essential hydrologic functions of alluvial valley floors.
 - d. If a premine water delivery system will not be replaced, the bond release application must address the requirements of subdivision b of subsection 90 of section 69-05.2-01-02.

69-05.2-16-09. Performance standards - Hydrologic balance -Sedimentation ponds.

19. Impoundment inspections.
 - a. A registered professional engineer, or other specialist under the direction of a registered professional engineer, shall inspect each impoundment as required under subdivision b, c and d. The registered professional engineer and specialist must be experienced in the construction of impoundments.
 - b. Inspections must be made regularly during construction, ~~upon completion of construction, and at least yearly until removal of the structure or release of the performance bond.~~ Reports for each inspection during construction must be prepared and maintained at or near the minesite.
 - c. ~~After each inspection~~ impoundment construction is complete, the registered professional engineer shall promptly provide the commission a certified report that the impoundment has been inspected during construction on a regular basis and it has been constructed ~~or maintained~~ as designed and according to the approved plan and this chapter. The report must include ~~discussion of any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting~~

stability a summary of the construction inspections, final storage capacity, and if applicable, a discussion of any deviations from the approved plan.

- d. After impoundments are operational, they shall be inspected at least yearly until removal of the structure or release of the performance bond. A registered professional engineer shall promptly provide the commission with an annual impoundment inspection report addressing any appearance of instability, structural weakness or other hazardous conditions, depth and elevation of any impounded water, existing storage capacity, any existing or required monitoring procedures and instrumentation, and any other aspects of the structure affecting stability. A single report can address more than one impoundment; however, the condition of each impoundment must be noted separately.
- e. A copy of the inspection reports must be maintained at or near the minesite.

69-05.2-22-07. Performance standards - Revegetation - Standards for success.

- 4. The success of revegetation on the permit area at the time of final bond release must be determined for each postmining land use according to the following:
 - a. For native grassland, the following must be achieved for ~~the last two consecutive~~ any two years after year six of the responsibility period:
 - (1) Ground cover and productivity of the permit area must be equal to or greater than that of the approved reference area or standard with ninety percent statistical confidence; and
 - (2) Diversity, seasonality, and permanence of the vegetation of the permit area must equal or exceed the approved standard.
 - b. For tame pastureland, ground cover and productivity of the permit area must be equal to or greater than that of the approved standard with ninety percent statistical confidence for ~~the last two consecutive~~ any two years after year six of the responsibility period.
 - c. For cropland, crop production from the permit area must be equal to or greater than that of the approved reference area or standard with ninety percent statistical confidence for ~~the last two consecutive~~ any two years after year six of the responsibility period.
 - d. For prime farmlands, a showing that the requirements for the restoration of productivity as specified in subdivision c of subsection 3 have been met and that the ten-year period of responsibility has elapsed.
 - e. For woodlands and fish and wildlife habitat where the vegetation type is woodland, the following must be achieved during the ~~last two consecutive years~~ growing season of the last year of the responsibility period:
 - (1) The number of woody plants established on the permit area must be equal to or greater than the number of live woody plants of the same life form of the approved

standard with ninety percent statistical confidence. Trees, shrubs, half-shrubs, root crowns, or root sprouts used in determining success of stocking must meet the following criteria:

- (a) Be healthy;
 - (b) Be in place for at least two growing seasons; and
 - (c) ~~At least eighty percent of those counted must have been in place at least six years. This provision will be deemed satisfied if the operator demonstrates that no tree, shrub, or half-shrub replanting has occurred during the last six years of the revegetation responsibility period.~~ If any replanting of woody plants took place took place during the responsibility period, the total number planted during the last six years of that period must be less than twenty percent of the total number of woody plants required. Any replanting must be by means of transplants to allow for adequate accounting of plant stocking; and
 - (d) Volunteer trees and shrubs of approved species will be considered at least two years of age and can be counted towards meeting success standards; however, volunteer trees must be at least thirty inches (76 centimeters) in height to be included in the count. Suckers on shrubby vegetation can be counted as volunteer plants when it is evident the shrub community is vigorous and expanding.
- (2) The ground cover must be equal to or greater than ninety percent of the ground cover of the approved standard with ninety percent statistical confidence and must be adequate to control erosion; and
- (3) Species diversity, seasonal variety, and regenerative capacity of the vegetation on the permit area must be evaluated on the basis of species stocked and expected survival and reproduction rates.
- f. For shelterbelts, the following must be achieved during the ~~last two consecutive years~~ growing season of the last year of the responsibility period:
- (1) Trees, shrubs, half-shrubs, root crowns, or root sprouts used in determining success of stocking must meet the following criteria:
 - (a) Be healthy;
 - (b) Be in place for at least two growing seasons; and
 - (c) ~~At least eighty percent of those counted must have been in place at least six years. This provision will be deemed satisfied if the operator demonstrates that no tree, shrub, or half-shrub replanting has occurred during the last six years of the revegetation responsibility period.~~ If any replanting of woody plants took place took place during the responsibility period, the total number planted during the last six years of that period must be less than twenty percent of the

total number of woody plants required. Any replanting must be by means of transplants to allow for adequate accounting of plant stocking; and

- (d) Volunteer trees and shrubs of approved species will be considered at least two years of age and can be counted towards meeting success standards; however, volunteer trees must be at least thirty inches (76 centimeters) in height to be included in the count. Suckers on shrubby vegetation can be counted as volunteer plants when it is evident the shrub community is vigorous and expanding.
- (2) Shelterbelt density and vigor must be equal to or greater than that of the approved standard; and
- (3) Erosion must be adequately controlled.
- g. For fish and wildlife habitat, where the vegetation type is wetland, vegetation zones and dominant species must be equal to those of the approved standard during the last two consecutive years growing season of the last year of the responsibility period. In addition, wetland permanence and water quality must meet approved standards.
- h. For fish and wildlife habitat, where the vegetation type is grassland, the following must be achieved during the last two consecutive years growing season of the last year of the responsibility period:
 - (1) Ground cover must be equal to or greater than that of the approved standard with ninety percent statistical confidence and must be adequate to control erosion.
 - (2) Species diversity, seasonal variety, and regenerative capacity of the vegetation must meet or exceed the approved standard.
- i. For previously mined areas that were not reclaimed to the requirements of this chapter, any reclamation requirements in effect when the areas were mined must be met. In addition, the ground cover may not be less than can be supported by the best available plant growth material in the reaffected area, nor less than the ground cover existing before redisturbance. Adequate measures must be in place to control erosion as approved by the commission.
- j. For areas to be developed for water, residential, or industrial and commercial uses within two years after the completion of grading or soil replacement, the ground cover on these areas may not be less than required to control erosion.
- k. For areas to be developed for recreation, woody plants must meet or exceed the stocking and plant establishment standards for woodlands or shelterbelts found in paragraph 1 of subdivision e or in subdivision f as applicable. In addition, ground cover must not be less than required to achieve the approved postmining land use.
- l. ~~As an alternative to meeting revegetation success standards for the last two consecutive growing seasons of the responsibility period, an operator may demonstrate that the applicable standards have been achieved for any three years starting no sooner than the sixth year of the responsibility period and with one year being the last~~

~~year of the responsibility period. This alternative does not pertain to success standards for prime farmlands unless a reclaimed tract contains both prime and nonprime farmlands.~~ If a reclaimed tract contains a mixture of prime and nonprime farmlands, the commission may approve a single yield standard for the entire tract based on the soil types that occurred on the prime and nonprime areas prior to mining. The operator must provide a detailed description and comparison of the soil mapping units, acreages, and yield calculations in the reclamation plan as required by subsection 8 of section 69-05.2-09-15. When a single yield standard is approved, the operator must demonstrate that the standard has been achieved for any three years starting no sooner than the sixth year of the responsibility period ~~and with one year being the last year of the responsibility period.~~ If this option is approved, the operator must also meet the applicable requirements of section 69-05.2-26-05 for the entire tract.

69-05.2-24-01. Performance standards - Roads - General requirements.

1. Each road, as defined in subsection ~~92~~ 93 of section 69-05.2-01-02, must be classified as either a primary or ancillary road.

PROPOSED SITING RULES

69-06-08-01. Energy conversion facility siting criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the site suitability evaluation process.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

69-06-08-02. Transmission facility corridor and route criteria. The following criteria shall guide and govern the preparation of the inventory of exclusion and avoidance areas, and the corridor and route suitability evaluation process. Exclusion and avoidance areas may be located within a corridor, but at no given point shall such an area or areas encompass more than fifty percent of the corridor width unless there is no reasonable alternative.

4. **Policy criteria.** The commission may give preference to an applicant that will maximize benefits that result from the adoption of the following

policies and practices, and in a proper case may require the adoption of such policies and practices. The commission may also give preference to an applicant that will maximize interstate benefits.

History: Amended effective August 1, 1979; January 1, 1982; February 1, 1995.

General Authority: NDCC 49-22-18

Law Implemented: NDCC 49-22-05.1

Proposed Rule on Grain Buyer License

69-07-01-14. Grain buyers license – ~~Processed grain.~~ A grain buyers license is not required if a purchaser is acquiring grain dry peas, lentils, or chickpeas that is owned by the licensed entity ~~and that has been:~~

- ~~1. Substantially altered by processing or blending with a nongrain product; or~~
- ~~2. Cleaned and bagged and made ready for consumption.~~

Any processed commodity will, however, be considered grain and thereby made an asset that is available to the commission in an insolvency proceeding.

History: Effective August 1, 1999.

General Authority: NDCC 60-02-03, 60-02.1-03

Law Implemented: NDCC 60-02-03, 60-02.1-03

GAS SAFETY PROPOSED RULES FOR 2005

69-09-03-02. Adoption of regulations. The following parts of title 49, Code of Federal Regulations in effect as of ~~August 1, 2004~~ October 1, 2005, are adopted by reference:

1. Part 190 - Department of Transportation Pipeline Safety Enforcement Procedures.
2. Part 191 - Department of Transportation Regulations for Transportation of Natural Gas by Pipeline; Reports of Leaks.
3. Part 192 - Transportation of Natural Gas and Other Gas by Pipeline: Minimum Safety Standards.
4. Part 199 - Control of Drug Use in Natural Gas; Liquefied Natural Gas and Hazardous Liquids Pipelines.

Copies of these regulations may be obtained from:

**Public Service Commission
600 East Boulevard, Dept. 408
Bismarck, ND 58505-0480**

History: Effective June 1, 1984; amended effective July 1, 1986; January 1, 1988; March 1, 1990; February 1, 1992; August 1, 1993; August 1, 1994; February 1, 1996; July 1, 1997; July 1, 1998; September 1, 1999; August 1, 2000; January 1, 2002, November 1, 2003; May 1, 2005.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 49-02-01.2

PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

- 1. Designated representative —** A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.
3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.
4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.
5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates by a program participant.

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
9. Renewable energy facility – A facility generating electricity that exclusively relies on an energy source or fuel included in North Dakota Century Code Section 49-02-25.
10. Renewable energy resource — A resource that generates electricity derived from a renewable energy facility.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;

4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.

3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a power generator must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.

2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with the law and rules.
4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.
5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

Proposed Telecommunications Registration Rulemaking

69-09-05-02. Discontinuance of telecommunications services. A utility may not discontinue telecommunications services, except as provided in this section.

1. A utility may discontinue the essential services it provides:
 - a. If the customer is delinquent in payment for essential services, then essential services may be discontinued even though discontinuing the services results in the discontinuance of all telecommunications services.
 - b. If the customer is delinquent in payment for long-distance services rendered by a local exchange company or another company and billed by the local exchange company, but is not delinquent in payment for essential services rendered by the local exchange company, the local exchange company may discontinue the customer's local exchange services only at central offices lacking the technical ability to discontinue long-distance services while continuing to provide local exchange services.
2. A utility may discontinue nonessential services:

- a. If the customer is delinquent in payment for nonessential services.
 - b. If the customer is delinquent in payment for long-distance telecommunications services rendered by another company and billed by the local exchange company, then the local exchange company may deny the customer all forms of access to the network of the telecommunications company to which the customer is delinquent in payment. However, if due to technical limitations, a local exchange company must also deny the customer all forms of access to the long-distance networks of all telecommunications companies, including its own, in order to deny the customer access to the network of the company to which the customer is delinquent, the local exchange company may do so.
3. A utility may discontinue service to a customer for failure to comply with regulations of the utility on file with the commission pertaining to installation and use of equipment, or for use of equipment which interferes with or adversely affects the service to other customers, provided the customer has first been notified and afforded reasonable opportunity to change or disconnect such equipment.
4. A utility may not discontinue service to a customer for failure of the customer to pay for merchandise purchased from the utility, to pay

for a different class of service furnished by the utility, to pay for service rendered to a previous occupant of the premises, or to pay the bill of another customer as guarantor thereof.

5. A utility may not discontinue service to a customer for failure to pay for service until the utility first gives the customer notice of its intention to discontinue such service on account of delinquency.

The notice must:

- a. Be sent by first-class mail addressed to the billing name and address of the affected account.
- b. Show the amount of the delinquency.
- c. Include the telephone number of the public service commission.
- d. Advise the customer of the customer's rights and remedies, including the customer's right to work out a satisfactory deferred installment agreement for delinquent accounts.
- e. Inform the customer that service will be discontinued if the delinquent account is not paid within ten calendar days from the date of mailing or personal delivery of the notice, or if a satisfactory installment agreement is not made with the utility for payment of the delinquent bill. The utility may discontinue service without further notice if the customer fails to pay the delinquent account by the due date.

6.
 - a. A deferred installment agreement for essential services may not be combined with a deferred installment agreement for any other services.
 - b. A utility may not discontinue essential services if the utility and the customer make a mutually agreed upon deferred installment agreement for essential services. A utility may discontinue essential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 - c. A utility may not discontinue nonessential services if the utility and the customer make a mutually agreed upon deferred installment agreement for nonessential services. A utility may discontinue nonessential services without further notice if the customer fails to pay the delinquent account in accordance with the deferred installment agreement.
 7. The customer may pay the delinquent account at any time prior to the actual discontinuance of service.
 8. Whenever service has been discontinued for nonpayment of a bill, service must be resumed if the customer:
 - a. Pays the fee for resuming service established in the utility's rate schedules;

- b. Makes a deposit under section 69-09-05-03 (if required by the company); and
 - c. Makes a satisfactory settlement for the delinquent bill and for the service rendered to the date the service was discontinued. Interexchange carriers are not required to resume long-distance service if local service is not connected.
- 9. If the customer disputes the amount of a bill for service, the customer may, to prevent discontinuance for nonpayment, pay the disputed bill under protest to the utility. Alternatively, the customer may request a formal hearing pursuant to section 69-02-02-02 in which case the utility may not discontinue service for nonpayment of the disputed bill until a final decision has been issued by the commission. The utility shall immediately give the commission notice of the dispute and the commission may investigate the dispute. The utility shall refund to the customer any part of such payment made under protest found by the commission to be excessive.
- 10. The commission may order the discontinuance of services where a reseller or operator services provider violates commission rules. The commission will provide ten days' notice of a deficiency or violation and provide an opportunity for the noncomplying reseller

or operator services provider to respond or correct the deficiency. A reseller or operator services provider disputing the alleged violation or discontinuance may request a formal hearing under section 69-02-02-02, in which case the discontinuance will be stayed until final decision by the commission.

11. a. Except for discontinuance due to delinquency, a competitive local exchange company may not discontinue service to a customer without first providing the customer with twenty days' written notice of the intent to discontinue service. The notice of intent to discontinue service shall inform the customer of its right to choose between local exchange companies, if more than one local exchange company is providing essential services.
 - b. A telecommunications company may not interfere with a competitive local exchange company's obligation to provide notice to a customer; provided that a telecommunications company may disconnect service to a competitive local exchange company under the terms of a resale or interconnection agreement so long as the interconnection agreement is consistent with law and rules.
12. Except in the case of discontinuance for nonpayment, if a telecommunications company providing interexchange service

intends to discontinue service or is forced to discontinue service due to abandonment, acquisition, bankruptcy, or for other reasons, the company must provide reasonable advance notice of the discontinuance to each customer. The notice must inform the customer that the customer must choose another primary interexchange carrier or use an alternative service.

History: Effective April 1, 1985; amended effective January 1, 1993; May 1, 1996; July 1, 1997, amendments voided by the Administrative Rules Committee effective, August 16, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.4, 49-21-01.7, 49-21-07

69-09-05-04. Rules for resale of telecommunications services.

1. Definitions.

- a. "Premise cable" means telecommunications cable or channels on the reseller's side of the point of connection to the local exchange company (demarcation point).
- b. "Prepayment" means payments made by customers of a reseller in advance of receiving service. Prepayment includes a deposit and any customer payment for telecommunications service in advance of receiving the full amount of service for which payment is made.
- c. "Resale" means the subscription to local or long-distance telecommunications services and facilities by one entity, and

reoffered for profit or with markup to others with or without enhancements. Where reoffered service is part of a package, and the package is offered for profit or markup, it is resale.

- d. "Reseller" means a person reselling local or long-distance telecommunications services. The definition does not include pay telephone providers, but does include a cellular and personal communication service provider who resell wireline resells cellular or other wireless service as part of their cellular or personal communication service.
- e. "Same continuous property" is contiguous real estate owned by the same individual, group of individuals, or other legal entity having title to the property. The property may be traversed by streets, ditches, or other similar manmade or natural terrain features provided that, but for terrain features, the property would be contiguous and provided that such terrain features are of a nature and dimension that it is reasonable to treat the property as contiguous.
- f. "Shared tenant service provider" means a person reselling telecommunications services to the tenants of a building complex on the same continuous property or to parties with a community of interest.

2. A reseller may not operate in North Dakota except in compliance with applicable laws and rules. A reseller shall:
 - a. ~~Obtain a certificate of registration from~~ Register with the commission, on a form provided by the commission, authorizing indicating the provision of local resale or long-distance resale services in the state of North Dakota.
 - b. If a reseller requires prepayment for service, it shall:
 - (1) Submit a performance bond in an amount specified by the commission; or
 - (2) Establish an escrow account in a North Dakota bank containing an amount equal to the prepayments collected at any given time, and file monthly reports showing escrow account activities and call completion data.
 - (3) ~~The requirements of paragraphs 1 and 2 are waived for any company that has provided cellular or personal communication service in North Dakota for one year without a formal complaint having been filed against it. The commission may revoke the waiver after notice and opportunity for hearing if necessary to protect the public interest.~~ Under North Dakota Century Code section 49-03.7-09(7) the bonding

requirement does not apply to a facility based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.

4. The requirements of paragraphs 1 and 2 are subject to a twenty-five thousand dollar minimum for resellers of local service other than by means of a prepaid calling card. The required amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or twenty-five thousand dollars, whichever is greater. The required amount of an escrow account is an amount equal to the prepayments at any given time but no less than twenty-five thousand dollars.
- (5) The requirements of paragraphs 1 and 2 are subject to a two thousand five hundred dollar minimum for resellers of any service other than the local service subject to paragraph 4. The amount of a performance bond is the product of the estimated level of customers after three years of operation, times the amount of required customer prepayments, or two thousand five hundred dollars, whichever is greater.

The amount of an escrow account is an amount equal to the prepayments (including prepaid calling cards) at any given time.

- ~~c. Forfeit its registration if it is voluntarily dissolved or involuntarily dissolved under North Dakota law. A reseller may not operate and its registration certificate is void on the effective date of involuntary dissolution under North Dakota Century Code section 10-23-02.2.~~
3. A reseller may not be identified as an optional intrastate interexchange carrier ~~without a certificate of registration from~~ unless it is registered with the commission.
 4. Except for residents of dormitories or residence halls of schools, colleges, or universities, the end user has the unrestricted right to choose service from the incumbent local exchange company.
 5. A shared tenant service provider shall allow the tenant to use the shared tenant service provider's premise cable and wire in the event an end user wants to receive service from the local exchange company.
 6. The reseller is responsible for the charges incurred for telecommunications services to which it subscribes for serving its end users.

7. A reseller is subject to ~~reregulation by the commission~~, revocation of its ~~certificate authority~~, and the penalties provided in North Dakota Century Code ~~chapter~~ chapters 49-03.1 and 49-07 for violation of any applicable law or rule.

History: Effective March 1, 1989; amended effective August 1, 1991; December 1, 1993; February 1, 1995; July 1, 1997; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-04.1. Identification of intraLATA interexchange carriers.

1. A local exchange carrier shall not identify a telecommunications company as an optional intrastate interexchange carrier unless the telecommunications company provides the local exchange company with evidence of an effective ~~certificate of public convenience and necessity or a current certificate of registration~~ authorizing the provision of intrastate interexchange service.
2. A telecommunications company shall immediately notify in writing all local exchange companies for which it has requested identification as an optional intrastate interexchange carrier if the telecommunications company's authority to provide interexchange service is revoked or abandoned. A local exchange company shall cease to identify a telecommunications company as an optional intrastate interexchange carrier upon receipt of a written notice that

the telecommunications company's authority to provide interexchange service has been revoked or abandoned.

History: Effective February 1, 1995; amended effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-05. Rules for the provision of operator services.

1. Definitions.

- a. "End user" means the person to whom operator service is provided.
- b. "Operator service" means service provided to assist in the completion or billing of telephone calls through the use of a live operator or automated equipment. "Operator service" does not include completion of calls through an 800 number or an access code when billed to an account previously established with the carrier by the end user, or the automated operator services provided by pay telephone sets with built-in automated operator messages.
- c. "Operator service provider" means the person providing operator service.

2. Operator service providers shall:

- a. ~~Obtain a certificate of registration from~~ Register with the commission authorizing the provision of operator services in the state of North Dakota.
- b. Provide written material for use in disclosing to the end user the name and toll free telephone number of the operator service provider. This material must be provided to all coin telephone operators, motels, hospitals, and any other locations where end users may use telephone service not billable to their home or business telephones without operator service.
- c. Require operators to clearly identify the operator service provider to all end users and when requested, provide rate information.
- d. Provide emergency call service that is equal to that provided by the local exchange telephone company and, if unable to meet this requirement, provide emergency call service by immediate transfer of such calls to the local exchange company.
- e. For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred to another carrier by an operator service provider

which cannot or will not complete the call, unless the call can be billed in accordance with this subsection.

- f. Not charge for incompleting calls.
- g. Disclose their names on bills which include charges for services they provided.

History: Effective March 1, 1989; amended effective August 1, 1991; May 1, 1996; January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7, 49-21-07

69-09-05-10. ~~Certificate of registration~~ Registration - Procedure.

1. A reseller ~~applying for a certificate of registration or competitive facilities based provider desiring authority to provide service in North Dakota~~ shall ~~file an application~~ register on a form provided by the commission. The ~~application~~ registration shall include ~~evidence~~ identification of the applicant's authority to do business in North Dakota.
2. ~~An applicant for a certificate of registration as a~~ A reseller shall follow the procedure set forth in section 69-09-05-04.
3. When ~~the holder of a certificate of registration~~ a registered company intends to assign the ~~its~~ authority to provide telecommunications service in North Dakota to another entity, the

assignee must first ~~obtain a certificate of registration from~~ register with the commission.

4. A ~~reseller~~ registered company may voluntarily, without commission approval, surrender its ~~certificate of registration~~ authority by notifying the commission in writing and updating its registration to reflect this surrender.
5. A competitive local exchange company intending to surrender its authority to provide local exchange service must provide twenty days' prior written notice to the company's customers.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21

69-09-05-11. Certificate of public convenience and necessity for incumbent local telecommunications company - Procedure.

1. An applicant for a certificate of public convenience and necessity as an incumbent local exchange company shall file an application with the commission which includes evidence of the applicant's authority to do business in North Dakota, conforms to the commission's rules of practice and procedure under article 69-02, and which identifies:
 - a. The type of service the applicant intends to provide.

- b. The service area or areas in which the applicant intends to provide service.
 - c. How the applicant meets the issues to be considered in the application.
- 2. An applicant for a certificate of public convenience and necessity must also file consolidated financial statements for the most recent year available, including:
 - a. A balance sheet of the form and style usually followed in the industry.
 - b. An income statement of the form and style usually followed in the industry.
 - c. If available, an independent accountant's financial opinion.
 - d. Any other information requested by the commission.
- 3. In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:
 - a. Fitness and ability of the applicant to provide service.
 - b. Adequacy of the proposed service.

- c. The technical, financial, and managerial ability of the applicant to provide service.
4. If the application is to be decided on a notice of opportunity for hearing, the applicant shall file affidavits sufficient to meet the applicant's burden of proof on the issues.
5. When the holder of a certificate of public convenience and necessity intends to assign the authority to provide telecommunications service in North Dakota to another entity, the assignee must first obtain a certificate of public convenience and necessity from the commission.
6. ~~Abandonment of a certificate of public convenience and necessity for a competitive local exchange company requires prior written notice to the commission and thirty days' prior written notice to the company's customers.~~ Abandonment of a certificate of public convenience and necessity for an incumbent local exchange company requires prior commission approval.

History: Effective January 1, 2001.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-03.1-01, 49-03.1-03, 49-21, 49-21-01.7(7)

Proposed Rules on Eligible Carrier Applications and Advertising

69-09-05-12. Eligible carrier applications and advertising.

1. ~~Eligible carrier applications:~~

a. A telecommunications company that desires designation as an eligible carrier as that term is defined in the Telecommunications Act of 1996 shall make application for such designation with the commission.

~~b.~~ 2. An application for designation as an eligible carrier must specifically identify:

(1) ~~a.~~ a. The applicant's service area;

(2) ~~b.~~ b. How the applicant meets the requirements for designation as an eligible carrier;

(3) ~~c.~~ c. Whether the applicant requires a waiver of any eligible carrier requirement; and

(4) ~~d.~~ d. If a waiver is required, the specific reasons for the waiver and the length of time for which the waiver is required.

3. Any common carrier in its application must:

a. Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will:

(1) Provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and

(2) Provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage, if service can be provided at reasonable cost by:

(a) Modifying or replacing the requesting customer's equipment;

(b) Deploying a roof-mounted antenna or other equipment;

(c) Adjusting the nearest cell tower;

(d) Adjusting network or customer facilities;

(e) Reselling services from another carrier's facilities to provide service; or

(f) Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment;

b. Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

c. Demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations.

- d. Demonstrate that it will satisfy applicable consumer protection and service quality standards. A commitment by wireless applicants to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service will satisfy this requirement. Other commitments will be considered on a case-by-case basis.
 - e. Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation.
 - f. Certify that the carrier acknowledges that the commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.
4. Any common carrier that has been designated as an eligible telecommunications carrier or that has submitted its application for designation before the effective date of these rules must submit the information required by paragraph (3) of this section no later than October 1, 2006, as part of its annual reporting requirements.
5. Prior to designating an eligible telecommunications carrier, the commission shall determine that such designation is in the public interest. In doing so, the commission shall consider the benefits of increased consumer choice.

and the unique advantages and disadvantages of the applicant's service offering. In instances where an eligible telecommunications carrier applicant seeks designation below the study area level of a rural telephone company, the commission shall also conduct an analysis that compares the population density of each wire center in which the eligible telecommunications carrier applicant seeks designation against that of the wire centers in the study area in which the eligible telecommunications carrier applicant does not seek designation. In its analysis, the commission shall consider other factors, such as disaggregation of support by the incumbent local exchange carrier.

6. A common carrier seeking designation as an eligible telecommunications carrier for any part of tribal lands shall provide a copy of its petition to the affected tribal government and tribal regulatory authority, as applicable, at the time it files its petition with the federal communications commission. In addition, the commission shall send the relevant public notice seeking comment on any petition for designation as an eligible telecommunications carrier on tribal lands, at the time it is released, to the affected tribal government and tribal regulatory authority, as applicable, by overnight express mail.

27. Eligible carrier advertising. The following forms of advertising of the availability of universal service are required of an eligible carrier:

- a. A full description of available services in the eligible carrier's official telephone directory, including the process to be used by customers to qualify for lifeline and link-up service.
- b. Advertising of the availability of universal services in media of general circulation in each eligible carrier's service areas. Availability may be advertised in newspapers, company newsletters, company or civic internet sites, bill stuffers, direct mailings, or other means intended to convey availability throughout the service area.

History: Effective January 1, 2001

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7, 49-21-07

69-09-05-12.1. Annual reporting requirements for designated eligible telecommunications carriers.

A common carrier designated as an eligible telecommunications carrier shall provide:

1. A progress report on its five-year service quality improvement plan, including maps detailing its progress toward meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;

2. Detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5, of at least thirty minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect (a) at least ten percent of the end users served in a designated service area; or (b) a 911 special facility, as defined in 47 C.F.R. § 4.5(e). Specifically, the eligible telecommunications carrier's annual report must include information detailing: (a) the date and time of onset of the outage; (b) a brief description of the outage and its resolution; (c) the particular services affected; (d) the geographic areas affected by the outage; (e) steps taken to prevent a similar situation in the future; and (f) the number of customers affected.
3. The number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers;
4. The number of complaints per one thousand handsets or lines;
5. Certification that it is complying with applicable service quality standards and consumer protection rules;
6. Certification that the carrier is able to function in emergency situations;

7. Certification that the carrier is offering a local usage plan comparable to that offered by the incumbent LEC in the relevant service areas; and
8. Certification that the carrier acknowledges that the commission may require it to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7, 49-21-07

Proposed Interconnection Agreement Filing Rules

69-09-05-14. Procedure for filing negotiated interconnection agreements. Carrier-to-carrier interconnection agreements adopted by negotiation must be filed for commission approval under 47 U.S.C. section 252(e), following the procedure set out in this section.

1. The requirements of this section apply to interconnection agreements negotiated under 47 U.S.C. section 251, assignments, assumptions or transfers of interconnection agreements, amendments to interconnection agreements, and agreements for Qwest Platform Plus (QPP) services. The requirements of this section do not apply to commercial line sharing agreements.
2. Each filing must include a completed cover sheet in a form prescribed by the commission.
3. Filed interconnection agreements will be listed on the commission Internet site for comment by interested parties. The Internet listing will include the date each agreement was filed, and links to the agreement itself.
4. The commission will accept written comments on a listed agreement for 60 days from the date filed.

5. Absent commission action within 90 days of filing to disapprove an agreement (or portion thereof), the agreement will be deemed approved under 47 U.S.C. section 252(e)(4).
6. Any assignment, assumption or transfer of an approved interconnection agreement requires a new filing with a new 90-day review and comment period.
7. Any amendment to an interconnection agreement requires a new filing with a new 90-day review and comment period.

General Authority: NDCC 28-32-02, 49-21-01.7

Law Implemented: NDCC 49-21, 49-21-01.7

PROPOSED RULES

69-09-08 Renewable electricity and recycled energy tracking system.

69-09-08-01. Purpose, application, and effective date. This chapter establishes a program to include tracking, recording and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources as defined by North Dakota Century Code section 49-02-25 among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This chapter applies to all public utilities, electric cooperatives and municipal electric utilities. The tracking program will be effective as specified in the commission's order that designates a program administrator and implements these rules.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-02. Definitions.

- 1. Designated representative — A responsible individual authorized by the owner or operator of a renewable energy facility or purchaser of energy produced from a renewable resource to register that resource with the program administrator. The designated representative must**

have the authority to represent and legally bind the owner, operator, or purchaser in all matters pertaining to the renewable energy certificates tracking program.

2. Existing facilities — Renewable energy facilities placed in service before January 1, 2001.
3. New facilities — Renewable energy facilities placed in service on or after January 1, 2001.
4. Program administrator — The independent entity designated by commission order to carry out the administrative responsibilities related to the renewable energy certificates tracking program as set forth in this chapter.
5. Renewable energy certificate — A document recording one or more renewable energy credits that have been certified by the program administrator as representing electricity generated by a renewable energy facility registered with the tracking system or a certificate imported from a compatible certificates tracking system.
6. Renewable energy certificate account — An account maintained by the program administrator for the purpose of tracking renewable energy certificates by a program participant.

7. Renewable energy certificates tracking program — The process of tracking renewable energy certificates as a means of meeting the requirements set forth in section 69-09-08-04.
8. Renewable energy credit — The intangible, generally perceived environmental benefits and attributes associated with generating one megawatt hour (MWh) of renewable electricity or recycled energy that is physically metered and meets the requirements set forth in Section 69-09-08-04.
9. Renewable energy facility – A facility generating electricity that exclusively relies on an energy source or fuel included in North Dakota Century Code Section 49-02-25.
10. Renewable energy resource — A resource that generates electricity derived from a renewable energy facility.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-03. Renewable energy certificates tracking program.

Renewable energy certificates may be recorded, transferred, and retired as set forth in this chapter. Except where specifically stated, the provisions of this section apply uniformly to all participants in the tracking program.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-04. Facilities eligible for participation in the renewable energy certificates tracking program. For a renewable energy facility to be eligible to participate in the tracking program, the facility must be either a new facility or existing facility as defined in section 69-09-08-02 and must also:

1. Register under North Dakota Administrative Code Section 69-09-08-07; and
2. Have output that is capable of being physically metered and verified by the program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26
Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-05. Responsibilities of program administrator. At a minimum, the program administrator shall perform the following functions:

1. Create accounts that track renewable energy certificates for each participant in the tracking program;
2. Award renewable energy certificates to registered renewable energy facilities based on verified meter reads;
3. Maintain public information on the program administrator's website that provides tracking program information to interested buyers and sellers of renewable energy certificates;

4. Facilitate private trading of renewable energy certificates;
5. Verify the accuracy of metered production data and other information identified in the renewable energy certificate;
6. Provide an annual report to the commission. Beginning in the year following commission designation of the program administrator, the program administrator shall submit a report to the commission on or before April 15 of each year. At a minimum, the report must contain the amount of registered existing and new generating capacity from a renewable energy facility installed in the state, (in megawatts) by technology type, the owner or operator of each facility or the facility's certificates, the date each facility began to produce electricity, and the total number of renewable energy credits certified by the program administrator during each month of the reporting period.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-06. Production and transfer of renewable energy certificates.

The program administrator shall administer a tracking program for renewable energy certificates in accordance with the requirements of this chapter.

1. The transfer of renewable energy certificates between parties is effective only when the transfer is recorded by the program administrator.

2. The program administrator shall require that renewable energy certificates be adequately identified prior to recording a transfer and shall issue a confirmation of the transaction to parties when the transfer is recorded.
3. The program administrator shall establish a procedure to ensure that the award, transfer, and retirement of certificates are accurately recorded.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

69-09-08-07. Registration and certification of renewable energy facilities. To be awarded renewable energy certificates, a power generator must complete the registration process described in this section.

1. The designated representative shall register with the program administrator each renewable energy generation unit. At a minimum, the registration must include the location, owner, technology, rated capacity of the facility, and evidence that the facility meets the resource eligibility criteria in North Dakota Century Code Section 49-02-25.
2. After verifying the information required in the registration process for renewable facilities, the program administrator shall create a

renewable energy certificate account for the designated representative of the renewable energy resource.

3. The commission or its program administrator may make on-site visits to any registered unit of a renewable energy resource and may revoke the registration of any unit not in compliance with the law and rules.
4. A renewable energy facility may not be awarded renewable energy certificates under this program if it is not registered.
5. Any disputes will be resolved using dispute resolution procedures established by the commission or its program administrator.

General Authority: NDCC 49-02-01, 49-02-24, 49-02-25, 49-22-26

Law Implemented: NDCC 49-02-24, 49-02-25, 49-22-26

Scott, Sandi L.

From: Lein, Jerry R.
Sent: Monday, November 07, 2005 2:23 PM
To: Lein, Jerry R.; 'dklempel@bepc.com'; 'CJabs@bepc.com'; 'PBeithon@otpc.com'; 'BBrutlag@otpc.com'; 'tamie.aberle@mdu.com'; 'Don.Ball@MDU.com'; 'Gary.paulsen@MDU.com'; 'dave.sederquist@xcelenergy.com'; 'tgrove@GREnergy.com'; 'mbring@minnkota.com'; 'mrgsimon@mrenergy.com'; 'weber@wapa.gov'; 'DarylHanson@otpc.com'; 'dhill@ndarec.com'; 'dsollom@minnkota.com'; 'lkopseng@rainbowgas.com'; 'gskarba@ieee.org'; 'hillsaud@rrv.net'; 'jburgess@lignite.com'; 'mbeckjensen@GREnergy.com'; 'lloyd@wapa.gov'; 'bsoholt@iwla.org'; 'jmayhew@grenergy.com'; 'DCharles@bepc.com'; 'john_didonato@fpl.com'; 'james.p.johnson@xcelenergy.com'; Fine, Karlene K.; 'HarmsRbrt@aol.com'; 'williamsongw@centralpwr.com'; 'tomb@uppermo.com'; 'dprazak@otpc.com'; 'bcrabtree@gpisd.net'; 'RRebenitsch@bepc.com'; 'michelle.m.swanson@xcelenergy.com'
Cc: -Grp-PSC Commissioners; -Grp-PSC Legal; -Grp-PSC Public Utilities
Subject: Notice of November 10 Workshop: 2005 HB 1314 - Renewable Energy Credits Tracking Program
Attachments: Notice 11-05 Energy Credit Workshop.doc; Proposed Electric Rules.doc

Attached is a Notice of a North Dakota Public Service Commission workshop to review and discuss preliminary draft rules (also attached) for implementing 2005 HB 1314, which authorized participation in a program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources. The workshop is scheduled to begin on Thursday, November 10th at 10:00 a.m. CST in the Commission Hearing Room. Please let me know if you need calling arrangements for telephone participation. We will be looking forward to your thoughtful comments and suggestions during the workshop. Thanks.

Jerry Lein,
 Public Utility Analyst
 701 328-1035

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

NOTICE OF WORKSHOP

November 7, 2005

Purpose: To discuss and review preliminary draft rules for implementing 2005 House Bill 1314 concerning possible North Dakota participation in a regional program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources.

When: Thursday, **November 10, 2005**
10:00 to 12:00 a.m. CST

Where: Commission Hearing Room
State Capitol, 12th Floor
Bismarck, ND 58501

Audio

Broadcast: <http://www.psc.state.nd.us/media/comm-live.html>

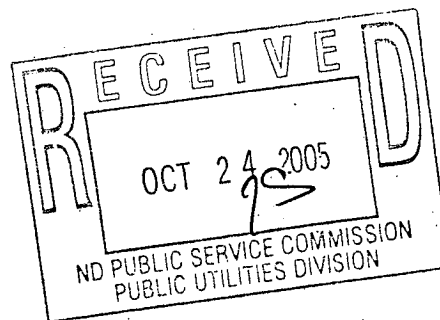
This workshop, as with any Commission meeting, is open to the public and you are encouraged to attend. Telephone participation is encouraged for those with travel conflicts. For more information contact the Public Service Commission, 600 East Boulevard Avenue, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please notify Illona A. Jeffcoat-Sacco, Executive Secretary at least 24 hours before the workshop.



THE IZAAK WALTON LEAGUE OF AMERICA

October 20, 2005

Illona Jeffcoat-Sacco
Executive Secretary
North Dakota Public Utilities Commission
600 East Blvd Avenue, Department 408
Bismarck, ND 58505-0480



Re: Midwest Renewable Energy Tracking System

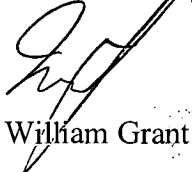
Dear Ms. Jeffcoat-Sacco:

The attached document contains the recommendations of the Midwest Renewable Energy Tracking System (M-RETS) Technical Review Committee for the design of a system to track renewable energy generated in a six state (IA, IL, MN, ND, SD, WI), one province (MB) region. Stakeholders from around this region representing utilities, regulators and renewable energy advocates have met over the last year to develop the recommendations for the functional design and operation of M-RETS. Additional copies are available at www.mrets.net.

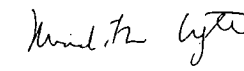
This document is the product of funding support from the Joyce Foundation. Stakeholder participants in the Powering the Plains Project have partnered with the Izaak Walton League of America and the Center for Resource Solutions to utilize this funding to design and implement M-RETS. This partnership envisions the establishment of a regional M-RETS Governance Committee to receive these recommendations and direct further implementation activities. The Governance Committee would be comprised of utility regulatory commissioners representing each of the seven jurisdictions.

We also anticipate that individual state commissions may want to initiate their own proceedings in this regard. M-RETS project staff is available to any state commission to provide further details on M-RETS activities to date and future implementation plans. Please feel free to contact any of the undersigned project staff to request such support.

Yours sincerely,


William Grant


Brad Crabtree


Meredith Wingate

NATIONAL OFFICE
707 Conservation Lane
Gaithersburg, Maryland 20878-2983
Phone: (301) 548-0150
Fax: (301) 548-0146
E-mail: general@iwla.org



MIDWEST OFFICE
1619 Dayton Avenue, Suite 202
St. Paul, Minnesota 55104-6206
Phone: (651) 649-1446
Fax: (651) 649-1494
E-mail: midwestoffice@iwla.org

Midwest Renewable Energy Tracking System Technical Committee Recommendations

FINAL DRAFT

October 14, 2005

Prepared by Center for Resource Solutions

For Powering the Plains Project and Izaak Walton League of America

Table of Contents

Executive Summary	5
1. Introduction.....	7
1.1. Development of these Technical Recommendations	7
1.2. Next Steps and Timeline.....	7
2. Geographic Scope	9
3. M-RETS User Registration.....	9
3.1. Participation in M-RETS	9
3.2. Establishing an M-RETS Account.....	9
3.3. Generator Registration.....	10
3.4. Assignment of Rights of Registration.....	13
4. M-RETS Account Structure.....	15
4.1. Active Account	16
4.2. Retirement Subaccount	17
4.3. Export Subaccount.....	18
5. Access to Accounts and Confidentiality	19
5.1. M-RETS Levels of Account Access	20
5.2. Confidentiality	24
6. Static Data in M-RETS	24
6.1. Updating Static Data	25
6.2. Misrepresentation of Static Information:	25
7. Dynamic Data in M-RETS - Generation MWh Data.....	26
7.1. Generation Data Requirements	26
7.2 Revenue Metering Standards	26
7.3. Measurement of Generation and Adjustments.....	27
7.4. Prior Period Adjustments.....	27
7.5. Notification of Adjustments.....	27
7.6. Frequency of Data Collection/Meter Reading	28
7.7. Data Transmittal.....	28
7.8. Special Requirements for Self-Reporting Generators Only.....	28
7.9. Generation Activity Log	29
7.10. Multi-Fuel Generation Units.....	30
8. Requirements of Data Reporting Entities	32
9. Data Security.....	32
10. Creation of Certificates	33
10.1. Certificate Creation.....	33

10.2. Frequency of Certificate Creation.....	33
10.3. Process and Timeline for M-RETS Certificate Creation.....	33
10.4. Certificate Creation for Accumulated Generation.....	35
10.5. Data fields Carried on Each Certificate.....	35
11. Certificate Errors and Correction.....	36
11.1 Data Validity Check.....	36
11.2 Certificate Errors Discovered After Certificate Issuance	36
12. Initial Deposit of Certificates in M-RETS Accounts.....	36
13. Transfers of Certificates.....	36
13.1. Transferring Certificates between Accounts.....	36
13.2. Standing Orders	37
13.3. Forward Certificate Transfers.....	39
14. Retirement of Certificates.....	41
14.1. Mechanism for Certificate Retirement.....	41
15. Interaction of M-RETS with the Wisconsin Renewable Resource Credit Tracking Program	
41	
16. Imports and Exports of Certificates.....	42
16.1. Import of Certificates.....	42
16.2. Export of Certificates.....	43
16.3. Re-Import of Exported Certificates	43
16.4. Preventing Double Counting of Imported/Exported Certificates	43
17. Reporting.....	44
17.1. Public Reports.....	45
17.2. Private Reports.....	46
18. Additional Functionality	48
Appendix A: Account Holder Registration Process and Generator Registration Process.....	49
Appendix B-1: Data Fields	51
Appendix B-2: Essential Generation Characteristics for Aggregate Metering.....	60
Appendix B-3: Documentation Requirements for Multi-Fuel Generation Units	63
Appendix C: Outstanding Issues.....	64
Appendix D: Glossary.....	66
Appendix E: State and Provincial Definitions of Renewable Energy	71

Acknowledgements and Disclaimers

This document contains the recommendations of the Midwest Renewable Energy Tracking System (M-RETS) Technical Committee. Many of the ideas and language contained in this document were borrowed from the *WREGIS Interim Operating Rules Functional Requirements: Final WREGIS Operational Rules Committee Recommendations July 15, 2004*.

Special Thanks

The Great Plains Institute, on behalf of the Powering the Plains Project, and the Izaak Walton League would like to recognize and thank a number of institutions and individuals for their important contributions to the design and ongoing implementation of M-RETS.

A generous two-year grant from the Joyce Foundation has supported the intensive staffing and many meetings and conference calls of the Technical Review Committee, as well as participation in important regional workshops, conferences and other events that have helped inform and build support for M-RETS.

Meredith Wingate of the Center for Resource Solutions, with assistance from her colleague, Dan Lieberman, has provided a skillful and dedicated service of technical assistance and drafting to the Technical Review Committee.

Finally, none of this would have been possible without the substantial time, commitment and constructive engagement of the following individuals and their institutions who participate on the M-RETS Technical Review Committee:

- **Jeff Anthony**, Manager, Renewable Energy Strategy, We-Energies
- **Randy Bauer**, Manager, Asset Strategy, Alliant Energy
- **J.P. Brummond**, Generation Market Manager, Alliant Energy (former Committee participant)
- **Bryan Clow**, Renewable Energy Development, Illinois Department of Commerce and Economic Opportunity
- **Cynthia Fang**, Public Utilities Rates Analyst, MN Department of Commerce
- **Bill Grant**, Midwest Director, Izaak Walton League of America
- **Susan Hedman**, former staff person, Illinois Department of Commerce and Economic Opportunity (former Committee participant)
- **Paul Helgeson**, Senior Engineer, WI Public Service Commission
- **Kelly Hunter**, Market Access Officer, Export Power Marketing Department, Manitoba Hydro (also representing Province of Manitoba)
- **Pat Keily**, Renewable Energy Program Manager, We-Energies
- **Mark Lambert**, former Member, Iowa Utility Board (former Committee participant)
- **Susan McKenzie**, Rate Analyst, Minnesota Public Utilities Commission
- **John Pearce**, Utility Specialist, Iowa Utility Board
- **Ron Rebenitsch**, Member Marketing Manager, Basin Electric Power Cooperative
- **Phyllis Reha**, Commissioner, MN Public Utilities Commission
- **Adam Sokolski**, Energy Associate, Izaak Walton League of America - Midwest
- **Michelle Swanson**, Manager, Policy Development, Xcel Energy
- **Paul Symens**, former South Dakota State Senator and farmer, SD
- **Michael Vickerman**, Executive Director, RENEW Wisconsin
- **Susan Wefald**, Commissioner, ND Public Service Commission

Committee Staff

- **Brad Crabtree**, Director, Powering the Plains Project, Great Plains Institute
- **Dan Lieberman**, Co-Director Clean Energy Policy Design and Implementation Program, Center for Resource Solutions
- **Eric Schroeder**, Business Manager, Great Plains Institute
- **Meredith Wingate**, Co-Director Clean Energy Policy Design and Implementation Program, Center for Resource Solutions

Executive Summary

With major funding from the Joyce Foundation, stakeholder participants in the Powering the Plains (PTP) Project have partnered with the Izaak Walton League of America (IWLA) and the Center for Resource Solutions (CRS) to launch a two-year initiative to design and implement the Midwest Renewable Energy Tracking System (M-RETS) by the end of 2006. This document contains the recommendations for the functional design and operation of M-RETS.

M-RETS will track renewable generation located within the state and provincial boundaries of Minnesota, Iowa, North Dakota, South Dakota, Wisconsin, Illinois and Manitoba. Renewable generation is defined as energy generated by a facility that is considered renewable as defined by any of the seven states or provinces listed above. The M-RETS Administrator will issue one electronic M-RETS certificate for each MWh of energy that is generated by registered generators that are physically located in one of the participating M-RETS states or provinces. To ensure that double-counting does not occur, generators participating in M-RETS must have 100% of their generation output tracked by M-RETS. In addition, M-RETS will consider tracking non-renewable generation from any of these states in the future.

Participation in M-RETS is voluntary. Any party, including non-generators, such as traders, marketers, and end-use customers may establish an account in the system. There is one basic type of account for all M-RETS Account Holders. The basic account contains at least three different accounts:

- An Active Account,
- A Retirement Subaccount, and
- An Export Subaccount.

M-RETS Certificates are originally deposited into the Active Account associated with the revenue meter established at the time of generator registration. Account Holders can then transfer M-RETS Certificates to the other subaccounts and other Account Holders. M-RETS users will be able to perform various functions and transactions within each account and subaccount type.

All data in M-RETS will be verified. M-RETS will not determine eligibility for state or voluntary programs. Each individual state will be responsible for determining whether or not a particular generating unit qualifies for a state program or not. However, the State Commissions may use the information collected and verified by M-RETS to conduct this determination.

M-RETS will issue reports on activity within the system. There are three types of public reports: Directory of Account Holders, Directory of Registered Generators, and Report on Aggregated M-RETS Activity. Public reports will be accessible to anybody via the public page on the M-RETS website.

There are many issues related to fees, governance, operations, administration and software design that still need to be resolved. A list of some of these issues can be found in Appendix C.

PTP and IWLA will continue to work with stakeholders to resolve many of these issues in the next year. The following next steps for M-RETS system design and implementation are planned:

- Hold first informal meeting of M-RETS governing Board of Regulators (June 2005);
- Revise Technical Recommendations after first round of outside review (July 2005);
- Disseminate second draft of Recommendations for formal public comment (July-August 2005);
- Recommend final draft of M-RETS Technical Recommendations to regulators (Fall 2005);
- Draft and recommend RFPs for system hosting/software design to regulators (Fall 2005);
- Let RFPs to potential M-RETS hosts and software developers (4th quarter of 2005); and
- Launch M-RETS as operational system (by end of 2006).

1. Introduction

With major funding from the Joyce Foundation, stakeholder participants in the Powering the Plains (PTP) Project have partnered with the Izaak Walton League of America (IWLA) and the Center for Resource Solutions (CRS) to launch a two-year initiative to design and implement the Midwest Renewable Energy Tracking System (M-RETS) by the end of 2006. This document contains the recommendations for the functional design and operation of M-RETS.

1.1. Development of these Technical Recommendations

This initiative drew inspiration and support from three excellent regional workshops on credit trading and tracking held in 2004. Hosted by Commissioner Phyllis Reha of the Minnesota Public Utilities Commission and former Commissioner Burnie Bridge of the Public Service Commission of Wisconsin, with assistance from consultants Kevin Porter and Ed Holt, these workshops explored the benefits of renewable energy certificate trading and the role of tracking systems in supporting certificate trading markets and renewable energy policy compliance.

Following these regional workshops, PTP, IWLA and CRS project partners formed a regional, public-private Technical Review Committee in September 2004 (see participant list in Acknowledgements Section) to develop this first draft of M-RETS Technical Recommendations and to advise project partners and regulators on the future system governance and financing. The Technical Review Committee has met three times and held numerous conference calls to:

- Review other regional tracking systems in the U.S. and Canada (NEPOOL in New England, PJM-GATS in the Mid-Atlantic states, ERCOT in Texas, and WREGIS in the western states/provinces), either currently in operation or under development;
- Determine the desired functionality for a Midwest system based on others' experiences and specific needs in the region;
- Reach consensus on M-RETS functionality, policy issues and operating rules for eventual recommendation to regulators in Illinois, Iowa, Manitoba, Minnesota, North Dakota, South Dakota and Wisconsin; and
- Devise strategies for establishing an M-RETS governing board, developing a Request for Proposals (RFPs) for system hosting and software design, and securing funding of up-front system development costs and ongoing financing of future operations.

1.2. Next Steps and Timeline

The Technical Review Committee recognizes that there are many issues related to fees, governance, operations, administration and software design that still need to be resolved. A list of some of these issues can be found in Appendix C. In some instances, a placeholder had been inserted in the text where a decision is needed on high priority items. PTP and

IWLA will continue to work with stakeholders to resolve many of these issues in the next year. The following next steps for M-RETS system design and implementation are planned:

- Hold first informal meeting of M-RETS governing Board of Regulators (June 2005);
- Revise Technical Recommendations after first round of outside review (July 2005);
- Disseminate second draft of Recommendations for formal public comment (July-August 2005);
- Recommend final draft of M-RETS Technical Recommendations to regulators (Fall 2005);
- Draft and recommend RFPs for system hosting/software design to regulators (Fall 2005);
- Let RFPs to potential M-RETS hosts and software developers (4th quarter of 2005); and
- Launch M-RETS as operational system (by end of 2006).

2. Geographic Scope

M-RETS will track renewable generation located within the state and provincial boundaries of Minnesota, Iowa, North Dakota, South Dakota, Wisconsin, Illinois and Manitoba. Any generator located outside of the geographic footprint of M-RETS with a contract with a participating utility to deliver energy into the M-RETS footprint may participate in M-RETS. Any other generator may participate at an adjusted fee schedule to account for the recovery of start-up costs of the tracking system.

Renewable generation is defined as energy generated by a facility that is considered renewable as defined by any of the seven states or provinces listed above. State definitions of renewable energy are found in Appendix E. In addition, M-RETS will consider tracking non-renewable generation from any of these states, but additional fees will apply commensurate with the additional costs to the system for tracking the non-renewable generation.

3. M-RETS User Registration¹

3.1. Participation in M-RETS

Participation in M-RETS is voluntary. Any party that registers with M-RETS and pays applicable fees (to be determined) may establish an account in the system. M-RETS will only track certificates originating from generators located in the states and provinces listed in (2) above.

3.2. Establishing an M-RETS Account

Any person or entity that wants to participate in M-RETS must establish an M-RETS account. There is no limit to the number of separate accounts a company or individual may establish. Registrants will provide basic account registration information, such as account holder name, address, contact info etc. to the M-RETS Administrator through a secure web-page on the M-RETS website. The registrant will also be required to supply payment for any account registration fees. An account in M-RETS will remain active until terminated. Termination can be initiated by the Account Holder by notifying the M-RETS administrator.

M-RETS will check all account registration or modified existing account entries for completeness. Mandatory fields that are not completed by the registrant will be flagged to the submitter through an error message.

¹ With regard to existing generators, the M-RETS Administrator will adjust the account registration process and process for designating a generator agent in response to direction from regulators or courts.

3.3. Generator Registration

To ensure that double-counting does not occur, generating units participating in M-RETS must have 100% of their generation output from that generating unit tracked by M-RETS. This will be a part of the Generator Registration Agreement.²

All Generator Owners who want M-RETS to create certificates of generation must first establish an account within the M-RETS system as described above and then register the generating unit(s) with M-RETS. Registration with M-RETS does not imply or confer acceptance into or eligibility for a state's Renewable Portfolio Standard program.

To register the generating unit(s), the owner of the generating unit or the Responsible Party³ must submit to the M-RETS Administrator all of the following:

- The M-RETS Account number to which the generation unit will be linked,
- A completed on-line generator registration form containing information related to the characteristics of the generation unit and associated meter,
- A completed Generator Registration Agreement outlining the terms and conditions of participation in M-RETS,
- Any documentation requested by the M-RETS Administrator to verify the registration information, and
- Generator registration fee, if applicable.

Generating Units that are jointly owned must privately appoint a single party to act as the Account Holder.

The generator registration process will occur on-line through a secured web portal interface with password protection. M-RETS will check all account registration or modified existing account entries for completeness. Mandatory fields that are not completed by the registrant will be flagged to the submitter through an error message. Optional data fields, if used, may be filled in when the facility initially registers or may be completed after account activation. M-RETS will have the capability of recalling account holder information already keyed into the system.

Generating units are registered on a revenue-meter basis.⁴ In the case where there is more than one generating unit associated with a single revenue meter, the Generator Owner or Responsible Party can register more than one generating units under one registration if, and only if, all of the generating units have the same "essential generation characteristics." As a rule, the essential generating characteristics are any generator characteristics that may determine eligibility for a state renewable program for that resource type and are relevant to aggregate metering.⁵ A list of such essential characteristics is found in Appendix B-2 If the

² As a part of this Agreement, there needs to be language that states that the GU is registered with only one tracking systems and that they should notify us if they registered previously with other tracking systems.

³ The Responsible Party is an entity to whom the Generator Owner has given the right of registration. This is described in detail in Section 3.4. This agreement will be developed later.

⁴ See Section 7.2 for a definition of a revenue meter.

⁵ Such programs may be voluntary or mandatory. We also recommend including any additional fields that are found on WREGIS's list of "essential generating characteristics" to facilitate compatibility later.

generating units associated with a single revenue meter do not have the exact same essential generation characteristics, the Generator Owner or Responsible Party has two choices—they can either install a new revenue meter(s) such that all generating units associated with a single meter have the same generation characteristics, or they can designate a percentage allocation on an MWh output basis for each different generation unit(s) associated with the revenue meter. For example, if there are two generating units (a biomass direct combustion generation unit and a biomass gasification unit and technology type is considered an essential characteristic) associated with one revenue meter, the registrant would indicate that X% of the output as measured at the meter comes from the direct combustion unit and Y% comes from the gasification unit.⁶ Generators will be required to report to M-RETS within 30 days if there is a change of 5% or greater (up or down) from the expected generation allocation.

A Multi-fuel Generation Unit is one that is capable of producing energy using more than one fuel type, where the quantity of each of the fuels used is greater than 1% annually on a total heat input basis, excluding fuels used for start-up. Such facilities must register with M-RETS as a Multi-fuel Generation Unit. If the relative quantities of electricity production from each fuel can not be measured or calculated, and verified, the generator is not eligible to register in M-RETS.

If a facility has more than one revenue meter, the Generator Owner or Responsible Party must register the generation units associated with each revenue meter separately, though generating units may be associated with a single Account

All mandatory and optional data in M-RETS will be verified. After verification, the M-RETS Administrator will link the generating unit(s) with the M-RETS Account number indicated on the registration form. One or more generating units may be associated with a single M-RETS account. As a result of this process, all certificates created for that generating unit will be deposited into the account that is associated with each particular generating unit.

3.3.1. Verification of Static Data Submitted During Generator Registration

Upon completion of the generator registration process, the M-RETS Administrator will verify the information provided to M-RETS by the registrant. The method of verification for each data field is found in Appendix B-1. As a part of the registration process, the Account Holder must sign and submit to the M-RETS Administrator an affidavit declaration that the information being provided is true and correct. In addition, the M-RETS Administrator may conduct site visits to further verify the information as needed. The M-RETS Administrator will share generator information with state regulatory agencies when requested. Generators involved in the WI RRC program may be required to submit additional information to the WI PSC.

In the event data submitted is found to be false or if there is a discrepancy between the information submitted during the on-line registration process and the materials provided to verify the information, the M-RETS Administrator will notify the registrant that the information could not be positively verified. A process of either correcting the registration form, or withdrawing the registration form, or providing proof that the

⁶ Where $X+Y = 1$.

information on the registration form is correct will ensue between the M-RETS Administrator and the registrant until the M-RETS Administrator is satisfied that the information provided meets M-RETS standards for accuracy.

3.3.2. M-RETS Interaction with State Commissions and Certification of Facilities for State Programs

M-RETS will be responsible for verifying any information submitted to M-RETS during the Generating Unit Registration Process. Each individual state will be responsible for determining whether or not a particular generating unit qualifies for a state program or not. The State Commissions will use the information collected and verified by M-RETS to conduct this determination. The process for this is as follows.

After a Generating Unit has registered with M-RETS, and all of the information on the registration form has been verified according to the method described in Appendix B-1, the State Utility Commissions will have the option of asking the M-RETS Administrator to send them an electronic version of the registration information for all generating units in their jurisdiction or eligible for any state programs. If the State Commission has exercised this option, the M-RETS Administrator will send an electronic message to the designated contact at the State Commission each time a Generating Unit located in their jurisdiction has been registered in M-RETS. The State Commissions reserve the right to conduct site visits or request additional information from a Generator to determine whether or not the facility meets all of the requirements of a particular regulatory program or to verify information per state statute.

3.3.3. Terminating a Generating Unit's Participation in M-RETS

If the Generator Owner or Responsible Party wants to remove a generating unit from the M-RETS system, they can do so by notifying the M-RETS Administrator. The M-RETS Administrator will develop a form for this purpose. The form will ask the Generator Owner or Responsible Party to specify the following information, including, but not limited to:

- The date the generating unit should be/will be removed from the M-RETS tracking system⁷,
- The name of the entity reporting the generation data, and
- The account to which certificates should be deposited (if the usual account for deposit has been closed).

M-RETS will issue certificates for any generation that is logged prior to the date of generating unit termination as instructed by the Generator Owner. Because of the lag time between generation and certificate issuance, this may mean that certificates will be issued and deposited after the termination date, but only for generation that occurred prior to the termination date. No certificates will be issued for generation that occurs after the termination date. If the account to which the generation unit is linked is also closed at the same time, the Generator Owner or Responsible Party must also specify the account to

⁷ This is the same as the final date of generation for which certificates are to be issued.

which any remaining certificates that have not yet been issued should be deposited. Any fractional MWhs (i.e. any KWhs) left on the generation activity log at the time of de-registration will be forfeited.

Placeholder here for policy if M-RETS Administrator has cause for terminating a generating unit's participation in M-RETS: What is process for terminating the account, what are the circumstances under which an account would be terminated, and what M-RETS Administrator/Board will do with the M-RETS Account and the certificates in it.

3.3.4. Changing the Account to Which the Generating Unit is Associated

If the Generator Owner or Responsible Party wants to change the account to which a generating unit is associated, they can do so by notifying the M-RETS Administrator. The M-RETS Administrator will develop a form for this purpose. The form will ask the Generator Owner to specify the following information, including, but not limited to:

- The new account number to which the generating unit will be associated, and
- The date the change will be effective

Certificates from generation that was logged up to the day the account change takes effect will be deposited into the account that the generating unit was associated with at the time the generation occurred. For example, if the generator owner changes the account to which a given generating unit is associated with from Account A to Account B, and the change is effective on March 1st, then the certificates from generation that was logged prior to March first will be deposited into Account A (even though the date of certificate deposit will be after March 1st because of the lag time between certificate logging and certificate issuance.)

When changing the account to which a generating unit is associated, there can not be any lapse in time where the generating unit is not associated with an M-RETS Account. If there is a period of time when the generating unit is not associated with an M-RETS Account, this will be treated as a deregistration/re-registration of the generating unit instead of a change of account.⁸

Any fractional MWhs (i.e. any KWhs) left on the generation activity log on the date the change is effective will be forfeited. The Technical Review Committee recommends that this decision be revisited at the time of the RFP process to determine if it would be cost-effective to add functionality that would allow the fractional MWhs (i.e. any KWhs) left on the generation activity log to move over to the new account holder.

3.4. Assignment of Rights of Registration

The owner of a generating unit or Responsible Party may assign the right to register the generating unit(s) in M-RETS to an M-RETS account holder for the purposes of allowing

⁸ The reason for this is that the M-RETS Administrator will need to know where the certificates should be deposited for all generation logged during the transition. If there is a lapse in time, it would be unclear as to which account the certificates should be deposited in for generation occurring during that lapse.

that party the ability to control and manage the disposition of any M-RETS certificates resulting from the operation of the generating unit(s). This assignment of registration rights will give the designated Account Holder *full and sole* management and authority over the transactions and activities related to the generating unit within M-RETS. For the purposes of M-RETS, this party will be considered the Responsible Party for that generating unit.

M-RETS will require both parties to confirm an assignment of registration rights and the date the assignment will be effective, and the date the assignment will be terminated, if there is one.

3.4.1. Termination of Rights of Registration

The Rights of Registration may be terminated by the Generator Owner (GO) or the Responsible Party subject to confirmation by the M-RETS Administrator that both the GO and Responsible Party agree to the change. The M-RETS Administrator will develop a form for this purpose. The form will specify who the new Responsible Party with the Rights of Registration is and the date the change in registration will occur. Termination of Rights of Registration has the effect of deregistering the generating unit from M-RETS. If the registration rights assignment has been terminated, no new certificates will be issued from that generating unit until it is registered again.

3.4.2. Changing Rights of Registration

The Rights of Registration can be changed from one party to another party. Changing the Rights of Registration has the effect of changing the account to which the generating unit is linked.

When the Rights of Registration are changed, the disposition of the certificates from that generating unit will follow the rules in Section 3.3.3. This function applies equally to the Generator Owner or to a Responsible Party, meaning that the Responsible Party has the ability to change the Rights of Registration to another party.

When the Rights of Registration are changed, the M-RETS Administrator will confirm that both parties (the Generator Owner or current Responsible Party and the new Responsible Party) agree to the change. The M-RETS Administrator will develop a form for this purpose. The form will specify who the new Responsible Party with the Rights of Registration is, the date the change in registration will occur. There can not be any lapse in time where the generating unit is not associated with an M-RETS Account. If there is a period of time when the generating unit is not associated with an M-RETS Account, this will be treated as a deregistration/re-registration of the generating unit.

In addition, the basic Generator Registration data must be reviewed and updated when the Right of Registration is changed from one party to another.

Note: These procedures may be changed if states, provinces or courts provide guidance on the processes required for generation unit registration. We need a legal interpretation or further discussion on whether a PPA can/should be able to suffice as a confirmation of

both parties in the registration process, resulting in the deposition of REC's into the buyers account.

4. M-RETS Account Structure

There is one basic type of account for all M-RETS Account Holders. The basic account contains at least three different accounts:

- An Active Account,
- A Retirement Subaccount, and
- An Export Subaccount,

M-RETS Certificates are originally deposited into the Active Account associated with the revenue meter established at the time of generator registration. Account Holders can then transfer M-RETS Certificates to the other subaccounts, as described in Section 12.

It is possible to establish multiple Active Accounts and Retirement Subaccounts at the Account Holder's discretion. The Account Holder will be able to view a listing of certificates in each subaccount, including the generation characteristics associated with each certificate or block of certificates.

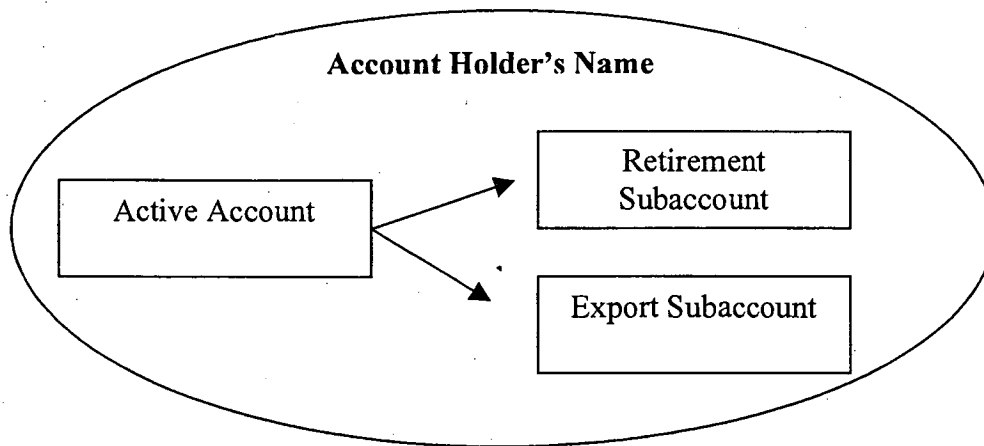
Each account and subaccount will have a unique identification number, similar to a banking system where a checking and savings account associated with one person each have unique account numbers. Users may attach aliases to subaccounts for ease of reference (e.g., by state, by product name, etc.)

M-RETS users will be able to perform various functions and transactions within each account and subaccount type, as described below.

There are no limitations on the number of Active or Retirement Subaccounts that an Account Holder may have. An Account Holder may have only one export account.

Note: An assessment of the number of potential accounts and subaccounts must be done for the RFP to give the software contractor some indication of the scale of the system.

Figure 1. Basic M-RETS Account Structure.



4.1. Active Account

The Active Account is the holding place for all active M-RETS Certificates. The Active Account is like a cash checking account. The M-RETS Certificates in it are liquid and can be transferred, exported, etc at the discretion of the Account Holder.⁹

If the Account has a generating unit(s) associated with it, the Active Account will be the first point of deposit for any M-RETS Certificates created that are associated with the generating unit(s) ID number.

4.1.1. Deposits to the Active Account

There are three ways that M-RETS Certificates are deposited in an Active Account.

- (a) The Account Holder can transfer M-RETS Certificates into their Active Account from another of the Account Holder's Active Accounts,
- (b) The Account Holder can accept a transfer of certificates from another M-RETS Account Holder,
- (c) They can be deposited into the account by the M-RETS Administrator based on verified generation data from a generating unit associated with the Active Account or as a result of the adjustment process, or
- (d) They can be deposited by the M-RETS Administrator as a result of an import.

If the Account Holder has more than one Active Account, they can specify in each case the Active Account in which they want the certificates to be deposited.

4.1.2. Transfers from the Active Account

There are three ways to withdraw or remove M-RETS Certificates from an Active Account:

⁹ Active M-RETS Certificates are distinguished from retired M-RETS Certificates or exported certificates, which have been retired for a specific purpose or have been exported to a Compatible system, and are no longer available for trading in M-RETS.

- (a) Transfer the M-RETS Certificates to the Active Account of another M-RETS Account Holder,
- (b) Transfer the M-RETS Certificates to another of one's own Subaccounts (e.g. retirement), or
- (c) Export the M-RETS Certificates out of M-RETS to another compatible tracking system.

4.1.3. Functionality of Active Account

In addition to being able to deposit and withdraw M-RETS Certificates from the Active Account, Account Holders will be able to view and sort their certificates by a number of certificate fields, generate reports about their account, and create additional Active Accounts, and transfer active M-RETS Certificates between Active Accounts.

4.2. Retirement Subaccount

A single Retirement Subaccount will be established when the Account Holder registers with M-RETS. An Account Holder may establish additional Retirement Subaccounts at their discretion, as needed. A Retirement Subaccount is used as a repository for M-RETS Certificates that the Account Holder wants to designate as retired.¹⁰ M-RETS Certificates in the Retirement Subaccount are no longer transferable to another party, and serve as an electronic record or proof of retirement. M-RETS Certificates in the Retirement Subaccount also cannot be transferred into any other Account, including another Retirement Subaccount (if an Account Holder has multiple Retirement Subaccounts). The Retirement Subaccount is effectively the last resting place for an M-RETS Certificate.

4.2.1. Deposits to the Retirement Subaccount

There is only one way for M-RETS Certificates to be deposited in the Retirement Subaccount; they must be transferred into the Retirement Subaccount by the Account Holder or his/her Agent¹¹ from his/her Active Account.

Account Holders will be allowed to create standing orders within their account whereby they instruct M-RETS to automatically transfer certain M-RETS Certificates, or the contents of specific Active Accounts, to one of the Account Holder's Retirement Accounts, on a periodic basis (see Section 12).

¹⁰ An Account Holder may want to retire certificates for any number of reasons, including, but not limited to: demonstrating compliance with a renewable mandate, retiring certificates on behalf of green power customers, or making claims about the air quality benefits of the renewable certificates.

¹¹ An "Agent" is a person that has permission to access one's active or other accounts. For more information on levels of access and permission, see Section 5.

4.2.2. Withdrawals from the Retirement Subaccount

There are no withdrawals from the Retirement Subaccount. M-RETS Certificates that were retired in previous years can be archived periodically so they do not occupy space in the database and in the Subaccount.

4.2.3. Functionality of the Retirement Subaccount

Account Holders will be able to view and sort M-RETS Certificates by certificate fields, generate reports about M-RETS Certificates held in their Retirement Subaccount, and voluntarily indicate for what purpose the M-RETS Certificates were retired. Once an Account Holder indicates the reason for retirement, this cannot be changed later.¹² To indicate the reason for retirement, M-RETS will have a pull-down menu of options that the Account Holder can select. The options will be consistent with regulatory programs and any voluntary programs or voluntary market activities that are added by the M-RETS Administrator.

4.3. Export Subaccount

A single Export Subaccount will be established when the Account Holder registers with M-RETS. This Subaccount will contain the M-RETS Certificates that are exported for conversion to a Compatible Certificate Tracking System (see Section 14 on Imports and Exports). There will only be one Export Subaccount associated with each Account.

4.3.1. Deposits to the Export Subaccount

There is only one way for M-RETS Certificates to be deposited in the Export Subaccount; they will be transferred into the Export Subaccount by the M-RETS Administrator after notification that the export was accepted by the Compatible Tracking System. When certificates are deposited to the Export Subaccount, the M-RETS Administrator will note the tracking system to which they were exported. This will be visible when the account holder views their export subaccount.

4.3.2. Withdrawals from the Export Subaccount

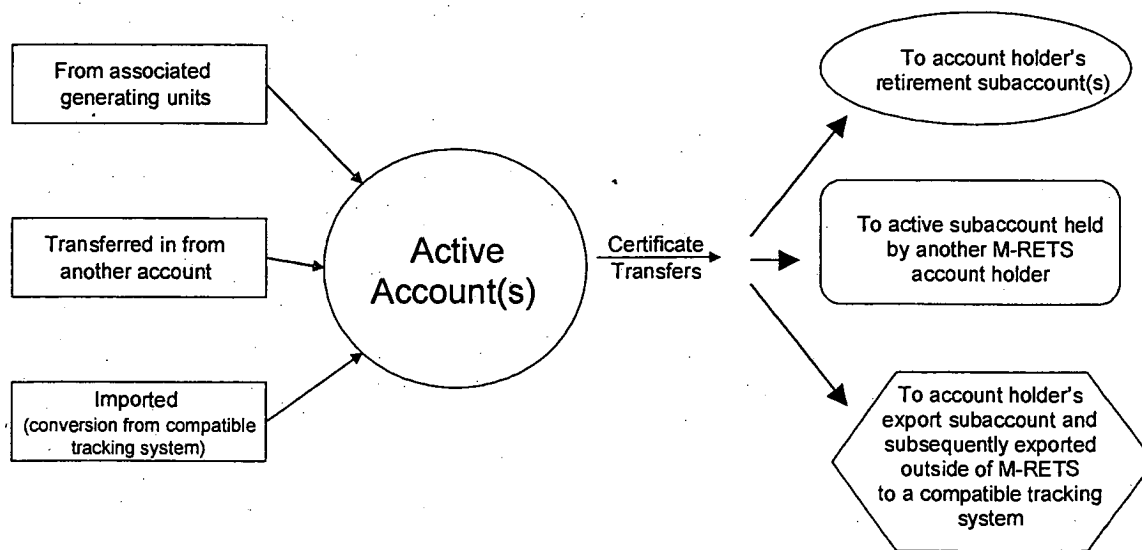
There are no withdrawals from the Export Subaccount.

4.3.3. Functionality of the Export Subaccount

Account Holders will be able to view and sort certificates by certificate fields, generate reports about M-RETS Certificates held in their Export Subaccount, and indicate for what purpose the M-RETS Certificate was exported (indicating reason for export is voluntary). Once an Account Holder indicates the reason for export, this cannot be changed later.

Figure 2. Flow of Certificates between M-RETS Accounts

¹² This is to prevent someone from using the same retired certificate for multiple purposes.



5. Access to Accounts and Confidentiality

There are 4 levels of access to an account. In addition, the M-RETS System Administrator will have access to all accounts through system operation functions. As a part of the registration process, the M-RETS Administrator will supply all users with a confidentiality statement ensuring that no account information will be shared without the express consent of the Account Holder.

The Account Holder has full access to any account that they establish. They also have the *sole* ability to assign permission to another party, known as their "Agent", to "use" their account, which may include viewing information, performing transactions, changing personal information etc. Assignment of account access can be done during the account registration process, or at any time the Account Holder wishes to update their account profile on-line by adding additional users to their account.

User access may be granted at the account or subaccount level. The process for granting access is generally as follows: the account holder will be required to fill out an on-line form for each user they want to add to their account. They will provide information about that user such as name, email address and will indicate the level of access that user is permitted to have and the account or subaccounts to which that user has access. The M-RETS System Administrator will send an email to that party, asking them to select a user name and password, and will confirm that they agree to the terms of participation in M-RETS. The new user, known as an Agent, will then be able to perform the functions or view the information per the permissions granted by the Account Holder. The Account Holder may at any time revoke the permissions granted to an Agent by notifying the M-RETS Administrator.

The M-RETS System will be able to track the specific activities of each user through the unique user ID and password.

5.1. M-RETS Levels of Account Access

The table below indicates the possible permissions that an M-RETS Account Holder may grant. For each level of access, the user will be able to perform all of the functions indicated with an "X". There are a number of actions that are not available to anyone except the system administrator or the Account Holder - these are indicated by a sole X in the Account Holder or system admin column.

5.1.1. Level 1 Access

Level 1 access is automatically enabled when for the account holder an account is established. Only one user can have Level 1 access. Level 1 access includes all functions available to account holders including, but not limited to:

- **Account Holder Registration and Maintenance**
 - Ability to assign and revoke access to others within the account holder's organization
 - Ability to authorize third party access¹³ to account (e.g. agent, regulator)
 - Ability set up and terminate account
 - Ability to merge two accts
 - Any activity requiring an electronic signature
 - Updating/changing acct holder data
 - Creating new subaccounts
 - Changing alias' on subaccounts
- **Generating Unit (GU) Registration**
 - Register a generating unit(GU)
 - Terminate GU registration for an account
 - Transfer GU registration to another account
 - Assign/change the subaccount a registered GU is associated with
 - Identify/authorize the "reporting entity" to provide generation data to M-RETS for GU
 - Submit 1 time data needed to verify GU characteristics
 - Set up forward certificate transfers
- **Generation Data Management (For specific or all generating units registered within the account)**
 - Submit GU generation allocation data in case of a multi-fuel GU w/ a single meter
 - Key in generation data (only for those facilities that are allowed to self-report generation data)
 - Accept or reject reported generation used for certificate creation
 - Provide and update GU characteristics and facility info
- **Certificate Management and Maintenance**
 - Initiate transfers from any account to any account

¹³ Defined broadly to include everything from full access to modify account, to read-only access

- Set up/remove standing orders from any account to any account
 - Accept/reject transfers, imports
- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
 - Create new reports-specify what's in the report
 - Authorize distribution or distribute reports
- **View Only/Read Only Access**
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

5.1.2. Level 2 Access

Level 2 access is granted by the account holder on a subaccount basis. There is no limit to the number of users that can be granted Level 2 access. Level 2 access includes access to all of the following functions for the indicated subaccount:

- **Account Holder Maintenance**
 - Updating/changing acct holder data
 - Creating new subaccounts
 - Changing alias' on subaccounts
- **Generating Unit (GU) Registration**
 - Register a generating unit(GU)
 - Terminate GU registration for an account
 - Transfer GU registration to another account
 - Assign/change the subaccount a registered GU is associated with
 - Identify/authorize the "reporting entity" to provide generation data to M-RETS for GU
 - Submit 1 time data needed to verify GU characteristics
 - Set up forward certificate transfers
- **Generation Data Management (For specific or all generating units registered within the account)**
 - Submit GU generation allocation data in case of a multi-fuel GU w/ a single meter
 - Key in generation data (only for those facilities that are allowed to self-report generation data)
 - Accept or reject reported generation used for certificate creation
 - Provide and update GU characteristics and facility info
- **Certificate Management and Maintenance**
 - Initiate transfers from any account to any account
 - Set up/remove standing orders from any account to any account
 - Accept/reject transfers, imports
- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
 - Create new reports-specify what's in the report
 - Authorize distribution or distribute reports
- **View Only/Read Only Access**
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

5.1.3. Level 3 Access

Level 3 access is granted by the account holder. There is no limit to the number of users that can be granted Level 3 access. Level 3 access includes access to all of the following functions:

- **Account Holder Maintenance**
 - Updating/changing acct holder data
 - Creating new subaccounts
 - Changing alias' on subaccounts
- **Generation Data Management (For specific or all generating units registered within the account)**
 - Submit GU generation allocation data in case of a multi-fuel GU w/ a single meter
 - Key in generation data (only for those facilities that are allowed to self-report generation data)
 - Accept or reject reported generation used for certificate creation
 - Provide and update GU characteristics and facility info
- **Certificate Management and Maintenance**
 - Initiate all transfers, except transfers to retirement subaccounts
 - Set up/remove standing orders, except standing orders to retirement subaccounts
 - Accept/reject transfers, imports
- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
 - Create new reports-specify what's in the report
- **View Only/Read Only Access**
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

5.1.4. Level 4 Access: Regulator

Regulators will automatically be granted Level 4 access to all accounts in M-RETS.

Level 4 access includes access to all of the following functions:

- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
- **View Only/Read Only Access**
 - Subaccount read-only access
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

Table 1. Account Permissions

Table 1. below has the same information as the lists above, but was left in for ease of reviewing because it is a quick way to see what is different between the different levels of access.

M-RETS Functions	Level 1: Account Holder¹⁴	Level 2	Level 3	Level 4: Regulator	System Admin.
Acct Holder Registration					
-Ability to assign and revoke access to others within the account holder's organization	X				X
-Ability to authorize third party access ¹⁵ to account (e.g. agent, regulator)	X				X
-Ability set up and terminate account	X				X
-Ability to merge two accts	X				X
-Any activity requiring an electronic signature	X				X
Acct Holder Maintenance					
-Updating/changing acct holder data	X	X	X		X
-Creating new subaccounts	X	X	X		X
-Changing alias' on subaccounts	X	X	X		X
Generating Unit (GU) Registration (Only for accounts that have GUs associated with them)					
-Register a generating unit(GU)	X	X			X
-Terminate GU registration for an account	X	X			X
-Transfer GU registration to another account	X	X			X
-Assign/change the subaccount a registered GU is associated with/	X	X			X
-Identify/authorize the "reporting entity" to provide generation data to M-RETS for GU	X	X			X
-Submit 1 time data needed to verify GU characteristics	X	X			X
-Set up forward certificate transfers	X	X			X
Generation Data Management (For specific or all generating units registered within the account)					
-Submit GU generation percent allocation data in case of a multi-fuel GU w/ a single meter or multiple GUs on one meter	X	X	X		X
-Key in generation data (only for those facilities that are allowed to self-report generation data)	X	X	X		X
-Accept or reject reported generation used for certificate creation	X	X	X		X
Generating Unit Maintenance					
-Provide and update GU characteristics and facility info	X	X	X		X
Certificate Management and Maintenance Intra-					

¹⁴ person or entity who signs the account agreement w/ M-RETS

¹⁵ Defined broadly to include everything from full access to modify account, to read-only access

Account Active Transactions					
-Initiate transfers active to active accts (intra accts)	X	X	X		X
-Set up/remove standing orders for active to active accounts	X	X	X		X
Certificate Management and Maintenance Intra-Account Retirement Transactions					
-Initiate transfers from active to retirement accts	X	X			X
-Set up/remove standing orders for active to retirement accts	X	X			X
Certificate Management and Maintenance Inter-Account					
-Initiate transfers active to exports, including standing orders	X	X	X		X
-Initiate transfers active to active (inter accts), including standing orders	X	X	X		X
-Accept/reject transfers, imports	X	X	X		X
Report Management					
-Run standard reports (includes sorting and filtering within standard reports)	X	X	X	X	X
-Create new reports-specify what's in the report	X	X	X		X
-Authorize distribution or distribute reports	X	X			X
View Only/Read Only Access					
Subaccount Read-Only access				X	X
Certificate look-up function	X	X	X	X	X
Generation Unit and Generation Activity Log view only	X	X	X	X	X
Generation logging (at GU level)					
-Accept/reject generation data from a control area operator					X
Certificate Creation (at GU level)					
-Ability to issue a certificate from posted and accepted generation					X

5.2. Confidentiality

Except where permission has been explicitly granted, all Account Holder information will be held strictly confidential. Account Holder information will only be released in aggregate through the reporting process.

6. Static Data in M-RETS

Static data fields describe the physical attributes of the generating unit. This data is provided by Account Holders to the M-RETS Administrator during the generator registration process, and the subsequent update processes described below.

For static data to be included in M-RETS, it must be verified. The method of verification for each data field is found in Appendix B-1. In addition, the M-RETS Administrator may conduct site visits to further verify the information as needed.

6.1. Updating Static Data

After the initial registration with M-RETS, static data for each generating unit shall be updated annually by prompting all account holders to review and update their account information, including information about generating units associated with their account. M-RETS will stop issuing certificates to any Account Holder that does not review and confirm or update their generating unit static data within the time specified by the M-RETS Administrator.

In addition to the annual update, Account Holders must notify M-RETS of the following that have the effect of changing static data tracked by M-RETS:

- (a) A change in fuel type at a generating unit, and the date on which the change occurred, within 30 calendar days from when the change is implemented.
- (b) A change in generating unit ownership, and the date on which the change occurred, within 30 calendar days after the sale closes. A change in ownership must be confirmed by a letter signed by both the seller and the buyer of the generating unit, and provided to the M-RETS Administrator. Agreements between M-RETS and Account Holders shall state that M-RETS will not be liable for depositing certificates into an account that no longer represents a generating unit if the incorrect deposit occurs as a result of a lack of notification by the buyer and seller of the generating unit.
- (c) A change to generator eligibility for any programs or certification tracked by M-RETS. This must be communicated by the state, province or independent certifier, and confirmed by the Account Holder, within 30 calendar days after the change occurs.
- (d) A change to any of the “essential generating characteristics” used for aggregate metering.

6.2. Misrepresentation of Static Information:

Generators can be removed from M-RETS for cause, including willful misrepresentation of static data.¹⁶ The M-RETS dispute resolution process can be used to address such situations, and M-RETS will accept no liability for generator misrepresentations. M-RETS reserves the right to withhold issuing certificates, to freeze an account associated with a particular generating unit, or to withhold participation in M-RETS for generation units that have willfully misrepresented static data.¹⁷

¹⁶ M-RETS will need to develop a policy for handling situations of willful misrepresentation. A comprehensive definition of willful misrepresentation and malfeasance has not been developed yet, and will be address later.

¹⁷ These are three possible actions the M-RETS administrator might take, but a more comprehensive policy needs to be developed for how M-RETS will handle various situations of malfeasance.

7. Dynamic Data in M-RETS - Generation MWh Data

7.1. Generation Data Requirements

M-RETS certificates may be issued for any energy production serving a load that otherwise would have been served by the grid if not for the generator. M-RETS will not create certificates for generation supplying station service.

Data used to produce certificates in M-RETS must be derived from control area settlements data polled from a revenue quality meter, except for (1) generators that do not go through a control area settlements process, and (2) customer sited distributed generators.

For generators that do not go through a control area settlements process and that are not customer-sited distributed generators, the data must be from a revenue quality meter adjusted to reflect the energy delivered into the transmission grid at the high side of the transformer, and communicated to the M-RETS Administrator by a Qualified Independent Party.

For customer-sited distributed generators, the original data source for reporting total energy production must be from revenue-quality metering at the AC output of an inverter, adjusted to reflect the energy delivered into either the transmission or distribution grid at the high side of the transformer. In the absence of a meter measuring production as described above (i.e. if there is no meter at the inverter), the original data source for reporting total energy production must be from revenue-quality metering placed to measure only the hourly positive generation flowing to the distribution system, adjusted to reflect the energy delivered into either the transmission or distribution grid at the high side of the transformer. If the customer-sited distributed generator uses all of the energy produced on site, then no adjustment for transformer losses is needed.

7.2 Revenue Metering Standards

All generators participating in M-RETS must use a revenue quality meter. For generators that are interconnected to a utility or control area operator, a revenue-quality meter is any meter used by the reporting control area operator for settlements. The data must be electronically collected by a meter data acquisition system, such as a MV-90 system, or pulse accumulator readings collected by the control area's Energy Management System, and verified through a control area checkout/energy accounting or settlements process which occurs monthly. The preferred source for the data is a meter data acquisition system. If the control area does not have an electronic source for collecting revenue meter data, then manual meter reads will be accepted. Manual meter reads must be performed by a Qualified Independent Party.

For customer-sited generators or generators that do not go through a control area settlements process, a revenue-quality meter is one that meets the applicable ANSI C-12 standard or applicable state standards.

7.3. Measurement of Generation and Adjustments

The output from each generating unit registered in M-RETS will be measured at the point of interconnection to the transmission or distribution company's facility, or adjusted to reflect the energy delivered into either the transmission or distribution grid at the high side of the transformer. Losses occurring on the bulk transmission or distribution systems after the metering point are not reflected in the certificates created. M-RETS will not create certificates for that portion of the generation that is used to supply station service, and therefore, generation data should also be netted of station service supplied from the generator's side of the point of interconnection. For wholesale generators also serving on-site loads, M-RETS will create certificates for the on-site load distinct from station service, if the Generator Owner can provide evidence that the metering used is capable of distinguishing between on-site load and station service. Otherwise, the M-RETS Administrator will assume a conservative default fraction of total generation will be deemed to be from station service unless it can be proved otherwise.

If adjustments are needed, due to metering, reporting, error or any other reason, the reporting entity must report the adjustment as soon as possible to the M-RETS Administrator. If certificates have not yet been created for the original generation amount to which the adjustment applies, the credit or debit will be posted to the Generation Activity Log, and will be reflected in the number of certificates created that month. If certificates have been created, the adjustment will be treated as a prior period adjustment described below in Section 7.4.

7.4. Prior Period Adjustments

Adjustments that are made after the data are reported to M-RETS and certificates are issued are known as prior period adjustments. All Account Holders will be made aware that there may be debits and credits in the current period as prior period settlement quality data are finalized.

Prior period adjustments must be reported to the M-RETS Administrator by the reporting entity. The M-RETS Administrator will post the prior period adjustment to the generation activity log associated with the generating unit. This will have the effect of applying a credit or debit to the generation amount reported in the current month. Consequently, the adjustment will be realized when M-RETS certificates are next issued. If new certificates are created, the vintage of the certificates shall be the same as all other certificates created that month. The M-RETS Administrator will not accept adjustments for generation reported more than two years prior to the current month.

7.5. Notification of Adjustments

The Account Holder will be informed of all credit or debit adjustments as soon as the adjustment has been posted to the Generation Activity Log. Once M-RETS informs the

Account Holder of a need for adjustment, the Account Holder then has 90 calendar days¹⁸ to dispute or accept the adjustment. If after 90 days the Account Holder has done nothing, the M-RETS Administrator will automatically accept the adjustment.¹⁹

7.6. Frequency of Data Collection/Meter Reading

Energy generation data used in the development of M-RETS certificates must be measured on an end-of month basis, except for small generators with a nameplate capacity of 150kW or smaller. Such generators may report generation data no less frequently than annually.

7.7. Data Transmittal

Data files are to be electronically transmitted to M-RETS using a secured protocol and a standard format specified by M-RETS Administrator. The data shall reflect, at a minimum, the month and year of the generation, monthly accumulated MWhs for each meter ID and the associated meter ID(s) for each resource.

The generator owner, as the owner of the metered data, or their designated representative, has the responsibility to direct the Control Area Operator to release generation data to M-RETS. M-RETS participants will have 45 days from the end of the generation month to submit their generation data to the M-RETS Administrator.

The data must be transmitted by a single entity, which must be either (1) the Control Area Operator, or (2) a Qualified Independent Party. In addition to these two options, customer-sited distributed generation installations less than or equal to 150 kW nameplate capacity, may opt to be treated as a Self-Reporting Generator.

7.8. Special Requirements for Self-Reporting Generators Only

A Self-Reporting Generator must enter actual cumulative meter readings measured in kWh and the date of the meter reading via the Self-Reporting Interface. Actual cumulative meter readings must be entered no less frequently than annually. Self-Reporting Generators that do not enter meter readings via the Self-Reporting Interface as required will receive a reminder notice from the M-RETS Administrator. Any such generator not entering a cumulative meter reading within 30 days of receipt of such a notice may be deemed inactive by the M-RETS Administrator. If and when a Self-Reporting Generator's Generation Activity Log is reactivated, the next meter read shall be the new baseline for accumulated generation data.

A Self Reporting Generator must have its cumulative hourly meter readings verified by a Qualified Independent Party, not less than annually.

¹⁸ This reason we are recommending that the Account Holder has 90 days to accept or dispute the adjustment (as opposed to 7 days for regular generation postings) is because if the adjustment is a debit, it could result in the Account Holder being short on other contractual obligations. Therefore, this 90 day window gives them ample time to make arrangements.

¹⁹ This is to prevent someone from stalling if a debit is pending.

7.9. Generation Activity Log

Each generation unit registered in M-RETS will have a Generation Activity Log associated with it. The Generation Activity Log is an electronic ledger where generation is posted prior to certificate creation. Each time generation data is received by M-RETS for a particular generation unit, the date and quantity of MWhs is posted to the Generation Activity Log. Similarly, adjustments received will be posted likewise.

The status of each entry in the Generation Activity Log will be noted, where the possible values are:

- **M-RETS Accepted:** This label is used for all generation that has been reported to M-RETS and has been logged to the Generation Activity Log, but has not yet been accepted (or disputed) by the Account Holder.
- **M-RETS Pending:** The M-RETS Administrator is waiting for the resolution of a situation before the certificates can be issued. For example, if the M-RETS administrator is waiting to receive a 'fuel type' allocation from a multi-fuel generator or other update from the generator.
- **Account Holder Accepted:** The Account Holder has accepted the posted generation, but the certificates have not yet been issued.
- **Account Holder Auto-Accepted:** The account holder did not accept or dispute the generation posted within the given time period and the system automatically accepted the generation.
- **Account Holder Disputed:** The Account Holder has disputed the posted amount of generation.
- **M-RETS Cancelled:** The generation was logged, but certificates were never issued for any number of reasons, for example, if there was fraudulent activity and further investigation determined that certificates should not be issued.
- **Certificates Issued:** This label may or may not be needed depending on how the Generation Activity Log is designed in the software. For now, it is a placeholder for indicating that certificates were issued for logged generation.

The status of each entry in the Generation Activity Log will be changed by the M-RETS Administrator, according to the receipt of information by the M-RETS administrator regarding the status of the certificates. On the day of certificate creation, certificates will be issued based on the total whole number of MWhs on the Generation Activity Log that are marked as follows: "Account Holder Accepted" or "Account Holder Auto-Accepted." Only certificates that are marked as such will contribute to certificate creation. Any fractional MWhs will be rolled forward until sufficient generation is accumulated for the creation of an M-RETS certificate.

Each time an item is posted to the Generation Activity Log, the Account Holder will be notified. Account Holders will have at least 10 business days to accept or dispute any new regular entries to the Generation Activity Log and up to 90 days to accept or dispute adjustments. If the Account Holder does nothing, the posting will be automatically accepted after the specified period.

The Generation Activity Log will include, at minimum, the following entries:

- (a) Opening Balance/Prior Month's Balance Forward: reflecting the kWh (fraction of a MWh) remaining after the prior month's certificate creation date;
- (b) MWh of generation reported to M-RETS (via Control Area, Qualified Independent Party or self-reported) during the current month;
- (c) administrative adjustments (for instance, for adjustments received from Reporting Entities occurring later than 90 days after the end of the month of generation);
- (d) creation of M-RETS Certificates; and
- (e) balance forward.

For generation units where the Reporting Entity supplies M-RETS meter readings, rather than net production, the Generation Activity Log shall include a column where the meter readings are recorded, and net generation is calculated.

7.10. Multi-Fuel Generation Units

A Multi-fuel Generation Unit is one that is capable of producing energy using more than one fuel type, where the quantity of each of the fuels used is greater than 1% annually on a total heat input basis, excluding fuels used for start-up. Such facilities must register with M-RETS as a Multi-fuel Generation Unit. If the relative quantities of electricity production from each fuel can not be measured or calculated, and verified, the generator is not eligible to register in M-RETS.

Separate Certificates will be created for the renewable fuel type only. Each Certificate issued for a Multi-fuel Generation Unit will reflect only one fuel source, where the total number of Certificates issued for the fuel type will be proportional to the overall output from that fuel type for that reporting period. A generator that uses 1% or less of second fuel may elect to register as a multi-fuel generator if they want certificates issued for second fuel type.²⁰

Each M-RETS Account Holder or Responsible Party that has registered a Multi-fuel Generation Unit must report monthly to the M-RETS Administrator the proportion of electric output per fuel type, by MWh, generated by the unit during that month, calculated according to the applicable provisions of Section 7.10.1.²¹ Such information shall be used to allocate Certificates for such Multi-fuel Generation Units for each month for which it was supplied. Generators and their Responsible Parties will have up to T1+45 calendar days to submit their proportion of electric output per fuel type for the month to the M-RETS Administrator where T1 equals the last day of the generation month. Certificates will not be logged to the Generation Activity Log until such information is provided by the Account Holder or

²⁰ For example, a large coal plant that uses 1% less of biomass co-firing may still want to be considered a multi-fuel generator so that they can have biomass certificates issued.

²¹ The intent here is that the generator would report the total generation from the generating unit by fuel type but the M-RETS Administrator would only issue certificates for the renewable portion. The reason that all generation would be reported is so that a data validity check can be performed. However, the software vendor may suggest a more cost-effective way to meet the basic functional needs.

Responsible Party. Generators that fail to provide the required information in the time specified will not have certificates issued for that month of generation.

The generator or its Account Holder must maintain supporting documentation related to the derivation of the proportion of electric output per fuel type for each month, at the generation facility for a minimum of 2 years from the date of submission to the M-RETS Administrator. The M-RETS Administrator may require copies of such calculations, and supporting documentation will be subject to audit by the M-RETS Administrator, state regulators, or their agents. Data submitted to or audited by the M-RETS Administrator subject to the requirements of this paragraph that is not contained in reports available to the public will be treated as Confidential Information by the M-RETS Administrator.

7.10.1 Allocating Output for Each Fuel Source

For purposes of creating M-RETS Certificates reflecting the fuel source mix of Multi-fuel Generation Units, the proportion of Certificates attributable to each fuel source shall be determined consistent with the following rules:

- (a) For biomass co-fired with fossil fuels or using fossil fuels for startup or supplemental firing: In each month, the Certificates for each fuel in such Multi-Fuel Generation Unit will be created in proportion to the ratio of the net heat content of each fuel consumed to the net heat content of all fuel consumed in that month, adjusted to reflect differential heat rates for different fuels, if applicable.
- (b) For solar thermal energy co-fired with fossil fuels, or using fossil fuels for startup or supplemental firing: In each month, the fraction of Certificates for each fossil fuel used in such a facility will be calculated as the ratio of (i) the net heat content of the fuel divided by the plant's heat rate operating on that fuel, to (ii) the total net electricity production of the generating unit during that month. The fraction of Certificates designated as solar thermal will be imputed as the remaining fraction of production not attributed to fossil fuel(s) consumed in the plant during that month.
- (c) Other: Multi-fuel Generation Units not fitting the descriptions in (a) and (b) may request from the M-RETS Administrator a decision on allocating output for each fuel source for their situation. Such a decision will set a precedent for similarly situated generators. Any new methodology must be approved by the M-RETS Administrator prior to certificates being issued for that Generating Unit.

In addition, upon registration, all multi-fuel generators must submit to the M-RETS Administrator a report prepared by an independent professional engineer containing documentation for measuring and verifying the quantities of each fuel type, the net heat content of each fuel source, and the heat rate, if applicable. More details on this requirement are found in Appendix B-3.

8. Requirements of Data Reporting Entities

M-RETS will accept generation data from Control Area Operators²², Qualified Independent Parties²³, and Self-Reporting Generators.

The M-RETS Administrator will develop an agreement with each of these entities, known as an Interface Control Document that describes the terms and conditions under which the entity agrees to exchange information and conduct business with M-RETS. The Interface Control Document will identify generating units registered in M-RETS to be reported, as well as the protocols for collection of information such as meter IDs, data format, communication protocols and timing, and security requirements for data collection. This document will be updated as required when a new generator registers in M-RETS or when any other changes are made that may impact the data collection process. To minimize the impact of document changes, the intent is to have a general template document that outlines a common approach and set of standards. The M-RETS Administrator will prepare the ICD based on the master template and will work with the personnel from the reporting entities to verify information and address specific requirements of the reporting entity. Appendices would contain the specific data collection parameters for each reporting entity. This would provide clear requirements to all parties up front. This rule would apply to all data collection.

M-RETS reserves the right to audit the MWh data totals.

9. Data Security

The following are a minimum set of security practice requirements for M-RETS to ensure data integrity and confidentiality:

1. Secured web portal interface with password protection for static data collection, user access and reporting.
2. Restricted access privileges based on participant and user roles using digital certificates.
3. Well-defined system backup and recovery processes.
4. Secured file transfer and data upload processes using encrypted communications for all data interfaces.

Notes: We recommend 24/7 availability and help desk available during business hours during two time zones. need to investigate liability if system is down.

²² A Control Area Operator is defined broadly to include a system operator, a transmission grid operator, or a utility.

²³ A Qualified Independent Party may include the interconnecting utility, scheduling coordinator, independent third-party meter reader,

The M-RETS Governance Committee will draft these agreements, define what entities may qualify to be Qualified Independent Parties, and establish standards of conduct. The ORC recommends that the Qualified Independent Party may be the buyer of the generation unit's certificates, but not the owner of the facility.

10. Creation of Certificates

A certificate created and tracked within M-RETS will represent all of the renewable attributes from one MWh of renewable generation. M-RETS certificates are “Whole Certificates.” Once a M-RETS certificate is created, no changes can be made to that certificate.

M-RETS does not define the life time or expiration date for certificates. States and provinces may do so outside of M-RETS to meet their own requirements.

10.1. Certificate Creation

The M-RETS Administrator will issue one electronic certificate for each MWh of energy that is generated by those generation units that are registered with M-RETS and are physically located in one of the participating M-RETS states or provinces.

Certificates will be issued based on the number of whole MWhs on the Generation Activity Log on the day of certificate creation. For self-reporting generators, the reported electricity production will be calculated by M-RETS as the difference between current and previous cumulative meter read entered.

Each certificate shall have a unique serial number. Certificate serial numbers shall contain codes embedded in the number that indicate such things as the generation unit ID, the location of the generator, and the vintage (month and year of generation) of the certificate. The exact serial number format will be determined at a later date.

Certificates imported from a compatible tracking system must meet equivalent standards to M-RETS. M-RETS will issue an M-RETS serial number for certificates imported from compatible tracking systems, as described below in Section 15.

Note: We will have to specifically define what constitutes equivalent standards.

10.2. Frequency of Certificate Creation

M-RETS will issue certificates no more frequently than once per month per generating unit.

10.3. Process and Timeline for M-RETS Certificate Creation

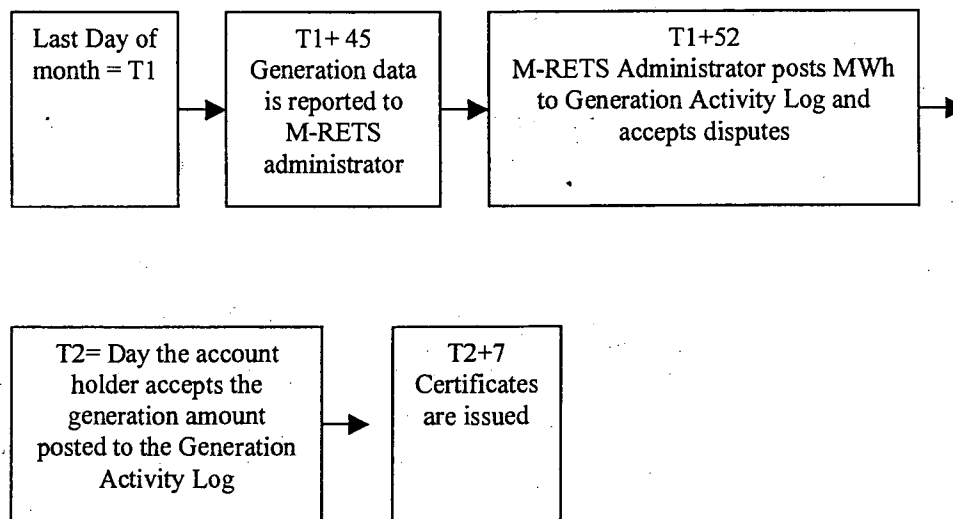
M-RETS Generators and their Responsible Parties will have up to T1+45 calendar days to submit their generation data to the M-RETS Administrator where T1 equals the last day of the generation month. Generators that fail to submit generation data within the specified time period will not be able to have certificate issued for that month of generation. As soon as the generation data is received by the M-RETS Administrator and a data validity check is performed, they will post it on the generator’s “Generation Activity Log” and notify the account holder via email that generation has been posted. The generation posting will be marked “M-RETS Pending” on the Generation Activity Log. Once the generation is

accepted, the generation posting will be marked "Generation Accepted." Certificates will be issued on $T2 + 7$ days, where $T2$ is the day the generation posted is accepted by the Account Holder. No changes will be allowed to the generation MWh data for seven calendar days prior to the M-RETS certificate creation.

The Account Holder must notify the M-RETS Administrator if they believe the generation data amount recorded on the Generation Activity Log is inaccurate for any reason.²⁴ This is known as registering a dispute. The Account Holder may register a dispute any time after the generation is posted within the $T1+52$ period, and they will have at least 7 calendar days to do this. If there is a dispute registered, every reasonable effort should be made to resolve the dispute within $T1+52$ days. However, if the dispute is not resolved within the $T1+52$ day period, the certificates for disputed posting will be created seven days after the Account Holder has accepted the revised generation amount.²⁵ While the generation posting dispute is being resolved, the generation posting will be marked "Generation Disputed." If the Account Holder does not register a dispute with the M-RETS Administrator within 52 days from the end of the generation month, the certificates will be created.

²⁴ This should be in the M-RETS users Agreement.

²⁵ In a simple case, the certificates might be issued the next month. In a more complicated case, for example, if the dispute was awaiting a court ruling, the certificates would be issued much later.

Figure 3: Timeline for M-RETS Certificate Creation

10.4. Certificate Creation for Accumulated Generation

- Generation data from generators that are under 150kW and that are not reported to M-RETS on a monthly basis may be accumulated over one or more months prior to submittal to M-RETS for certificate issuance.

Each generator not reported by a reporting entity on a monthly basis must submit accumulated data at least 12 months from the date M-RETS last received generation data. If a generator fails to report meter readings within a 12 month period, M-RETS will issue a reminder and demand a meter read within a month, to prevent over-accumulation and gaming.²⁶

The vintage on the issued certificate will be the last month and year of generation contributing to an accumulated MWh. Certificate creation for accumulated generation will occur on the same schedule as all other generation in M-RETS as described in Section 10.4

10.5. Data fields Carried on Each Certificate

Appendix B-1 lists the essential data fields that shall be carried on each certificate.

²⁶ As an issue for later, M-RETS may want to consider punitive action if no more generation is reported, e.g. de-registering the generation unit or other actions to strongly discourage people from waiting too long before submitting their generation data.

11. Certificate Errors and Correction

11.1 Data Validity Check

All generation data received by M-RETS will undergo an automatic data validity check to ensure that erroneous and technically infeasible data is not entered into M-RETS. The data validity check will compare reported electricity production to an engineering estimate of maximum potential production, calculated as a function of technology type, associated maximum capacity factor, nameplate capacity, fuel (if relevant), and time period since the previous cumulative meter reading entered. If data entered exceeds an estimate of technically feasible generation, M-RETS Administrator will be notified and the generation will be posted to the Generation Activity Log with a status "M-RETS Pending" until resolution is reached.

11.2 Certificate Errors Discovered After Certificate Issuance

Once a M-RETS certificate is created, no changes can be made to that certificate. In the event that an error is discovered after certificates have been issued, the M-RETS Administrator will take measures to rectify the problem depending on the nature and the egregiousness of the error. If the error is related to the number of certificate issued, the M-RETS administrator will first attempt to rectify this by making an adjustment to the generation activity log associated with the generator. If the error is found in one of the fields on the certificate, the M-RETS Administrator will handle each situation on a case by case basis. Examples of actions that could be taken include, but are not limited to: notifying purchasers of the erroneous certificates, freezing the account of the offending party, levying an administrative fine, banning participation in M-RETS.

12. Initial Deposit of Certificates in M-RETS Accounts

The M-RETS certificates will be first deposited into the M-RETS account that is associated with the generating unit, as established during the generating unit registration process described in Section 3. The sole exception to this rule is in the case of forward certificate transfers, where the first point of deposit is the account identified as the recipient of the forward certificate transfer.

13. Transfers of Certificates

13.1. Transferring Certificates between Accounts

M-RETS Account Holders may transfer active certificates to other M-RETS Account Holders at any time. Account Holders transferring such Certificates shall effectuate the transfer in M-RETS by indicating in a designated screen in the interactive M-RETS website that a specified Certificate or block of Certificates (as indicated by their serial numbers) are designated for transfer. The Account Holder will also select the recipient from a pull-down list of M-RETS Account Holders. After the transfer has been requested, M-RETS will

provide a pop-up “Are you sure you want to transfer” screen that lists the details of the proposed transfer and ask for a final confirmation by the transferring Account Holder. After the request to transfer has been confirmed, M-RETS will send an electronic confirmation to the Account Holder that requested the transfer notifying them that a request to transfer certificates has been entered into M-RETS.

After the transfer has been initiated, the certificates that are pending transfer will be marked as “transfer pending” in the Account Holders active account. This will have the effect of “freezing” the certificates so that they cannot be moved to another to subaccount or to another account holder. If the transfer is not confirmed within 14 days, certificates will be released in the Account Holder’s Active Account and the “transfer pending” status removed.

After the transfer has been initiated, M-RETS will then send an electronic notification of the request to transfer certificates to the proposed recipient. The Certificate recipient must confirm the transfer within 14 calendar days of when it was requested by the transferee, or the transfer request will be deleted. The confirmation screen shall list the details of the proposed transfer and asks the proposed recipient to confirm the transfer. A pop-up screen will ask for a final confirmation (“Accept transfer?”). Once the recipient has confirmed the transfer, M-RETS will send an automatic electronic communication to the recipient notifying them that they have confirmed the certificate transfer.

The transferring Account Holder may cancel any transfer before such transfer has been confirmed by the recipient by withdrawing the transfer in a designated screen on the website. M-RETS will notify the recipient that the transfer was canceled.

The transfer of any Certificate of block of Certificates shall only be registered in the M-RETS upon the electronic confirmation by both the transferring Account Holder and the recipient.

Once M-RETS has completed the transfer of certificates from one account to another, M-RETS will send an electronic confirmation to both Account Holders confirming that the transfer has been completed.

13.2. Standing Orders

Account Holders may request reoccurring, automatic transfers of certificates from Active Accounts to any of their other accounts (active, retirement, export), and also to Active Accounts held by different Account Holders. Such a transfer (a “Standing Order Transfer”) will occur through designated screens and processes in M-RETS in the same fashion all other certificate transfers (as described in Section 12.1), except that the transferor (party initiating transfer) would only be able to rescind a Standing Order Transfer up to 7 calendar days prior to the date the transfer is to be implemented by the M-RETS Administrator.

In the registration of Standing Order Transfer, the transferor shall indicate:

- The active account/subaccount from which the certificates should be transferred;
- The active account/subaccount to which the certificates should be transferred;

- The generation unit(s) whose certificates are to be transferred;²⁷
 - The day and month(s) that the Standing Order should be executed, and the end date if applicable;
 - The maximum number of certificates to be transferred, or the percentage of total certificates in the account/subaccount to be transferred, during each such month; and
1. The priority of the Standing Order relative to other Standing Orders, if applicable.

Each Standing Order Transfer has one transferee. An Account Holder may set up multiple Standing Order Transfers. Each Standing Order Transfer will be set up based on percentage of certificates within a designated account/subaccount or as a fixed quantity, both within a certain month.

- (a) **Percentage:** When Standing Orders indicate a transfer of percentages of Certificates from a specific subaccount during the same period, the Certificates shall be allocated in proportion to the percentages indicated, except that in the event that such allocations would result in fractional Certificates being transferred, the transferor must specify a preference among multiple transferees for the last undivided Certificate.
- (b) **Fixed Quantity:** When a Standing Order designates a number of Certificates to be transferred, the transferor may establish a preference among multiple transferees. The transferor may indicate priorities (first, second, third, and so on) to designate the order in which fixed Standing Order Transfers shall be executed in a given month. In the instance when the total of Standing Order Transfers for a given month exceed the actual number of certificates available, M-RETS will fill each Standing Order Transfer in order of priority, but only if each Standing Order Transfer can be fulfilled completely. If the first priority Standing Order can not be filled, the Account Holder will be able to specify at the time of registration, whether M-RETS should try to fill lower priority Standing Orders or not. Any Standing Order Transfers that cannot be fulfilled completely will not be executed.

Standing Order Transfers will be executed by the M-RETS Administrator no more frequently than a monthly basis.

Account Holders are responsible in the case that there are insufficient certificates to complete a Standing Order Transfer.

When a Standing Order Transfer is initially registered, the M-RETS Administrator will send a notice to the transferee asking them if they accept the terms of the Standing Order.

Acceptance of the Standing Order means that the transferee accepts all future transfers under the Standing Order. After the initial acceptance, the transferee will receive a notice from the M-RETS Administrator after each time certificates are deposited into the transferee's

²⁷ Although standing orders are not limited to accounts that have generating units associated with them, the transferor needs to be able to specify which certificates will be transferred on an ongoing basis without knowing in advance the certificate serial numbers. Therefore, during the initial Standing Order registration, the transferor will be required to indicate the generating unit as a way of identifying which certificates should be transferred.

account. In addition, the notification will explain if the Standing Order deposit was not fulfilled as expected (e.g. as indicated by the original terms of the Standing Order.)

13.2.1 Rescission of Standing Orders

Standing Orders can be rescinded at any time by the Account Holder that set up the Standing Order. If the request to rescind a Standing Order is received within 7 calendar days prior to the date the transfer is to be implemented by the M-RETS Administrator, the rescission will be implemented in the following month.

Standing Orders can only be rescinded in their entirety; they can not be rescinded on a month by month basis. When a Standing Order is rescinded, the M-RETS Administrator will send a notice to the transferee.

13.3. Forward Certificate Transfers

Account Holders that have a generating unit linked to their active account may request that certificates from a specific generating unit be directly deposited into another M-RETS account when the certificates are created. Such a request would occur in advance of the certificate Creation Date and is known as a Forward Certificate Transfer. In this case, the generation will be posted to the Generation Activity Log as usual. After it has been accepted by the Account Holder, such Forward Certificates, when converted into Certificates on their Creation Date, will be deposited directly into the account of the transferee, and the transferor will not at any point have possession of those Forward Certificates.

When a Forward Certificate Transfer is initially registered, the M-RETS Administrator will send a notice to the transferee asking them if they accept the terms of the Forward Certificate Transfer. Acceptance of the Forward Certificate Transfer means that the transferee accepts all future transfers under the Forward Certificate Transfer. After the initial acceptance, the transferee will receive a notice from the M-RETS Administrator after each time certificates are deposited into the transferee's account. In addition, the notification will explain if the Forward Certificate Transfer deposit was not fulfilled as expected (e.g. as indicated by the original terms of the Forward Certificate Transfer.)

Forward Certificates may be subject to only one Forward Certificate Transfer – from the generation unit's account (account to which certificates would have otherwise been originally deposited (Transferor)) to another M-RETS account –prior to the then applicable Creation Date.

Forward Certificate Transfers can be used for transfers to the Active Account of another M-RETS Account Holder, transfers to any of the other subaccounts of the transferor's own account, and exports of Certificates to compatible tracking systems.

After the Creation Date for a Forward Certificate, such Certificate shall be treated like any other Certificate and may be transferred again, retired, exported, etc.

In the registration of a Forward Certificate Transfer, the transferor shall indicate:

- a) The generation unit that will create such Forward Certificates;
- b) The active account/subaccount to which the certificates should be transferred;
- c) The day and month(s) that the Forward Certificate Transfer will be executed and the end date if applicable;
- d) The maximum number of Forward Certificates to be transferred, or the percentage of total Certificates actually created that will be transferred, during each such month; and,
- e) The priority of the Forward Certificate Transfer relative to any other Forward Certificate Transfers, if applicable.

Forward Certificate Transfers can be requested to multiple transferees based on percentage of certificates deposited within a certain month, or as a fixed quantity within a certain month.

- (a) **Percentage:** When Forward Certificate Transfers transfer percentages of Certificates from a specific generator during the same period, the Certificates into which such Forward Certificates are converted shall be allocated in proportion to the percentages indicated, except that in the event that such allocations would result in fractional Certificates being transferred, the transferor must specify, before the applicable Creation Date, a preference among multiple transferees for the last undivided Certificate.
- (b) **Fixed Quantity:** When Forward Certificate Transfers transfer a designated number of Certificates created during a single period, the transferor may establish a preference among multiple transferees in those Forward Certificate Transfers. The transferor may indicate priorities (first, second, third, and so on) to designate the order in which fixed Forward Certificate Transfers shall be executed in a given month. In the instance when the total of Forward Certificate Transfers exceeds the number of available certificates, M-RETS will fill each Forward Certificate Transfer in order of priority, but only if each Forward Certificate Transfer can be fulfilled completely. If the first priority Forward Certificate Transfer can not be filled, the Account Holder will be able to specify at the time of registration, whether M-RETS should try to fill lower priority Forward Certificate Transfers or not. Any Forward Certificate Transfer that cannot be fulfilled completely will not be executed.

The transferor and the transferee Account Holders will not have any control over which Certificates for a particular generator are transferred for the requested month.

Forward Certificate Transfers will be executed by the M-RETS Administrator on a monthly basis. Account holders are responsible in the case that there are insufficient certificates to complete a Forward Certificate Transfer.

13.3.1 Rescission of Forward Certificate Transfers

Forward Certificate Transfers can be rescinded at any time by the Account Holder that set up the Forward Certificate Transfer. If the request to rescind a Forward Certificate Transfer is received within 7 calendar days prior to the date the transfer is to be implemented by the M-RETS Administrator, the rescission will be implemented in the following month.

Forward Certificate Transfers can only be rescinded in their entirety; they can not be rescinded on a month by month basis. When a Forward Certificate Transfer is rescinded, the M-RETS Administrator will send a notice to the transferee.

Any exercise of a contractual right of rescission of a Forward Certificate Transfer by a transferor shall be effected upon notice to the M-RETS Administrator, and in no event will the M-RETS Administrator be required to determine whether conditions to that rescission, other than receipt of the rescission notice, have been satisfied before effecting the rescission.

14. Retirement of Certificates

Any M-RETS Certificate retirement must be initiated by the M-RETS Account Holder. The M-RETS Administrator is not responsible for ensuring that Account Holders retire certificates when appropriate.

Note: We might want to consider including retirement guidelines in the registration agreement form signed by the Account Holder when they initially establish the account within M-RETS.

14.1. Mechanism for Certificate Retirement

When an Account Holder wishes to retire a certificate or block of certificates they will notify the M-RETS Administrator by selecting the certificates serial numbers and indicating that such certificates should be retired, and indicating the reason for retirement (a optional field) if desired, and selecting the Retirement Subaccount to which the certificates should be deposited. This notification will occur on a designated page of the M-RETS website. When the M-RETS Administrator receives this notification, the certificates will be withdrawn from the Account Holder's Active Account and moved into the designated Retirement Subaccount. The Retirement Subaccount will show the serial numbers of the certificates retired, the date of retirement, and the reason for retirement. In addition, there will be a mechanism to view the generation characteristics/certificate fields of the retired certificates. Once certificates are retired, they cannot be moved or transferred out of the retirement account.

15. Interaction of M-RETS with the Wisconsin Renewable Resource Credit Tracking Program

New Wisconsin renewable resource credits (RRCs), for renewable generation after Jan. 1, 2004, can be exchanged for M-RETS certificates on a one for one basis. The State of Wisconsin will accept either old Wisconsin RRCs or M-RETS certificates as proof of compliance with its Renewable Portfolio Standard.

16. Imports and Exports of Certificates

As a general principle, it is intended that M-RETS will be compatible with other certificate tracking systems in North America to the extent that these other systems meet essentially equivalent standards, including but not limited to, metering, data quality, verification of registration information, and disaggregation of emissions attributes. Certificates may only be imported into M-RETS from a Compatible Certificate Tracking System and, similarly, exported to a Compatible Certificate Tracking System. A Compatible Certificate Tracking System is a generation tracking system that has an operating agreement with the M-RETS Administrator regarding the transfer of certificates between tracking systems. No imports or exports can occur until a protocol has been developed between the M-RETS Administrator and the administrator of the other tracking system.

After agreements have been reached with other tracking systems, M-RETS will post a list of Compatible Systems on their website. As other tracking systems develop, M-RETS will strive for compatibility. This compatibility will be based on minimum standards to ensure the security and integrity of the certificate information and reciprocity of certificate conversion.

Note: There needs to be more work done on imports/exports and Compatible Tracking System standards.

16.1. Import of Certificates

Certificates may be imported into the M-RETS from a Compatible Certificate Tracking System by a process of conversion. Conversion entails retiring the certificate from the exporting tracking system and creating of a corresponding M-RETS Certificate. When the new M-RETS certificate is issued, all data fields will remain with the imported certificate, and the certificate serial number will be structured in a way to identify it as a certificate that originated in a Compatible Tracking System.

To import certificates into M-RETS, the M-RETS Account Holder must arrange for the transfer of certificates from the counterparty privately. In general, as with all transfers, the party in possession of the certificates must initiate the transfer. Therefore, the transferor will notify their system administrator of the desire to export certificate from their system into M-RETS, along with the information about the transferee, such as name and M-RETS account number. The administrator of the transferor's tracking system will then communicate with the M-RETS Administrator of the certificate pending certificate conversion. The M-RETS Administrator will then notify the M-RETS Account Holder of the transfer, and ask them to accept or reject the transfer. If the Account Holder accepts the transfer, the conversion of certificates will ensue. Such a conversion will involve the export of the certificate from the exporting system, and the issuance of a new certificate by M-RETS. The converted certificate will designate the system of origin and M-RETS will maintain a record of the serial number that was assigned in the exporting system. Through a coding system, the M-RETS serial number will identify the certificate as imported and the tracking system of origin.

If the Account Holder rejects the import, the M-RETS Administrator will notify the administrator of the other system, and no certificate conversion will take place.

16.2. Export of Certificates

Certificates can only be exported out of M-RETS in one case: to a Compatible Certificate Tracking System. Any other removal of certificates from M-RETS will be managed through the retirement process.

Account Holder's accounts shall include a minimum of one Export Subaccount. The Export Subaccount will include all the data related to each export, including the name of the compatible tracking system to which the certificate was exported.

To export certificates from M-RETS to a Compatible Tracking System, the M-RETS Account Holder must notify the M-RETS Administrator of the desire to export certificates. The Account Holder must identify at a minimum the following information:

- the name and account information of the party that will receive the certificates,
- the serial numbers of certificates that are to be exported, and
- the export subaccount to which they want the M-RETS Administrator to move the certificates if the export is completed, and if the Account Holder has more than one export account.

When the M-RETS Administrator receives this request, they will assign the designated certificate an "export pending" status to ensure that the certificates cannot be inadvertently transferred or sold. The M-RETS Administrator will communicate with the Administrator of the Compatible System and arrange for the transfer of certificates. If the transfer is accepted by the Compatible System, the certificates will be moved from the Account Holder's active account to their export account by the M-RETS Administrator. The status of the certificates will be changed from "export pending" to "exported."

16.3. Re-Import of Exported Certificates

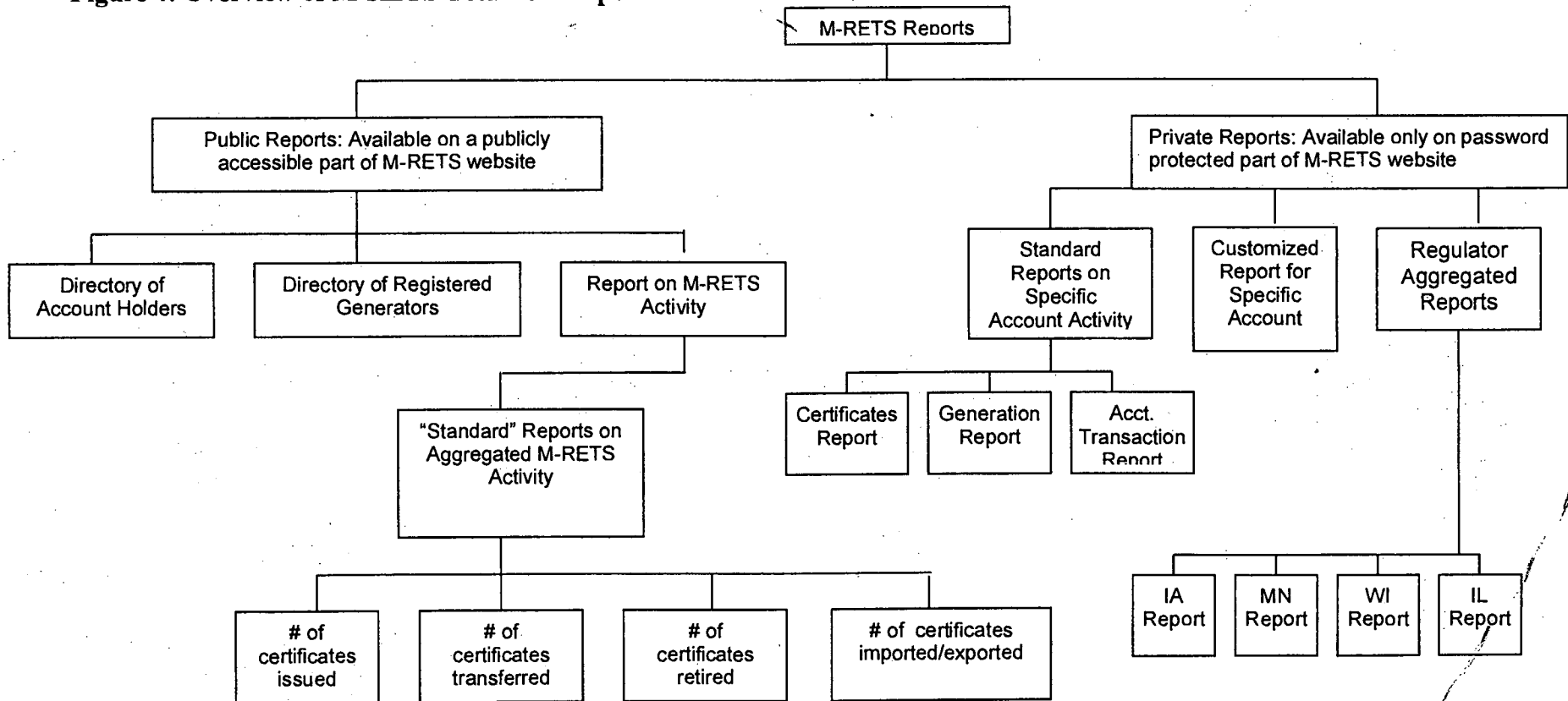
Certificates may be re-imported in M-RETS. To the extent any data fields were lost when the certificate was originally exported, these fields will be repopulated with the original data when the certificate is re-imported. It is recommended that during the RFP process, this function is re-evaluated for its cost-effectiveness and for the consistency with the operations of other certificate tracking systems

16.4. Preventing Double Counting of Imported/Exported Certificates

For Certificates that are being imported/exported from another tracking system, the problem of double-counting will be handled through the cooperative agreements between the two tracking systems.

17. Reporting

Figure 4: Overview of M-RETS Technical Reports



¹ Account Holder Custom Report

This would allow the Account Holder to sort certificate data in any of their subaccounts. To produce a custom report, M-RETS would prompt the Account Holder to select the fields to include in the report.

17.1. Public Reports

There are three types of public reports: Directory of Account Holders, Directory of Registered Generators, and Report on Aggregated M-RETS Activity. Public reports will be accessible to anybody via the public page on the M-RETS website.

17.1.1. Public Directory of Account Holders:

This report contains a listing of all Account Holders with some limited contact and other information.

Data fields contained in report:

- Account Holder name
- Designated contact person
- Mailing address
- Contact telephone
- Contact email
- Web site URL
- Type of organization (Pull-down options include: generator/aggregator, IOU, retail marketer, broker, tribal organization, customer-owned utility, public interest organization, regulator, federal marketer, wholesale marketer, other load serving entity, other)- allow multiple categories
- State/province where generating unit(s) is located, if applicable. Allow multiple fields as some Account Holders will have multiple generators.
- 6 placeholders for future additions

Sorting options: Sorting would be possible by any of the data fields above. There will also be the capability to do a keyword search of this directory.

17.1.2. Public Directory of all Registered Generators:

This report contains a listing of all registered generating units grouped by facility with each generating unit registered in M-RETS listed under the facility.

Data fields contained in report:

- Generator owner
- Account holder name
- Contact name
- Contact email
- Contact phone
- Generator ID number
- Ownership type (pull-down options include: IOU, co-op, municipal/public utility, QF, electric wholesale generator, federal, tribal, wholesale marketer, other non-utility)
- Facility name (allow 3 fields – primary field to use EIA name, if available, and 2 additional fields for AKA names) Allow searches under any of the names.
- Location (county, state/province)

There may be more than one Account Holder associated with a single facility if the facility has multiple GUs and each GU is linked to a different account.

- Technology
- Fuel type
- Multi-fuel facility? (Y/N) If yes, indicate percent RE.
- Commercial operation date (on-line date)
- FERC ID #
- FERC Hydro licensing information: (Pull down menu options: most recent license date, non-jurisdictional, application pending, not applicable)
- Nameplate capacity. Units in MW with up to 4 decimal places
- Generator registration date
- Certification or eligibility for voluntary certification programs
- Generator registration date (needed for WI)
- 6 placeholders for future fields

Sorting options: Sorting would be possible by any of the data fields above. There will also be the capability to do a keyword search of this directory.

17.1.3. Public Report on Aggregated M-RETS Activity

This report will allow the viewer to create a standard report or customized report on M-RETS activity over a selected time period. There are four pre-formatted or “standard” reports available: (1) certificates issued, (2) certificates transferred, (3) certificates retired, and (4) certificates exported to a compatible tracking system or imported from a compatible tracking system. To protect confidentiality, reports will not be created where there are 4 or fewer generators included in the report output.

Data fields for standardized M-RETS Activity Report:

- Aggregated number of certificates (in MWh)
- Technology
- Fuel type
- State/province (where generating unit is located)
- Facility ownership type
- Type of activity (e.g., imported from compatible tracking system, retired, etc.)
- Reason for retirement²⁸ (if this is a retirement report)
- System to which certificate is imported or exported (if this is an import/export report)
- 6 placeholders for future fields

Sorting Options: The viewer can sort by any of the fields above for a specific time period.

17.2. Private Reports

²⁸ We need to determine if this is a mandatory or voluntary field.

Private reports for a specific account will only be accessible to the account holder, their designated agents, regulators and the M-RETS Administrator. Regulators will have read-only access to all account information in M-RETS.

17.2.1. Private Account Holder Reports

This report will allow Account Holders to create a standard or custom report on their own subaccount activity over a selected time period. Account holders can access and create these reports at any time. Standard reports include:

- Certificates Report - summary of certificates in each account/subaccount
 - Account/Subaccount number
 - Account/Subaccount name
 - Account/Subaccount Type (e.g. retirement, active, import/export)
 - Generator ID #
 - Technology
 - Fuel Type
 - Month/Year issued
 - Quantity MWh
 - 2 placeholders for future use
- Generation Report- lists certificates deposited to account by administrator based on generation data by date
 - Month/Year of generation
 - Generator ID #
 - Generation amount (MWh)
 - Subaccount number of deposit
 - Subaccount name
 - 2 placeholders for future use
- Account transaction report- Like a bank statement, shows account transfers
 - Account/Subaccount number
 - Account/Subaccount name
 - Account/Subaccount Type (e.g. retirement, active, import/export)
 - Transaction type
 - Counter party name (if applicable)
 - Counter party account number (if applicable)
 - Generator ID #
 - Certificate numbers
 - Date of generation (month and year)
 - If retired, reason for retirement
 - Balance of certificates in account
 - Total MWhs of imports that month
 - Total MWhs of exports that month
 - 2 placeholders for future use

To create a custom report, the Account Holder would indicate the subaccount(s) for which the report is being generated, the activity (e.g. transfers, retirement, etc.), the time period of the report, and the data fields. M-RETS shall provide a mechanism that will allow an Account Holder to save a custom report template for future use.

17.2.2. Regulator Aggregated Reports

Regulators will be able to aggregate information to create a standard report for each state. Each state regulator will identify for the M-RETS Administrator what information fields should be included in their respective reports. Regulators will report back on this issue.

17.2.3. Private Third Party Reporting

M-RETS will have the capability to send a private report to a third party with the consent of the Account Holder. The Account Holder will notify the M-RETS Administrator that they want a designated report sent to a third party. The Account Holder must specify what fields/data are to appear in the report. M-RETS will create the report and the Account Holder must review its contents and provide an affirmation that the report is complete and correct. The Account Holder will be able to specify the email address of the person /entity to which the report is sent. M-RETS software will provide a final "are you sure" screen in which the Account Holder agrees to the name/contact information to which the report will be sent, as well as to the complete contents of the report. Upon receipt of confirmation from the Account Holder, M-RETS Administrator will send the report.

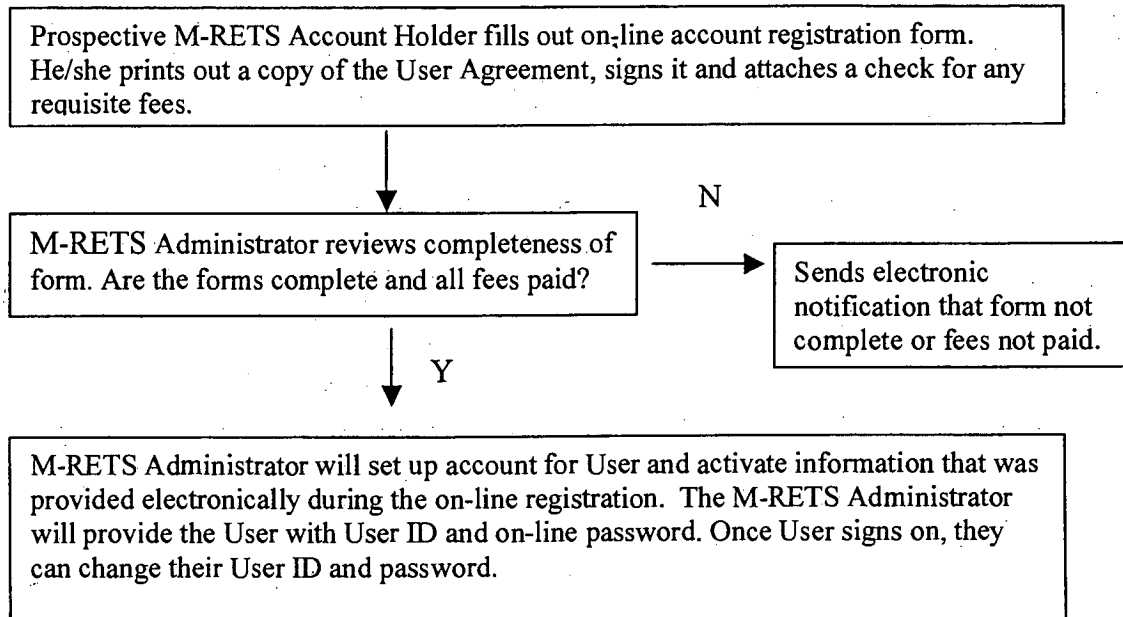
18. Additional Functionality

Possible additional functions that have been suggested but not agreed upon:

- **Ability to Issue Certificates for Generation that Occurred Prior to M-RETS Start Date**
- **Certificate Serial Number Look-up Function:**
- **Serial number coding**
- **Message Boards**
- **Archiving Account Records:**
- **Inactive Accounts:**
- **Price discovery**
- **Others**

Appendix A: Account Holder Registration Process and Generator Registration Process

Account Holder Registration Process



Generator Registration Process

After the User has established an M-RETS account, they can register a generating unit and link it to their account. The M-RETS Account Holder will fill out an on-line generator registration form. He/she will also print out a copy of the Generator Registration Agreement, sign it and attach a check for any requisite fees. Per instructions, he/she will also submit any documentation needed to verify the information submitted in the on-line generator registration form.

Upon receipt of the Generator Registration Agreement, the M-RETS Administrator will review all materials for completeness. Are the forms complete and all fees paid? Have all requested verification materials been submitted?

M-RETS sends electronic notification that form not complete or fees not paid.

M-RETS will attempt to verify the information provided in the registration process. Can all information be verified?

M-RETS Administrator will notify the registrant that the information could not be positively verified. A process of either correcting the registration form or providing proof that the information on the form is correct will ensue between the M-RETS Administrator and the registrant until the M-RETS Administrator is satisfied that the information provided on the registration

M-RETS Administrator will activate the information that was provided electronically during the on-line generator registration.

M-RETS will notify the state regulatory agency of the state in which the generator resides, if the state has requested such notification be sent. The State may request additional information from the generator.

Appendix B-1: Data Fields

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
1	Generator name	y	Mandatory	Attestation		
2	Company phone	n	Mandatory	Attestation		
3	Company street address	n	Mandatory, if different from mailing address	Attestation		
4	Company mailing address	n	Mandatory	Attestation		
5	Company fax	n	Optional	Attestation		
6	Company website/URL	n	Optional	Attestation		
7	Contact person's name and title	n	Mandatory	Attestation		
8	Contact mailing address	n	Mandatory	Attestation		
9	Contact email	n	Either fax or email required.	Attestation		
10	Contact phone	n	Mandatory	Attestation		
11	Generator registration date with WI RRC Program	n	Mandatory for WI RRC participants only	WI PSC	Generator will key in registration date, but field will not be activated until confirmation from WI PSC	
12	Organization type of account holder- Pull-down options include: Generator/generation aggregator IOU Retail marketer Broker Tribal organization Municipal Utility Coop Utility Crown Utility Public interest organization Regulator Federal marketer Wholesale marketer	n		Attestation		

²⁹ We need to decide which of these fields are mandatory for people to fill in, or optional. They could be mandatory for a particular state or particular program, and optional for everyone else. the thing you need to consider with each field is how it will be verified by the M-RETS administrator and the ease in which it will be verified (ease of verification relating to cost)

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	Other load-serving entity Other (fill in)					
13	Generator ID number	y	Mandatory	Provided by M-RETS administrator or WI PSC	If the facility is located in WI, system will prompt for a WI ID number. If facility is not located in WI, then M-RETS will assign the number.	make sure that the cost of doing this is no more than if M-RETS issued all numbers
14	Facility Name (Primary name should be EIA name; Provide space to list 2 additional names "AKA")	y	mandatory for generators	EIA Form 860		
15	Primary Facility owner	n	mandatory for generators	EIA Form 860/Attestation	Add a check box for "if not single owner". If the box is checked, then a window should pop open allowing the account holder to enter all owners, indicating a primary account holder or percent of ownership. There should be an indicator if the facility is owned by an LLC.	
16	Is the facility owner a retail electricity provider in WI? (Y/N) If no, list retail electric providers with which the facility has wholesale contracts	n	Optional except for WI.	Attestation	Needed for WI.	
17	Facility Operator Company Name	n	mandatory for generators	EIA Form 860/Attestation		
18	Facility Operator: Contact person's name	n		EIA Form 860/Attestation		
19	Facility Operator: Contact mailing address	n		EIA Form 860/Attestation		
20	Facility Operator: Contact email	n		EIA Form 860/Attestation		

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
21	Facility Operator: Contact phone	n		EIA Form 860/Attestation		
22	Physical location of the generator (City/Town, state/province)	y	mandatory for generators	EIA Form 860/Attestation		
23	Latitude/Longitude of the generator	n	optional	Attestation	The lat/long will be optional and will not be disclosed in public reports for national security reasons.	
24	Generator classification Pull down options = (1) Generation reported by a Control Area Operator on a unit-specific basis; (2) Small Wholesale Generation; (3) Wholesale Generation Also Serving On-Site Loads; (4) Customer-Sited Distributed Generation.	n	mandatory for generators	Attestation		These are the options needed for meter data collection (we think) See survey results
25	"Mandated by Minnesota Laws 1994, Chapter 641, or by Minnesota Public Utilities Commission order issued pursuant to that chapter prior to August 1, 2001." (yes/no)	y	mandatory for generators	Attestation	Needed for MN	
26	Data Reporting Entity Type: pull-down options include: Control Area Operator/Utility Qualified Independent Party Self/Account Holder	y	Mandatory for generators	Attestation	Needed for M-RETS administrator	
27	Reporting Entity Name	y	Mandatory for generators	Attestation	Needed for M-RETS administrator	
28	Reporting Entity Phone	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
29	Reporting Entity Mailing Address	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
30	Reporting Entity telephone	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
31	Reporting Entity fax	n	Mandatory for	Attestation	Needed for M-RETS	

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
			generators		administrator	
32	Reporting Entity web site/URL	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
33	Reporting Entity contact name	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
34	Reporting Entity contact phone	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
35	Reporting Entity contact email address	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
36	Reporting Entity mailing address	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
37	Control area operator for facility (Utility name or ISO name)	n	mandatory for generators	Attestation		Unsure whether this is needed in addition to the next field below, or if these are duplicative
38	Utility to which generating unit is physically interconnected	y	mandatory for generators	Attestation		this field will not tell you who is receiving the power
39	Voltage level at which facility is interconnected	n	mandatory for generators	Attestation	Not sure if it is needed for MN; keep as placeholder	
40	Nameplate installed capacity of Facility - MW (consistent with EIA definition of Maximum Generator Nameplate Capacity; If multiple generating units, aggregate at facility level	y	Mandatory for Generators	EIA Form 860/	EIA definition is: Generator nameplate capacity (installed): The maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer. Installed generator nameplate capacity is commonly expressed in megawatts (MW) and is usually indicated on a nameplate physically attached to the generator.	Any other background info needed to verify if 860 form not available High level of verification needed
41	Are multiple generating units (GUs)	n	Mandatory for	Attestation		

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	aggregated under one meter? (Y/N) If yes, list capacity of each generating unit:		Generators			
42	Repowered or additional capacity added? (Y/N) If yes, Amount of additional capacity in MW If yes, Repower Date: (mm/yyyy)	y	Mandatory for Generators	EIA Form 860		High level of verification needed
43	Expected annual capacity factor (percentage) or maximum annual capacity	n	Mandatory for Generators	Attestation	Needed for verification- this would be a guess for some generators, so don't need a more rigorous verification	
44	Technology (pull down options include:) • Wind • Solar PV • Hydropower • biomass (specify method of combustion (pull down options include:)) ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify • Hydrogen (specify technology used) • Geothermal • Tidal or wave power • Other • (Need ability to add options here)	y	Mandatory for Generators	EIA Form 860/Attestation		High level of verification needed
45	Fuel Type (pull down options include:) For Biomass: Agricultural products—please specify, Wood products—please specify, Agricultural by-products, including wastes—please specify, Landfill gas, Mixed-municipal solid waste,	y		EIA Form 860/Attestation	Collect this data average heat rate for the facility through verification but this data field will not be tracked on each certificate.	High level of verification needed

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	Refuse-derived fuel. Other, please specify For Hydrogen: • Wind • Solar PV • Hydropower • biomass (specify method of combustion and fuel type:) ○ Method of Combustion ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify ○ Fuel Type ○ Agricultural products—please specify, ○ Wood products—please specify, ○ Agricultural by-products, including wastes—please specify, ○ Landfill gas, ○ Mixed-municipal solid waste, ○ Refuse-derived fuel. ○ Other, please specify • Geothermal • Tidal or wave power • Coal • Nuclear • Natural gas • Other Multi fuel generator (Y/N)					

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	If yes, designate the percentage of each fuel used at the facility allocated on an output basis: • Wind • Solar PV • Hydropower • biomass (specify method of combustion and fuel) - Method of Combustion ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify - Fuel Type ○ Agricultural products—please specify, ○ Wood products—please specify, ○ Agricultural by-products, including wastes—please specify, ○ Landfill gas, ○ Mixed-municipal solid waste, ○ Refuse-derived fuel. ○ Other, please specify • Hydrogen (specify source from list below) ○ Wind ○ Solar PV ○ Hydropower ○ Geothermal ○ Tidal or wave power ○ Coal ○ Natural gas ○ Nuclear ○ Other ○ Biomass (specify method of					

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	combustion and fuel type:) - Method of Combustion ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify - Fuel Type ○ Agricultural products—please specify, ○ Wood products—please specify, ○ Agricultural by-products, including wastes—please specify, ○ Landfill gas, ○ Mixed-municipal solid waste, ○ Refuse-derived fuel. - Other, please specify					
46	For Biomass: Average heat rate of facility per kWh of net generation (BTU/kWh)	n	Mandatory for Generators	?		High level of verification needed b/c this might be basis for which certificates are issued
47	For Biomass: Emission Control Technology (pull down options include) • constructed in compliance with new source performance standards promulgated under the federal Clean Air Act for a generation facility of that type, • employs the maximum achievable or best available control technology available for a generation facility of that type,	y	Mandatory for Generators	?	Needed for MN	High level of verification needed Operating permit might be used for verification

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	neither.					
48	Meter manufacturer	n	Mandatory for Generators	Attestation	Used for verification purposes by WI	
49	Meter type	n	Mandatory for Generators	Attestation	used for verification purposes by WI	
50	Meter serial number	n	Mandatory for Generators	Attestation	used for verification purposes by WI	
51	Date of last meter certification	n	optional	Evidence of last meter certification	used for verification purposes by WI	
53	Is the facility certified by an independent body? Pull down options: Green-e eligible Ecologo certified Low Impact Hydro certified Muni COTI certification WI PSC certified eligible for RPS (Others can be added as they develop)	y	Optional	Furnished by certification entity	Field is not activated until confirmation by certification body; burden on generator to get the certifier to furnish proof	
	Dynamic Data Fields					
54	Certificate serial number	y	n/a	Filled in by M-RETS Administrator		
55	Date of generation (mm/yyyy)	y	n/a	Filled in by M-RETS Administrator	for accumulated certificates will be the last month in which the MWH was completed	

In addition, there will be 30 blank placeholder fields for future use.

Appendix B-2: Essential Generation Characteristics for Aggregate Metering

Aggregate metering is a term used here to describe what occurs when more than one generating unit is associated with a single revenue meter. As a rule, aggregate metering is only allowed in M-RETS if all of the generating units associated with the single meter have the same “essential generation characteristics.”

As a principle, the “essential generation characteristics” for the purposes of aggregate metering should be any characteristic that affects the certificate’s eligibility for any state program, certification program or in general determines value in the marketplace and that is relevant to a generating unit (GU) (as opposed to the facility). For example, FERC licensing may be relevant to market value of certificates, but this is applied on a facility basis, not a GU basis; therefore we assume that all GUs at the facility will have the same value in this field and it is not a characteristic that would meaningfully differentiate one GU from another GU all at the same facility. Therefore it is unnecessary to include this characteristic on the list of essential characteristics for the purposes of aggregate metering.

Characteristics that determine eligibility or create value in the marketplace create an incentive for distortion of facts and could bias someone to report incorrect allocation of output from the aggregate meter. Although we acknowledge that it is difficult to predict all of the characteristics of a GU that might determine value now or in the future, we believe that a list of essential characteristics can be developed that capture the vast majority of characteristics that confer value to certificates and are relevant.

Because the determination of whether aggregate metering is allowed will be applied on a facility by facility basis, it makes sense to identify a list of essential characteristics that are resource-specific, i.e. organized by fuel type. Although slightly more complicated in terms of programming, allowing each resource to have its own list of “essential characteristics” decreases the overall number of characteristics that any facility would need to meet in order for aggregate metering to be allowed.

Essential Characteristics for Purposes of Aggregate Metering Organized by Fuel Type

Wind

- Fuel type
- Date when GU first commenced operation
- Repowered indicator
- Repowered date

Hydro

- Fuel type
- Generation technology
- Date when GU first commenced operation
- Repowered indicator
- Repowered date
- Nameplate capacity

Solar

Fuel type
Generation technology
Date when GU first commenced operation;
Repowered indicator
Repowered date

Biomass

Fuel type
Date when GU first commenced operation;
Repowered indicator
Repowered date
Emissions profile (if provided)
Generation technology
Multi-fuel indicator

Biodiesel

Fuel type
Date when GU first commenced operation;
Repowered indicator
Repowered date
Emissions profile (if provided)
Generation technology
Multi-fuel indicator

Geothermal

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date
Capacity

Hydrogen

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date

Municipal Solid Waste

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date
Generation technology
Other criteria or eligibility characteristics
Multi-fuel indicator

Natural Gas

Fuel type
Generation technology
Multi-fuel indicator

Coal

Fuel type
Generation technology
Multi-fuel indicator

Diesel

Fuel type
Generation technology
Multi-fuel indicator

Jet Fuel

Fuel type
Generation technology
Multi-fuel indicator

Appendix B-3: Documentation Requirements for Multi-Fuel Generation Units

Upon registration with M-RETS as a Multi-fuel Generation Unit, each such Multi-Fuel Generation Unit's Account Holder must submit to the M-RETS Administrator a report prepared by an independent Professional Engineer containing documentation of a methodology for calculating the electricity production associated with each fuel used during a month, consistent with the applicable requirements of Section 7.10.1. Following the M-RETS Administrator's review and acceptance of such a report's methodology, the Multi-Fuel Generation Unit's Account Holder may seek creation of M-RETS Certificates subject to the provisions of Section 7.10. This requirement will be waived for facilities that provide fuel-split information to a state, provincial or other regulatory authority.

Documentation of the following information used to calculate the proportion of electric output per fuel type, by MWh, generated by the unit during a calendar month must be maintained by Multi-Fuel Generation Units seeking M-RETS Certificates, using the best available sources of information. If the generating unit already provides documentation to regulatory entities addressing each of the items below or otherwise provides substantiation of the percentage of generation from each fuel type to regulatory entities, this documentation may substitute, upon approval of the M-RETS Administrator, for the requirements listed below.

1. Quantities of each fuel type (other than solar) must be measurable and verified by documentation provided to Control Area Operators, EPA or state air regulators, if available. If such documentation is not available, verifiable documentation of fuel quantities consumed during the month may be considered, such as: metered liquid or gaseous fuel input where the meter is read by an independent third party so long as such entity has an agreement with the M-RETS Administrator, or financial records of fuel supply deliveries coupled with plant reports documenting mass of each fuel consumed in each calendar month.
2. Documentation of net heat content for each fuel source other than solar thermal must be supported by documentation of heat content measurement by an independent laboratory.
3. If specification of a heat rate is required according to provisions of Section 7.10.1, the heat rate must be determined according to testing certified by an independent third party consistent with the protocol accepted for plant heat rate testing in the plant's control area. If different heat rates apply for different fuels, the determination for each applicable heat rate must meet the requirements of this paragraph.

Appendix C: Outstanding Issues

Technical Issues:

1. Is there a circumstance where an account can be inactivated, but not terminated? For example, if it is not used?
2. If the M-RETS Administrator is also the fiscal agent, you will also need to specify what sort of financial capabilities the system will have when developing the software.
3. What is the expected format/protocol that will be used for submitting metered unit MWhs
4. Should there be a process whereby M-RETS users who mistakenly perform a transaction that cannot be reversed (such as a retirement) can request that a specific transaction be reversed by the Administrator? Should this be allowed, and if so, what is the process, and what are the circumstances under which it would be allowed?
5. How is the certificate number coded?
6. What happens if somebody submits their generation data after the 60 day limit?
7. What action should the M-RETS administrator take if the data validity check finds an inappropriate value?
8. What, if any, punitive action with the M-RETS Administrator take if a small generator does not report their generation within a 12 month period. e.g. de-registering the generation unit or other actions to strongly discourage people from waiting too long before submitting their generation data.
9. From Section 17 imports/exports- in general, are there any limitations on the type of certificates we will allow in. Are there any restrictions (state or otherwise) for what type of certificate can be imported- for example, what if it is resource that M-RETS doesn't issue certificate for, e.g. gas certificate from NEPOOL? There is also a concern that we should not allow disaggregated RECs at this time.
10. What if the data fields do not specifically match up between tracking systems- case 1: the exporting system has all M-RETS fields, and then some, do we keep info in those extra fields? When we export certificate to that system, do we try to gather that additional info? case 2: the exporting system has fewer data fields than M-RETS- do we try to populate those fields (e.g. by getting more info), or leave them blank, or reject certificate?
11. What are the equivalent standards for the purposes of importing certificates from another system?
12. What is the expected format/protocol that will be used for importing/exporting M-RETS certificates and how will the conversion work?
13. Describe the views for each account, and how next to a block of certificates there is a status column, where possible entries include: active, transfer pending, transferred to XXXX, exported to XXX, export pending, retired, reason for retirement, administrator hold.

Governance Issues:

1. Who is the M-RETS Fiscal Agent?
2. Under what circumstances would M-RETS terminate an account for cause?
3. Who makes the determination of whether to terminate or not?
4. M-RETS will need to develop a policy for handling situations of willful misrepresentation of data. What is the policy if M-RETS Administrator has cause for terminating a generating unit's participation in M-RETS; e.g. what will the administrator do with the account when the problem is identified, what will the administrator do with any generation logged but for which certificates have not yet been issued, what to do about any certificates in the account?

- Ceasing to issue any more certificates from the generating unit
- Notifying who? GU Owner? buyers? regulators?
- removing the GU from the Directory of Registered Generators
- Other steps- posting their name on the website?
- Notifying the state AG?
- Freezing the account to which the GU is linked

Legal Issues

1. Are there any legal issues if the account registration process, generator registration, and account termination process are conducted electronically.
2. Will we require electronic versus written signatures for the following:
 - account holder agreement
 - termination of account
 - registration of GU with account or termination of GU
 - Changing the account to which a generating unit is linked
 - Assignment of rights of registration
 - granting permissions for acct access to agents, terminating agent access
3. What terms of use does an agent have to agree to? Is it the same as an account holder or different?
4. Are there any liability issues related to the certificate transfer functions, including forward transactions if mistakes are made.
5. Can a certificate or block of certificates ever be withdrawn from an account by the system administrator (without the express consent of the account holder), and if so, under what circumstances?
6. What happens if the organization ceases to exist, will the certificates be transferable?

Financial Issues:

1. Are generator registration fees refunded if they terminate a GU's participation in M-RETS?
2. Do new GU registration fees apply when you change accounts that a GU is linked?

Appendix D: Glossary

Account Holder: An M-RETS Account Holder is a party that has registered with M-RETS and has established an Account within the M-RETS system.

Active Certificates: An active M-RETS certificate is a certificate that is held in an M-RETS Active Subaccount. Such certificates may be traded, transferred, exported, retired etc. at the discretion of the holder of the Active Subaccount or his/her Agent.

Active Subaccount: The Active Subaccount is the holding place for all active M-RETS certificates. If the Account Holder is a registered generator, or is the designated representative of a registered generator, their Active Subaccount will be the first point of deposit for any M-RETS certificates created that are associated with the generating unit ID number, unless the certificate is subject to a Forward Certificate Transfer. An Active Subaccount may be associated with one or more generating units.

Agent: Any party other than the Account Holder that has been granted access (by the Account Holder) to "use" their account, which may include viewing information, performing transactions, changing personal information etc. The Account Holder may at any time revoke the permissions granted to an Agent by notifying the M-RETS Administrator. The M-RETS System will be able to track the specific activities of each Agent through the unique user ID and password. Also known as a User.

Certificate: The term "Certificate," as used in this document, refers to an M-RETS Certificate of generation, or M-RETS Certificate. An M-RETS Certificate represents all of the attributes from one MWh of electricity/generation from a renewable generating unit registered with the M-RETS tracking system or a Certificate imported from a Compatible Certificate Tracking System and converted to an M-RETS Certificate. The M-RETS system will create exactly one Certificate per MWh of generation that occurs from a registered generating unit or that is imported from a Compatible Certificate Tracking System. See also definition of "Whole Certificate."

Compatible Certificate Tracking System: A Compatible Certificate Tracking System is a generation tracking system that has an operating agreement with the M-RETS Administrator regarding the conversion and transfer of certificates between tracking systems. This can not occur until a protocol has been developed between the M-RETS Administrator and the administrator of the other tracking system for converting certificates from another tracking system into M-RETS Certificates.

Control Area: An electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the Interconnection. For the purposes of this document, a Control Area is defined in broad terms to include transmission system operations, market, and load-serving functions within a single organization. A Control Area operator may be a system operator, a transmission grid operator, or a utility.

Conversion: A process by which certificates from a Compatible Certificate Tracking System are made available for import into the M-RETS system. The process involves designating the certificate as exported from the compatible tracking system according to the protocol agreed upon jointly by the Administrator of the Compatible Certificate Tracking System and the M-RETS Administrator. After

such designation is made, the M-RETS Administrator will issue a corresponding M-RETS certificate that can be used within the M-RETS system.

Customer-Sited Distributed Generation: Generation interconnected behind a retail customer meter and therefore not directly interconnected with either the distribution system or transmission system (including net metered facilities).

Creation Date: The date that M-RETS certificates are created. Certificates are created monthly, seven days after the Account Holder has accepted the generation amount of the Generation Activity Log.

Date of First Operation: The month and year a generation unit first began commercial operation or for non-commercial facilities, the date approved by the licensing or permitting agency. For repowered or refurbished generation units, this is the date of original operation, not the date of the repower or refurbishing. The M-RETS Administrator may refine the definition of Date of First Operation for small non-commercial generation units in the future.

Directory of Account Holders: The Directory of Account Holders is a listing of all Account Holders registered with M-RETS. This directory includes limited information for contacting the Account Holder.

Directory of Registered Generating Units: This is a listing of all registered generating units within the M-RETS system grouped by facility.

Dispute Resolution Process: Administrative process managed by the M-RETS Administrator to resolve disputes regarding M-RETS functionality and actions, including but not limited to disputes related to the number of certificates in an account/subaccount, static data, Account Holder requests to reverse permanent transactions (such as retirements), and certificate creation.

Dynamic Data: Dynamic data is variable information that is associated with a specific MWh from a registered generating unit, such as certificate serial number or date of generation. See Appendix B-1 for a list of dynamic data fields.

Emission Factor: The emission factor of a generating unit indicates the amount of emissions released in terms of mass of emitted substance per MWh.

Export Subaccount: The Export Subaccount is the Account Holder's designated subaccount for certificates that have been exported out of M-RETS to a Compatible Certificate Tracking System. M-RETS Account Holders may have multiple Export Subaccounts corresponding to the various compatible tracking systems to which exports are made.

Facility/Generating Facility: One or more Generating Units at a single physical location.

Forward Certificate Transfer: Normally, the first point of deposit for M-RETS certificates is the account to which a generating unit is registered. With a Forward Certificate Transfer, the Account Holder to which the generating unit is registered requests that the certificates be directly deposited into another M-RETS account when the certificates are created. As a result, the first point of deposit for certificates subject to a Forward Certificate Transfer is that other specified account. After this initial deposit, certificates subject to Forward Certificate Transfers shall be treated like any other Certificate for all purposes.

Generating Facility: See Facility.

Generation Activity Log: The Generation Activity Log is an electronic ledger where generation is posted prior to certificate creation. Each time generation data is received by M-RETS for a particular generation unit, the date and quantity of MWhs is posted to the Generation Activity Log. Similarly, adjustments received will be posted likewise.

Generation Month: The generation month is the calendar month in which the generation occurred.

Generator Agent: See Agent.

Interface Control Document: An Interface Control Document contains the protocol for collecting and transferring generation data from participating control areas and other reporting entities to the M-RETS Administrator for the purposes of creating M-RETS certificates. The Interface Control Document will identify M-RETS Registered Generators to be reported for that interface, as well as the collection of information such as meter IDs, data format, communication protocols, timing, and security requirements for data collection.

M-RETS Administrator: The M-RETS Administrator is the entity with the authority to administer or oversee the administration and implementation of the M-RETS Operating Rules.

M-RETS Certificates: See Certificate.

Nameplate Capacity/Maximum Generator Nameplate Capacity: The maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer.

Qualified Independent Party: Any entity not affiliated with the generation owner. These may include the interconnecting utility, scheduling coordinator, independent third-party meter reader, or Generator Agent, so long as the Qualified Independent Party has an agreement with the M-RETS Administrator. The agreement with the M-RETS Administrator shall describe the terms and conditions under which the Qualified Independent Party agrees to conduct business with M-RETS.

Registered Generator: A renewable energy source, known as Generating Unit, that has registered with the M-RETS Administrator.

Renewables Portfolio Standard (RPS): Generally, a Renewables Portfolio Standard is a legislative or administrative requirement on electrical utilities or load-serving entities in a jurisdiction to include a designated percentage of renewable electricity in their generation/retail portfolio.

Reporting Entities: A Reporting Entity is an entity reporting meter reading and other generation data to the M-RETS Administrator. Reporting Entities may include control areas and Qualified Independent Parties, and for certain Customer-Sited Distributed Generation, the generation owner or customer (see Section 6.c.6). The protocol for such reporting is the Interface Control Document.

Responsible Party: An M-RETS Account Holder who has been assigned the Rights of Registration for a given generating unit. This gives the designated Account Holder *full and sole* management and authority over the transactions and activities related to the generating unit within M-RETS.

Retirement Subaccount: A Retirement Subaccount is used as a repository for M-RETS certificates that the Account Holder wants to designate as retired and remove from circulation. Once a certificate has been transferred into an M-RETS Retirement Account, it cannot be transferred again to any other account.

Retirement of Certificates: Retirement of certificates is an action taken to remove a certificate from circulation within the M-RETS system. Retirement may be initiated only by the M-RETS Account Holder for certificates in his/her own account(s). Retirement is effectuated by transferring certificates into a Retirement Subaccount.

Revenue Meter: For generators that are interconnected to a utility or control area operator, a revenue-quality meter is any meter used by the reporting control area operator for settlements. The data must be electronically collected by a meter data acquisition system, such as a MV-90 system, or pulse accumulator readings collected by the control area's Energy Management System, and verified through a control area checkout/energy accounting or settlements process which occurs monthly. The preferred source for the data is a meter data acquisition system. If the control area does not have an electronic source for collecting revenue meter data, then manual meter reads will be accepted. Manual meter reads must be performed by a Qualified Independent Party.

For customer-sited generators or generators that do not go through a control area settlements process, a revenue-quality meter is one that meets the applicable ANSI C-12 standard or applicable state standards.

Revenue-Quality Meter Output: The energy delivered into the transmission grid at the high side of the transformer. The data must be electronically collected by a meter data acquisition system, such as a MV-90 system, or pulse accumulator readings collected by the control area's energy management system, and verified through a control area checkout/energy accounting or settlements process that occurs at the end of each month. Metering standards for generation units not reported by control areas are further described in Section 7.2.

Self-Reporting Generator: A Customer-Sited Distributed Generation installation with a nameplate capacity of less than or equal to 150 kW that elect to have dynamic data transmitted to the M-RETS Administrator via the Self-Reporting Interface pursuant to Section 7.8.

Self-Reporting Interface: A standard Internet-based data entry portal which serves as the method for a Self-Reporting Generator to communicate dynamic data to the M-RETS Administrator pursuant to Section 7.8. The protocol for entering data via Self-Reporting Interface will be documented in the Interface Control Document for Self-Reporting Generators.

Standing Orders: A reoccurring, automatic transfer of M-RETS certificates from an Account Holder's Active Subaccount to one of their other Subaccounts, or to an Active Subaccount held by a different Account Holder.

Static Data: Static data describes the attributes of the generating unit. Static information generally includes information related to the characteristics of the generation facility such as technology type, ownership or location. See Appendix B-1 for a list of M-RETS Static Data Fields.

Station Service: The electric supply for the ancillary equipment used to operate a generating station or substation.

Whole/ Whole Certificate: A "Whole Certificate" is one where none of the renewable attributes have been separately sold, given, or otherwise transferred to another party by a deliberate act of the certificate owner. Renewable attributes shall include the environmental attributes that are defined as any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to the generation from the generation unit(s). Individual states and provinces may create different definitions of renewable certificates. The M-RETS Administrator may consider revision of the definition of an M-RETS certificate in the future if needed to better meet the needs of state and provincial programs. See also definition of "Certificate."

Wholesale Generation Also Serving On-Site Loads: Generators interconnected to the transmission systems, but with on-site loads other than station-service drawing service from the generator before the control area's revenue metering point. Such generators either (i) have the net generation supplied to the grid reportable by the control area to M-RETS, or (ii) are not reportable by the control area to M-RETS on a unit-specific basis.

Appendix E: State and Provincial Definitions of Renewable Energy

Illinois

"Renewable energy resources" include energy from wind, solar thermal energy, photovoltaic cells and panels, dedicated crop grown for energy production and organic waste biomass, hydropower that does not involve new construction or significant expansion of hydropower dams, and other such alternative sources of environmentally preferable energy. "Renewable energy resources" does not include energy from the incineration, burning or heating of waste wood, tires, garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, or construction or demolition debris.

Source: The Renewable Energy, Energy Efficiency, and Coal Resources Development Law (20 ILCS 687,) passed in December of 1997.

Iowa

The Iowa Code defines renewable energy as energy produced by either an "alternate energy production facility" or "small hydro facility." Specifically, Iowa Code 476.42(1) defines "alternate energy production facility" as: "a solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility." Iowa Code 476.42(4) defines "small hydro facility" as: "a hydroelectric facility at a dam." In practice, Iowa "small hydro facilities" have been less than 4 MW in size.

Source: Iowa Code 476.42(1) and Iowa Code 476.42(4)

Manitoba

Definition under development.

Minnesota

The following energy sources are defined as renewable energy sources under Minnesota statutes and proceedings.³⁰ Since this definition encompasses the definition of renewable energy under multiple Minnesota statutes and proceedings, it is broader than the definition under any specific Minnesota statute and therefore does not define eligibility under any particular Minnesota program.

Renewable energy sources in Minnesota are:

1. wind,
2. solar,
3. hydroelectric facilities,
4. hydrogen,
5. biomass, and
6. geothermal.

The following biomass fuels are defined as renewable:

- Primary woody or herbaceous vegetative matter (plants), including but not limited to wood, grasses, agricultural crops or residues;

³⁰ Minn. Stat. §§ 216B.1691, 216B.2422, subd. 1 (c); 216C.051, subd. 7 (g) (1); 216B.2411, subd. 2 (c); and 216B.2424, subds. 1 and 6 (f), and Minnesota Public Utilities Commission proceedings under Docket No. E999/CI-03-869.

- Processed plant materials from industry waste sources, including manufacturing, construction, or demolition;
- Methane or other combustible gases derived from the processing or decay of plant, animal, or municipal solid waste materials;
- Liquid fuels derived from plant or animal sources, including but not limited to ethanol, biodiesel, vegetable oil, or animal fats; and
- Mixed municipal solid waste (MSW) and refuse-derived fuel from MSW.

Source: Minn. Stat. §§ 216B.1691, 216B.2422, subd. 1 (c); 216C.051, subd. 7 (g) (1); 216B.2411, subd. 2 (c); and 216B.2424, subds. 1 and 6 (f), and Minnesota Public Utilities Commission proceedings under Docket No. E999/CI-03-869.

North Dakota

Renewable electricity and recycled energy include electricity generated from facilities using the following sources:

1. Solar, using the sun as the source of energy for producing electricity.
2. Wind, using the wind as the source of energy for producing electricity.
3. Biomass, using agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, and landfill gas as the fuel to produce electricity.
4. Geothermal, using energy contained in heat that continuously flows outward from the earth as the source of energy to produce electricity.
5. Hydrogen, provided that the hydrogen is generated from a source listed in this section.
6. Recycled energy systems producing electricity from currently unused waste heat resulting from combustion or other processes into electricity and which do not use an additional combustion process. The term does not include any system whose primary purpose is the generation of electricity.

Source: Public Utilities Chapter 393, Section 2 (House Bill 1314)

South Dakota

No definition available.

Wisconsin

(h) Renewable resource" means any of the following:

1. A resource that derives electricity from any of the following:
 - a. A fuel cell that uses a renewable fuel.
 - b. Tidal or wave action.
 - c. Solar thermal electric or PV.
 - d. Wind power.
 - e. Geothermal technology.
 - f. Biomass.
 - 1m. Hydro with a capacity of less than 60 MW
2. Any other resource, except a conventional resource, that the Commission designates as a renewable resource.

Source: Wis. Stat. §196.378(1)(h)

Renewable Energy Credit Tracking and Trading



Establishing a Midwest Renewable Energy Credit Tracking System:

Rational, Status of Work, and Next Steps

Presentation to the
North Dakota Public Service Commission

September 14, 2005
Bismarck, ND

5

PU-05-364

Pages: 19

Great Plains Institute Power Point Presentation

by Great Plains Institute

09/14/2005

CC Comm Legal Ilona



Building the Market for Renewable Energy



Exchange of Renewable Energy Credits:

- Facilitates exercise of market preference for renewable and environmental attributes of power generation
- Assists renewable energy policy compliance
- Reduces barriers of transmission and variability
 - Separates generation from consumption in time
 - Separates generation from actual delivery of electricity at retail (in some cases)



Benefits of Credit Trading for North Dakota



- Increased utilization of low-cost resources favors jurisdictions with highest resource potential
- Provides incentive for development beyond existing tax credits or portfolio requirements
- Rewards domestic renewable generation absent transmission capacity for export



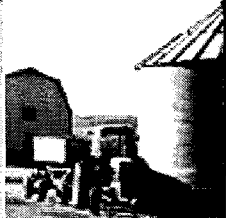
Regional Background



- Regional stakeholder workshops hosted by MN PUC and WI PSC of WI (Winter-Summer 2004)
- Joyce Foundation support for design of regional system (Summer 2004)
- PTP established Technical Review Committee for system design (Fall 2004)
 - Major investor-owned, coop and public utilities
 - Regulatory commissioners and staff
 - NGO representatives



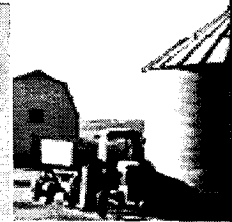
Midwest Renewable Energy Tracking System



- M-RETS will serve:
 - Dakotas
 - Illinois
 - Iowa
 - Manitoba
 - Minnesota
 - Wisconsin
- Potential for other jurisdictions in MISO footprint



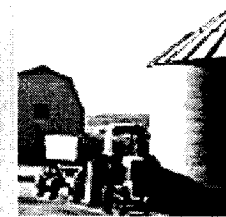
M-RETS Core Functions



- Record and verify creation, exchange and retirement of renewable energy credits
- Provide independent, third party seal of approval
- Ensure seamless credit export/import with other regional tracking systems



M-RETS Implementation Status: System Governance

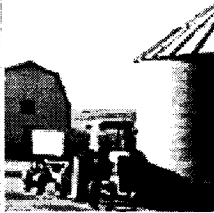


Establishment of Governing Board

- One commissioner from each jurisdiction
 - Technical Review Committee to continue advising
- First informal meeting in June at MARC
 - Convened by MN Commissioner Reha
 - Commissioner Wefald participated on behalf of ND
 - Input on by-laws, Request for Proposals and other elements of implementation
 - No binding decisions in advance of PSC rule-making



M-RETS Draft Bylaws



Article II – Membership

Article III – Governance Board

- **Purpose**

- Provide for establishment, funding, governance
- Develop and adopt technical standards
- Let bids for system software, maintenance
- Manage and promote MRETS

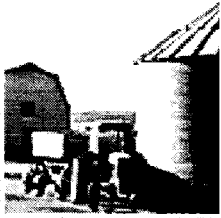
- **Composition**

- **Voting procedures**

- **Positions on policy issues**



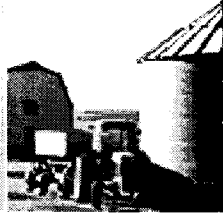
M-RETS Draft Bylaws (cont.)



- Article V – Committees
- Article VI – States not bound
- (See copy of draft bylaws in your folders)



M-RETS Implementation Status: System Hosting



Hosting entity to provide:

- Office space
- Administrative and IT systems support
- Contracting and financial management

Various options under consideration:

- MISO, MRO, state agencies, non-profit or for-profit institution
- System design and hosting to be linked in RFP



M-RETS Implementation Status: System Financing



- Categories of cost to be determined upon completion of technical design and RFP:
 - Technical design, development of governance mechanism and RFPs
 - supported by Joyce Foundation
 - Development of system software:
 - Federal agency grants/appropriation and/or amortization of up-front costs through system user fees
 - Ongoing system operation and maintenance
 - Mix of account registration and user fees with goal of minimizing transaction costs



M-RETS Implementation Status: Technical Recommendations



- Technical Review Committee engaged in year-long process
- Detailed basis for system functionality, operating rules and future software development and system hosting through RFP
- Draft disseminated for public comment in July and August
 - Detailed comments received from six parties
- Draft incorporating public input now before TRC for final review and decision by participants this month
 - Currently consensus on all but handful of narrow technical and policy questions



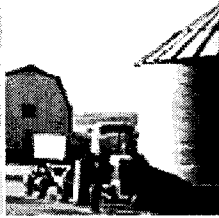
Public Input on Technical Recommendations



- July-Aug: Draft disseminated to anyone who attended one of three regional credit trading and tracking workshops
 - Regulatory commissioners/staff, state legislators, utilities, renewable energy developers/generators, farm organizations, environmental organizations, etc.
 - From every jurisdiction in region plus national experts



Public Input on Technical Recommendations (cont.)



August

- Project technical staff gathered and organized comments
- Technical Review Committee members circulated comments within their institutions

September

- TRC participants and staff held conference call to discuss comments and make decisions regarding changes



Public Input on Technical Recommendations (cont.)



Nature of public input

- General support for endeavor
- Broad range of very specific technical concerns, questions, and suggestions
- Concerns:
 - System costs and who pays for them
 - Compatibility with other tracking systems and openness to generators outside footprint
 - Generator-retailer relationships relative to PPAs
 - Recognition of past generation



Public Input on Technical Recommendations (cont.)

- Governance issues:
 - Who participates and how
 - Process from here forward
 - Accountability and oversight
 - Complaints procedure



Tentative M-RETS Timeline



- 10/1 – Technical recommendations from TRC final; forward to state commissions
- 10/15 – Governance Board members selected (one from each state PUC and Manitoba)
- 11/15 – First meeting of Governance Board
 - Approve by-laws
 - Approve TRC system design recommendations and draft RFP for system software development and day-to-day operations contractors (pending status of state PSC decision-making)



M-RETS Timeline cont.

- 12/15 - Governance Board second meeting; approve RFP
- 2/1/06 – Responses to RFP due
- 3/15/06 – Governance Board third meeting; approve contractor selection
- End of 06 - M-RETS slated for start-up



Thank You

Brad Crabtree, Director
Powering the Plains Project
9195 70th Avenue, SE
Ashley, ND 58413
(701) 647-2041
bcrabtree@gpisd.net

Great Plains Institute
2801 21st Avenue South, Suite 230
Minneapolis, MN 55407
(612) 278-7150
www.gpisd.net



**Midwest Renewable Energy Tracking System
Technical Committee Recommendations**

INTERIM DRAFT,

Deleted: FOR PUBLIC COMMENT

September 9, 2005

Deleted: June 30

Prepared by Center for Resource Solutions

For Powering the Plains Project and Isaak Walton League of America

Table of Contents

Executive Summary	5	
1. Introduction.....	7	
1.1. Development of these Technical Recommendations.....	7	
1.2. Next Steps and Timeline.....	7	
2. Geographic Scope	9	
3. M-RETS User Registration.....	9	
3.1. Participation in M-RETS	9	
3.2. Establishing an M-RETS Account.....	9	
3.3. Generator Registration.....	10	Deleted: 9
3.4. Assignment of Rights of Registration.....	13	Deleted: 14
4. M-RETS Account Structure.....	15	
4.1. Active Account	16	Deleted: 15
4.2. Retirement Subaccount.....	17	Deleted: 16
4.3. Export Subaccount.....	18	Deleted: 17
5. Access to Accounts and Confidentiality	19	Deleted: 18
5.1. M-RETS Levels of Account Access.....	20	Deleted: 19
5.2. Confidentiality	24	
6. Static Data in M-RETS	24	
6.1. Updating Static Data.....	25	Deleted: 24
6.2. Misrepresentation of Static Information:	25	Deleted: 25
7. Dynamic Data in M-RETS - Generation MWh Data.....	26	
7.1. Generation Data Requirements.....	26	Deleted: 25
7.2. Revenue Metering Standards	26	Deleted: 25
7.3. Measurement of Generation and Adjustments.....	27	Deleted: 26
7.4. Prior Period Adjustments.....	27	Deleted: 26
7.5. Notification of Adjustments.....	27	
7.6. Frequency of Data Collection/Meter Reading	28	Deleted: 27
7.7. Data Transmittal.....	28	Deleted: 27
7.8. Special Requirements for Self-Reporting Generators Only.....	28	Deleted: 27
7.9. Generation Activity Log	29	Deleted: 28
7.10. Multi-Fuel Generation Units.....	30	Deleted: 29
8. Requirements of Data Reporting Entities	32	Deleted: 31
9. Data Security.....	32	Deleted: 31
10. Creation of Certificates.....	33	Deleted: 32
10.1. Certificate Creation.....	33	Deleted: 32

10.2. Data Validity Check.....	33	Deleted: 32
10.3. Frequency of Certificate Creation.....	33	
10.4. Process and Timeline for M-RETS Certificate Creation.....	33	
10.5. Certificate Creation for Accumulated Generation.....	35	Deleted: 34
10.6. Data fields Carried on Each Certificate.....	35	Deleted: 34
11. Initial Deposit of Certificates in M-RETS Accounts.....	36	Deleted: 35
		Deleted: 35
12. Transfers of Certificates.....	36	
12.1. Transferring Certificates between Accounts.....	36	Deleted: 35
12.2. Standing Orders.....	37	Deleted: 36
12.3. Forward Certificate Transfers.....	39	Deleted: 37
13. Retirement of Certificates.....	41	Deleted: 39
13.1. Mechanism for Certificate Retirement.....	41	Deleted: 39
14. Interaction of M-RETS with the Wisconsin Renewable Resource Credit Tracking Program		
41		Deleted: 40
		Deleted: 40
15. Imports and Exports of Certificates.....	42	
15.1. Import of Certificates.....	42	Deleted: 40
15.2. Export of Certificates.....	43	Deleted: 41
15.3. Re-Import of Exported Certificates.....	43	Deleted: 42
15.4. Preventing Double Counting of Imported/Exported Certificates.....	43	Deleted: 42
16. Reporting.....	44	Deleted: 43
16.1. Public Reports.....	45	Deleted: 44
16.2. Private Reports.....	46	Deleted: 45
17. Additional Functionality.....	48	Deleted: 47
		Deleted: 48
Appendix A: Account Holder Registration Process and Generator Registration Process.....	49	
		Deleted: 50
Appendix B-1: Data Fields.....	51	Deleted: 50
Appendix B-2: Essential Generation Characteristics for Aggregate Metering.....	60	Deleted: 59
Appendix B-3: Documentation Requirements for Multi-Fuel Generation Units.....	63	Deleted: 62
Appendix C: Outstanding Issues.....	64	Deleted: 63
Appendix D: Glossary.....	66	Deleted: 65

Acknowledgements and Disclaimers

This document contains the recommendations of the Midwest Renewable Energy Tracking System (M-RETS) Technical Committee. Many of the ideas and language contained in this document were borrowed from the *WREGIS Interim Operating Rules Functional Requirements: Final WREGIS Operational Rules Committee Recommendations July 15, 2004*.

Special Thanks

The Great Plains Institute, on behalf of the Powering the Plains Project, and the Izaak Walton League would like to recognize and thank a number of institutions and individuals for their important contributions to the design and ongoing implementation of M-RETS.

A generous two-year grant from the Joyce Foundation has supported the intensive staffing and many meetings and conference calls of the Technical Review Committee, as well as participation in important regional workshops, conferences and other events that have helped inform and build support for M-RETS.

Meredith Wingate of the Center for Resource Solutions, with assistance from her colleague, Dan Lieberman, has provided a skillful and dedicated service of technical assistance and drafting to the Technical Review Committee.

Finally, none of this would have been possible without the substantial time, commitment and constructive engagement of the following individuals and their institutions who participate on the M-RETS Technical Review Committee:

- **Jeff Anthony**, Manager, Renewable Energy Strategy, We-Energies
- **Randy Bauer**, Manager, Asset Strategy, Alliant Energy
- **J.P. Brummond**, Generation Market Manager, Alliant Energy (former Committee participant)
- **Bryan Clow**, Renewable Energy Development, Illinois Department of Commerce and Economic Opportunity
- **Cynthia Fang**, Public Utilities Rates Analyst, MN Department of Commerce
- **Bill Grant**, Midwest Director, Izaak Walton League of America
- **Susan Hedman**, former staffperson, Illinois Department of Commerce and Economic Opportunity (former Committee participant)
- **Paul Helgeson**, Senior Engineer, WI Public Service Commission
- **Kelly Hunter**, Market Access Officer, Export Power Marketing Department, Manitoba Hydro (also representing Province of Manitoba)
- **Pat Keily**, Renewable Energy Program Manager, We-Energies
- **Mark Lambert**, former Member, Iowa Utility Board (former Committee participant)
- **Susan McKenzie**, Rate Analyst, Minnesota Public Utilities Commission
- **John Pearce**, Utility Specialist, Iowa Utility Board
- **Ron Rebenitsch**, Member Marketing Manager, Basin Electric Power Cooperative
- **Phyllis Reha**, Commissioner, MN Public Utilities Commission
- **Adam Sokolski**, Energy Associate, Izaak Walton League of America - Midwest
- **Michelle Swanson**, Manager, Policy Development, Xcel Energy
- **Paul Symens**, former South Dakota State Senator and farmer, SD
- **Michael Vickerman**, Executive Director, RENEW Wisconsin
- **Susan Wefald**, Commissioner, ND Public Service Commission

Committee Staff

- **Brad Crabtree**, Director, Powering the Plains Project, Great Plains Institute
- **Dan Lieberman**, Co-Director Clean Energy Policy Design and Implementation Program, Center for Resource Solutions
- **Eric Schroeder**, Business Manager, Great Plains Institute
- **Meredith Wingate**, Co-Director Clean Energy Policy Design and Implementation Program, Center for Resource Solutions

Executive Summary

With major funding from the Joyce Foundation, stakeholder participants in the Powering the Plains (PTP) Project have partnered with the Izaak Walton League of America (IWLA) and the Center for Resource Solutions (CRS) to launch a two-year initiative to design and implement the Midwest Renewable Energy Tracking System (M-RETS) by the end of 2006. This document contains the recommendations for the functional design and operation of M-RETS.

M-RETS will track renewable generation located within the state and provincial boundaries of Minnesota, Iowa, North Dakota, South Dakota, Wisconsin, Illinois and Manitoba. Renewable generation is defined as energy generated by a facility that is considered renewable as defined by any of the seven states or provinces listed above. The M-RETS Administrator will issue one electronic M-RETS certificate for each MWh of energy that is generated by registered generators that are physically located in one of the participating M-RETS states or provinces. To ensure that double-counting does not occur, generators participating in M-RETS must have 100% of their generation output tracked by M-RETS. In addition, M-RETS will consider tracking non-renewable generation from any of these states in the future.

Participation in M-RETS is voluntary. Any party, including non-generators, such as traders, marketers, and end-use customers may establish an account in the system. There is one basic type of account for all M-RETS Account Holders. The basic account contains at least three different accounts:

- An Active Account,
- A Retirement Subaccount, and
- An Export Subaccount.

M-RETS Certificates are originally deposited into the Active Account associated with the revenue meter established at the time of generator registration. Account Holders can then transfer M-RETS Certificates to the other subaccounts and other Account Holders. M-RETS users will be able to perform various functions and transactions within each account and subaccount type.

All data in M-RETS will be verified. M-RETS will not determine eligibility for state or voluntary programs. Each individual state will be responsible for determining whether or not a particular generating unit qualifies for a state program or not. However, the State Commissions may use the information collected and verified by M-RETS to conduct this determination.

M-RETS will issue reports on activity within the system. There are three types of public reports: Directory of Account Holders, Directory of Registered Generators, and Report on Aggregated M-RETS Activity. Public reports will be accessible to anybody via the public page on the M-RETS website.

There are many issues related to fees, governance, operations, administration and software design that still need to be resolved. A list of some of these issues can be found in Appendix C.

PTP and IWLA will continue to work with stakeholders to resolve many of these issues in the next year. The following next steps for M-RETS system design and implementation are planned:

- Hold first informal meeting of M-RETS governing Board of Regulators (June 2005);
- Revise Technical Recommendations after first round of outside review (July 2005);
- Disseminate second draft of Recommendations for formal public comment (July-August 2005);
- Recommend final draft of M-RETS Technical Recommendations to regulators (Fall 2005);
- Draft and recommend RFPs for system hosting/software design to regulators (Fall 2005);
- Let RFPs to potential M-RETS hosts and software developers (4th quarter of 2005); and
- Launch M-RETS as operational system (by end of 2006).

1. Introduction

With major funding from the Joyce Foundation, stakeholder participants in the Powering the Plains (PTP) Project have partnered with the Izaak Walton League of America (IWLA) and the Center for Resource Solutions (CRS) to launch a two-year initiative to design and implement the Midwest Renewable Energy Tracking System (M-RETS) by the end of 2006. This document contains the recommendations for the functional design and operation of M-RETS.

1.1. Development of these Technical Recommendations

This initiative drew inspiration and support from three excellent regional workshops on credit trading and tracking held in 2004. Hosted by Commissioner Phyllis Reha of the Minnesota Public Utilities Commission and former Commissioner Burnie Bridge of the Public Service Commission of Wisconsin, with assistance from consultants Kevin Porter and Ed Holt, these workshops explored the benefits of renewable energy certificate trading and the role of tracking systems in supporting certificate trading markets and renewable energy policy compliance.

Deleted: 5

Following these regional workshops, PTP, IWLA and CRS project partners formed a regional, public-private Technical Review Committee in September 2004 (see participant list in Acknowledgements Section) to develop this first draft of M-RETS Technical Recommendations and to advise project partners and regulators on the future system governance and financing. The Technical Review Committee has met three times and held numerous conference calls to:

Deleted: 2005

- Review other regional tracking systems in the U.S. and Canada (NEPOOL in New England, PJM-GATS in the Mid-Atlantic states, ERCOT in Texas, and WREGIS in the western states/provinces), either currently in operation or under development;
- Determine the desired functionality for a Midwest system based on others' experiences and specific needs in the region;
- Reach consensus on M-RETS functionality, policy issues and operating rules for eventual recommendation to regulators in Illinois, Iowa, Manitoba, Minnesota, North Dakota, South Dakota and Wisconsin; and
- Devise strategies for establishing an M-RETS governing board, developing a Request for Proposals (RFPs) for system hosting and software design, and securing funding of up-front system development costs and ongoing financing of future operations.

1.2. Next Steps and Timeline

The Technical Review Committee recognizes that there are many issues related to fees, governance, operations, administration and software design that still need to be resolved. A list of some of these issues can be found in Appendix C. In some instances, a placeholder had been inserted in the text where a decision is needed on high priority items. PTP and

IWLA will continue to work with stakeholders to resolve many of these issues in the next year. The following next steps for M-RETS system design and implementation are planned:

- Hold first informal meeting of M-RETS governing Board of Regulators (June 2005);
- Revise Technical Recommendations after first round of outside review (July 2005);
- Disseminate second draft of Recommendations for formal public comment (July-August 2005);
- Recommend final draft of M-RETS Technical Recommendations to regulators (Fall 2005);
- Draft and recommend RFPs for system hosting/software design to regulators (Fall 2005);
- Let RFPs to potential M-RETS hosts and software developers (4th quarter of 2005); and
- Launch M-RETS as operational system (by end of 2006).

2. Geographic Scope

M-RETS will track renewable generation located within the state and provincial boundaries of Minnesota, Iowa, North Dakota, South Dakota, Wisconsin, Illinois and Manitoba. Any generator located outside of the geographic footprint of M-RETS with a contract with a participating utility to deliver energy into the M-RETS footprint may participate in M-RETS. Any other generator may participate at an adjusted fee schedule to account for the recovery of start-up costs of the tracking system.

Renewable generation is defined as energy generated by a facility that is considered renewable as defined by any of the seven states or provinces listed above. State definitions of renewable energy are found in Appendix E. In addition, M-RETS will consider tracking non-renewable generation from any of these states, but additional fees will apply commensurate with the additional costs to the system for tracking the non-renewable generation.

3. M-RETS User Registration¹

3.1. Participation in M-RETS

Participation in M-RETS is voluntary. Any party that registers with M-RETS and pays applicable fees (to be determined) may establish an account in the system. M-RETS will only track certificates originating from generators located in the states and provinces listed in (2) above.

3.2. Establishing an M-RETS Account

Any person or entity that wants to participate in M-RETS must establish an M-RETS account. There is no limit to the number of separate accounts a company or individual may establish. Registrants will provide basic account registration information, such as account holder name, address, contact info etc. to the M-RETS Administrator through a secure webpage on the M-RETS website. The registrant will also be required to supply payment for any account registration fees. An account in M-RETS will remain active until terminated. Termination can be initiated by the Account Holder by notifying the M-RETS administrator.

M-RETS will check all account registration or modified existing account entries for completeness. Mandatory fields that are not completed by the registrant will be flagged to the submitter through an error message.

¹ With regard to existing generators, the M-RETS Administrator will adjust the account registration process and process for designating a generator agent in response to direction from regulators or courts.

3.3. Generator Registration

To ensure that double-counting does not occur, generating units participating in M-RETS must have 100% of their generation output from that generating unit tracked by M-RETS. This will be a part of the Generator Registration Agreement.²

All Generator Owners who want M-RETS to create certificates of generation must first establish an account within the M-RETS system as described above and then register the generating unit(s) with M-RETS. Registration with M-RETS does not imply or confer acceptance into or eligibility for a state's Renewable Portfolio Standard program.

To register the generating unit(s), the owner of the generating unit or the Responsible Party³ must submit to the M-RETS Administrator all of the following:

- The M-RETS Account number to which the generation unit will be linked,
- A completed on-line generator registration form containing information related to the characteristics of the generation unit and associated meter,
- A completed Generator Registration Agreement outlining the terms and conditions of participation in M-RETS,
- Any documentation requested by the M-RETS Administrator to verify the registration information, and
- Generator registration fee, if applicable.

Generating Units that are jointly owned must privately appoint a single party to act as the Account Holder.

The generator registration process will occur on-line through a secured web portal interface with password protection. M-RETS will check all account registration or modified existing account entries for completeness. Mandatory fields that are not completed by the registrant will be flagged to the submitter through an error message. Optional data fields, if used, may be filled in when the facility initially registers or may be completed after account activation. M-RETS will have the capability of recalling account holder information already keyed into the system.

Generating units are registered on a revenue-meter basis.⁴ In the case where there is more than one generating unit associated with a single revenue meter, the Generator Owner or Responsible Party can register more than one generating units under one registration if, and only if, all of the generating units have the same "essential generation characteristics." As a rule, the essential generating characteristics are any generator characteristics that may determine eligibility for a state renewable program for that resource type and are relevant to aggregate metering.⁵ A list of such essential characteristics is found in Appendix B-2 If the

² As a part of this Agreement, there needs to be language that states that the GU is registered with only one tracking systems and that they should notify us if they registered previously with other tracking systems.

³ The Responsible Party is an entity to whom the Generator Owner has given the right of registration. This is described in detail in Section 3.4. This agreement will be developed later.

⁴ See Section 7.2 for a definition of a revenue meter.

⁵ Such programs may be voluntary or mandatory. We also recommend including any additional fields that are found on WREGIS's list of "essential generating characteristics" to facilitate compatibility later.

generating units associated with a single revenue meter do not have the exact same essential generation characteristics, the Generator Owner or Responsible Party has two choices—they can either install a new revenue meter(s) such that all generating units associated with a single meter have the same generation characteristics, or they can designate a percentage allocation on an MWh output basis for each different generation unit(s) associated with the revenue meter. For example, if there are two generating units (a biomass direct combustion generation unit and a biomass gasification unit and technology type is considered an essential characteristic) associated with one revenue meter, the registrant would indicate that X% of the output as measured at the meter comes from the direct combustion unit and Y% comes from the gasification unit.⁶ Generators will be required to report to M-RETS within 30 days if there is a change of 5% or greater (up or down) from the expected generation allocation.

A Multi-fuel Generation Unit is one that is capable of producing energy using more than one fuel type, where the quantity of each of the fuels used is greater than 1% annually on a total heat input basis, excluding fuels used for start-up. Such facilities must register with M-RETS as a Multi-fuel Generation Unit. If the relative quantities of electricity production from each fuel can not be measured or calculated, and verified, the generator is not eligible to register in M-RETS.

If a facility has more than one revenue meter, the Generator Owner or Responsible Party must register the generation units associated with each revenue meter separately, though generating units may be associated with a single Account.

Deleted: .

All mandatory and optional data in M-RETS will be verified. After verification, the M-RETS Administrator will link the generating unit(s) with the M-RETS Account number indicated on the registration form. One or more generating units may be associated with a single M-RETS account. As a result of this process, all certificates created for that generating unit will be deposited into the account that is associated with each particular generating unit.

3.3.1. Verification of Static Data Submitted During Generator Registration

Upon completion of the generator registration process, the M-RETS Administrator will verify the information provided to M-RETS by the registrant. The method of verification for each data field is found in Appendix B-1. As a part of the registration process, the Account Holder must sign and submit to the M-RETS Administrator an affidavit declaration that the information being provided is true and correct. In addition, the M-RETS Administrator may conduct site visits to further verify the information as needed. The M-RETS Administrator will share generator information with state regulatory agencies when requested. Generators involved in the WI RRC program may be required to submit additional information to the WI PSC.

In the event data submitted is found to be false or if there is a discrepancy between the information submitted during the on-line registration process and the materials provided to verify the information, the M-RETS Administrator will notify the registrant that the information could not be positively verified. A process of either correcting the registration form, or withdrawing the registration form, or providing proof that the

⁶ Where $X+Y = 1$.

information on the registration form is correct will ensue between the M-RETS Administrator and the registrant until the M-RETS Administrator is satisfied that the information provided meets M-RETS standards for accuracy.

3.3.2. M-RETS Interaction with State Commissions and Certification of Facilities for State Programs

M-RETS will be responsible for verifying any information submitted to M-RETS during the Generating Unit Registration Process. Each individual state will be responsible for determining whether or not a particular generating unit qualifies for a state program or not. The State Commissions will use the information collected and verified by M-RETS to conduct this determination. The process for this is as follows.

After a Generating Unit has registered with M-RETS, and all of the information on the registration form has been verified according to the method described in Appendix B-1, the State Utility Commissions will have the option of asking the M-RETS Administrator to send them an electronic version of the registration information for all generating units in their jurisdiction or eligible for any state programs. If the State Commission has exercised this option, the M-RETS Administrator will send an electronic message to the designated contact at the State Commission each time a Generating Unit located in their jurisdiction has been registered in M-RETS. The State Commissions reserve the right to conduct site visits or request additional information from a Generator to determine whether or not the facility meets all of the requirements of a particular regulatory program or to verify information per state statute.

3.3.3. Terminating a Generating Unit's Participation in M-RETS

If the Generator Owner or Responsible Party wants to remove a generating unit from the M-RETS system, they can do so by notifying the M-RETS Administrator. The M-RETS Administrator will develop a form for this purpose. The form will ask the Generator Owner or Responsible Party to specify the following information, including, but not limited to:

- The date the generating unit should be/will be removed from the M-RETS tracking system⁷,
- The name of the entity reporting the generation data, and
- The account to which certificates should be deposited (if the usual account for deposit has been closed).

M-RETS will issue certificates for any generation that is logged prior to the date of generating unit termination as instructed by the Generator Owner. Because of the lag time between generation and certificate issuance, this may mean that certificates will be issued and deposited after the termination date, but only for generation that occurred prior to the termination date. No certificates will be issued for generation that occurs after the termination date. If the account to which the generation unit is linked is also closed at the same time, the Generator Owner or Responsible Party must also specify the account to

⁷ This is the same as the final date of generation for which certificates are to be issued.

which any remaining certificates that have not yet been issued should be deposited. Any fractional MWhs (i.e. any KWhs) left on the generation activity log at the time of deregistration will be forfeited.

Placeholder here for policy if M-RETS Administrator has cause for terminating a generating unit's participation in M-RETS: What is process for terminating the account, what are the circumstances under which an account would be terminated, and what M-RETS Administrator/Board will do with the M-RETS Account and the certificates in it

3.3.4. Changing the Account to Which the Generating Unit is Associated

If the Generator Owner or Responsible Party wants to change the account to which a generating unit is associated, they can do so by notifying the M-RETS Administrator. The M-RETS Administrator will develop a form for this purpose. The form will ask the Generator Owner to specify the following information, including, but not limited to:

- The new account number to which the generating unit will be associated, and
- The date the change will be effective

Certificates from generation that was logged up to the day the account change takes effect will be deposited into the account that the generating unit was associated with at the time the generation occurred. For example, if the generator owner changes the account to which a given generating unit is associated with from Account A to Account B, and the change is effective on March 1st, then the certificates from generation that was logged prior to March first will be deposited into Account A (even though the date of certificate deposit will be after March 1st because of the lag time between certificate logging and certificate issuance.)

When changing the account to which a generating unit is associated, there can not be any lapse in time where the generating unit is not associated with an M-RETS Account. If there is a period of time when the generating unit is not associated with an M-RETS Account, this will be treated as a deregistration/re-registration of the generating unit instead of a change of account.⁸

Any fractional MWhs (i.e. any KWhs) left on the generation activity log on the date the change is effective will be forfeited. The Technical Review Committee recommends that this decision be revisited at the time of the RFP process to determine if it would be cost-effective to add functionality that would allow the fractional MWhs (i.e. any KWhs) left on the generation activity log to move over to the new account holder.

3.4. Assignment of Rights of Registration

The owner of a generating unit or Responsible Party may assign the right to register the generating unit(s) in M-RETS to an M-RETS account holder for the purposes of allowing

⁸ The reason for this is that the M-RETS Administrator will need to know where the certificates should be deposited for all generation logged during the transition. If there is a lapse in time, it would be unclear as to which account the certificates should be deposited in for generation occurring during that lapse.

that party the ability to control and manage the disposition of any M-RETS certificates resulting from the operation of the generating unit(s). This assignment of registration rights will give the designated Account Holder *full and sole* management and authority over the transactions and activities related to the generating unit within M-RETS. For the purposes of M-RETS, this party will be considered the Responsible Party for that generating unit.

M-RETS will require both parties to confirm an assignment of registration rights and the date the assignment will be effective, and the date the assignment will be terminated, if there is one.

3.4.1. Termination of Rights of Registration

The Rights of Registration may be terminated by the Generator Owner (GO) or the Responsible Party subject to confirmation by the M-RETS Administrator that both the GO and Responsible Party agree to the change. The M-RETS Administrator will develop a form for this purpose. The form will specify who the new Responsible Party with the Rights of Registration is and the date the change in registration will occur. Termination of Rights of Registration has the effect of deregistering the generating unit from M-RETS. If the registration rights assignment has been terminated, no new certificates will be issued from that generating unit until it is registered again.

3.4.2. Changing Rights of Registration

The Rights of Registration can be changed from one party to another party. Changing the Rights of Registration has the effect of changing the account to which the generating unit is linked.

When the Rights of Registration are changed, the disposition of the certificates from that generating unit will follow the rules in Section 3.3.3. This function applies equally to the Generator Owner or to a Responsible Party, meaning that the Responsible Party has the ability to change the Rights of Registration to another party.

When the Rights of Registration are changed, the M-RETS Administrator will confirm that both parties (the Generator Owner or current Responsible Party and the new Responsible Party) agree to the change. The M-RETS Administrator will develop a form for this purpose. The form will specify who the new Responsible Party with the Rights of Registration is, the date the change in registration will occur. There can not be any lapse in time where the generating unit is not associated with an M-RETS Account. If there is a period of time when the generating unit is not associated with an M-RETS Account, this will be treated as a deregistration/re-registration of the generating unit.

In addition, the basic Generator Registration data must be reviewed and updated when the Right of Registration is changed from one party to another.

Note: These procedures may be changed if states, provinces or courts provide guidance on the processes required for generation unit registration. We need a legal interpretation or further discussion on whether a PPA can/should be able to suffice as a confirmation of

both parties in the registration process, resulting in the deposition of RECs into the buyers account.

4. M-RETS Account Structure

There is one basic type of account for all M-RETS Account Holders. The basic account contains at least three different accounts:

- An Active Account,
- A Retirement Subaccount, and
- An Export Subaccount,

M-RETS Certificates are originally deposited into the Active Account associated with the revenue meter established at the time of generator registration. Account Holders can then transfer M-RETS Certificates to the other subaccounts, as described in Section 12.

It is possible to establish multiple Active Accounts and Retirement Subaccounts at the Account Holder's discretion. The Account Holder will be able to view a listing of certificates in each subaccount, including the generation characteristics associated with each certificate or block of certificates.

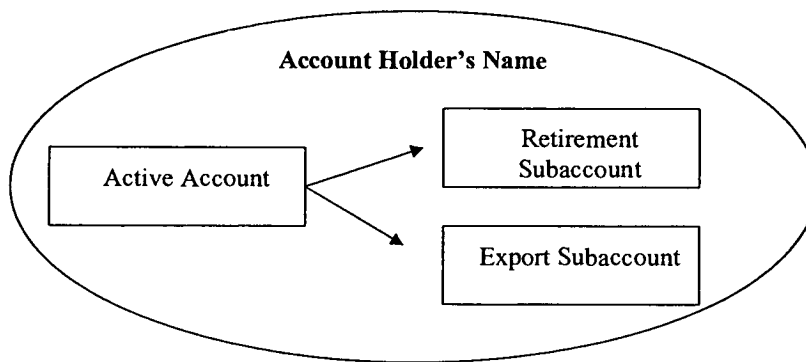
Each account and subaccount will have a unique identification number, similar to a banking system where a checking and savings account associated with one person each have unique account numbers. Users may attach aliases to subaccounts for ease of reference (e.g., by state, by product name, etc.)

M-RETS users will be able to perform various functions and transactions within each account and subaccount type, as described below.

There are no limitations on the number of Active or Retirement Subaccounts that an Account Holder may have. An Account Holder may have only one export account.

Note: An assessment of the number of potential accounts and subaccounts must be done for the RFP to give the software contractor some indication of the scale of the system.

Figure 1. Basic M-RETS Account Structure.



4.1. Active Account

The Active Account is the holding place for all active M-RETS Certificates. The Active Account is like a cash checking account. The M-RETS Certificates in it are liquid and can be transferred, exported, etc at the discretion of the Account Holder.⁹

If the Account has a generating unit(s) associated with it, the Active Account will be the first point of deposit for any M-RETS Certificates created that are associated with the generating unit(s) ID number.

4.1.1. Deposits to the Active Account

There are three ways that M-RETS Certificates are deposited in an Active Account.

- (a) The Account Holder can transfer M-RETS Certificates into their Active Account from another of the Account Holder's Active Accounts.
- (b) The Account Holder can accept a transfer of certificates from another M-RETS Account Holder.
- (c) They can be deposited into the account by the M-RETS Administrator based on verified generation data from a generating unit associated with the Active Account or as a result of the adjustment process, or
- (d) They can be deposited by the M-RETS Administrator as a result of an import.

Deleted: M-RETS Subaccount (after a mutually agreed upon transfer with another Account Holder is executed or from another

Deleted:)

Formatted: Bullets and Numbering

Formatted: Indent: Left: 0.75"

Formatted: Bullets and Numbering

Formatted: Bullets and Numbering

If the Account Holder has more than one Active Account, they can specify in each case the Active Account in which they want the certificates to be deposited.

4.1.2. Transfers from the Active Account

There are three ways to withdraw or remove M-RETS Certificates from an Active Account:

⁹ Active M-RETS Certificates are distinguished from retired M-RETS Certificates or exported certificates, which have been retired for a specific purpose or have been exported to a Compatible system, and are no longer available for trading in M-RETS.

- (a) Transfer the M-RETS Certificates to the Active Account of another M-RETS Account Holder,
- (b) Transfer the M-RETS Certificates to another of one's own Subaccounts (e.g. retirement), or
- (c) Export the M-RETS Certificates out of M-RETS to another compatible tracking system.

Deleted: Subaccount

4.1.3. Functionality of Active Account

In addition to being able to deposit and withdraw M-RETS Certificates from the Active Account, Account Holders will be able to view and sort their certificates by a number of certificate fields, generate reports about their account, and create additional Active Accounts, and transfer active M-RETS Certificates between Active Accounts.

4.2. Retirement Subaccount

A single Retirement Subaccount will be established when the Account Holder registers with M-RETS. An Account Holder may establish additional Retirement Subaccounts at their discretion, as needed. A Retirement Subaccount is used as a repository for M-RETS Certificates that the Account Holder wants to designate as retired.¹⁰ M-RETS Certificates in the Retirement Subaccount are no longer transferable to another party, and serve as an electronic record or proof of retirement. M-RETS Certificates in the Retirement Subaccount also cannot be transferred into any other Account, including another Retirement Subaccount (if an Account Holder has multiple Retirement Subaccounts). The Retirement Subaccount is effectively the last resting place for an M-RETS Certificate.

4.2.1. Deposits to the Retirement Subaccount

There is only one way for M-RETS Certificates to be deposited in the Retirement Subaccount; they must be transferred into the Retirement Subaccount by the Account Holder or his/her Agent¹¹ from his/her Active Account.

Account Holders will be allowed to create standing orders within their account whereby they instruct M-RETS to automatically transfer certain M-RETS Certificates, or the contents of specific Active Accounts, to one of the Account Holder's Retirement Accounts, on a periodic basis (see Section 12).

¹⁰ An Account Holder may want to retire certificates for any number of reasons, including, but not limited to: demonstrating compliance with a renewable mandate, retiring certificates on behalf of green power customers, or making claims about the air quality benefits of the renewable certificates.

¹¹ An "Agent" is a person that has permission to access one's active or other accounts. For more information on levels of access and permission, see Section 5.

4.2.2. Withdrawals from the Retirement Subaccount

There are no withdrawals from the Retirement Subaccount. M-RETS Certificates that were retired in previous years can be archived periodically so they do not occupy space in the database and in the Subaccount.

4.2.3. Functionality of the Retirement Subaccount

Account Holders will be able to view and sort M-RETS Certificates by certificate fields, generate reports about M-RETS Certificates held in their Retirement Subaccount, and voluntarily indicate for what purpose the M-RETS Certificates were retired. Once an Account Holder indicates the reason for retirement, this cannot be changed later.¹² To indicate the reason for retirement, M-RETS will have a pull-down menu of options that the Account Holder can select. The options will be consistent with regulatory programs and any voluntary programs or voluntary market activities that are added by the M-RETS Administrator.

4.3. Export Subaccount

A single Export Subaccount will be established when the Account Holder registers with M-RETS. This Subaccount will contain the M-RETS Certificates that are exported for conversion to a Compatible Certificate Tracking System (see Section 14 on Imports and Exports). There will only be one Export Subaccount associated with each Account.

4.3.1. Deposits to the Export Subaccount

There is only one way for M-RETS Certificates to be deposited in the Export Subaccount; they will be transferred into the Export Subaccount by the M-RETS Administrator after notification that the export was accepted by the Compatible Tracking System. When certificates are deposited to the Export Subaccount, the M-RETS Administrator will note the tracking system to which they were exported. This will be visible when the account holder views their export subaccount.

4.3.2. Withdrawals from the Export Subaccount

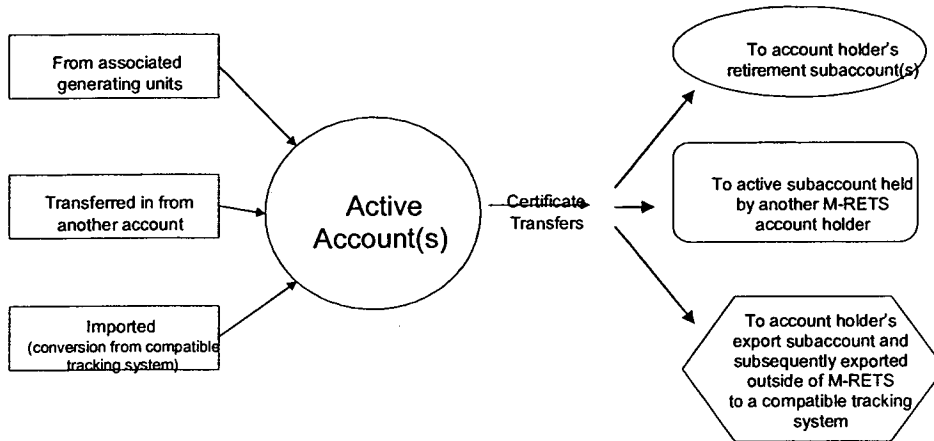
There are no withdrawals from the Export Subaccount.

4.3.3. Functionality of the Export Subaccount

Account Holders will be able to view and sort certificates by certificate fields, generate reports about M-RETS Certificates held in their Export Subaccount, and indicate for what purpose the M-RETS Certificate was exported (indicating reason for export is voluntary). Once an Account Holder indicates the reason for export, this cannot be changed later.

Figure 2. Flow of Certificates between M-RETS Accounts

¹² This is to prevent someone from using the same retired certificate for multiple purposes.



5. Access to Accounts and Confidentiality

There are 4 levels of access to an account. In addition, the M-RETS System Administrator will have access to all accounts through system operation functions. As a part of the registration process, the M-RETS Administrator will supply all users with a confidentiality statement ensuring that no account information will be shared without the express consent of the Account Holder.

The Account Holder has full access to any account that they establish. They also have the *sole* ability to assign permission to another party, known as their "Agent", to "use" their account, which may include viewing information, performing transactions, changing personal information etc. Assignment of account access can be done during the account registration process, or at any time the Account Holder wishes to update their account profile on-line by adding additional users to their account.

User access may be granted at the account or subaccount level. The process for granting access is generally as follows: the account holder will be required to fill out an on-line form for each user they want to add to their account. They will provide information about that user such as name, email address and will indicate the level of access that user is permitted to have and the account or subaccounts to which that user has access. The M-RETS System Administrator will send an email to that party, asking them to select a user name and password, and will confirm that they agree to the terms of participation in M-RETS. The new user, known as an Agent, will then be able to perform the functions or view the information per the permissions granted by the Account Holder. The Account Holder may at any time revoke the permissions granted to an Agent by notifying the M-RETS Administrator.

The M-RETS System will be able to track the specific activities of each user through the unique user ID and password.

5.1. M-RETS Levels of Account Access

The table below indicates the possible permissions that an M-RETS Account Holder may grant. For each level of access, the user will be able to perform all of the functions indicated with an "X". There are a number of actions that are not available to anyone except the system administrator or the Account Holder - these are indicated by a sole X in the Account Holder or system admin column.

5.1.1. Level 1 Access

Level 1 access is automatically enabled when for the account holder an account is established. Only one user can have Level 1 access. Level 1 access includes all functions available to account holders including, but not limited to:

- **Account Holder Registration and Maintenance**
 - Ability to assign and revoke access to others within the account holder's organization
 - Ability to authorize third party access¹³ to account (e.g. agent, regulator)
 - Ability set up and terminate account
 - Ability to merge two accts
 - Any activity requiring an electronic signature
 - Updating/changing acct holder data
 - Creating new subaccounts
 - Changing alias' on subaccounts
- **Generating Unit (GU) Registration**
 - Register a generating unit(GU)
 - Terminate GU registration for an account
 - Transfer GU registration to another account
 - Assign/change the subaccount a registered GU is associated with
 - Identify/authorize the "reporting entity" to provide generation data to M-RETS for GU
 - Submit 1 time data needed to verify GU characteristics
 - Set up forward certificate transfers
- **Generation Data Management (For specific or all generating units registered within the account)**
 - Submit GU generation allocation data in case of a multi-fuel GU w/ a single meter
 - Key in generation data (only for those facilities that are allowed to self-report generation data)
 - Accept or reject reported generation used for certificate creation
 - Provide and update GU characteristics and facility info
- **Certificate Management and Maintenance**
 - Initiate transfers from any account to any account

¹³ Defined broadly to include everything from full access to modify account, to read-only access

- Set up/remove standing orders from any account to any account
- Accept/reject transfers, imports
- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
 - Create new reports-specify what's in the report
 - Authorize distribution or distribute reports
- **View Only/Read Only Access**
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

5.1.2. Level 2 Access

Level 2 access is granted by the account holder on a subaccount basis. There is no limit to the number of users that can be granted Level 2 access. Level 2 access includes access to all of the following functions for the indicated subaccount:

- **Account Holder Maintenance**
 - Updating/changing acct holder data
 - Creating new subaccounts
 - Changing alias' on subaccounts
- **Generating Unit (GU) Registration**
 - Register a generating unit(GU)
 - Terminate GU registration for an account
 - Transfer GU registration to another account
 - Assign/change the subaccount a registered GU is associated with
 - Identify/authorize the "reporting entity" to provide generation data to M-RETS for GU
 - Submit 1 time data needed to verify GU characteristics
 - Set up forward certificate transfers
- **Generation Data Management (For specific or all generating units registered within the account)**
 - Submit GU generation allocation data in case of a multi-fuel GU w/ a single meter
 - Key in generation data (only for those facilities that are allowed to self-report generation data)
 - Accept or reject reported generation used for certificate creation
 - Provide and update GU characteristics and facility info
- **Certificate Management and Maintenance**
 - Initiate transfers from any account to any account
 - Set up/remove standing orders from any account to any account
 - Accept/reject transfers, imports
- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
 - Create new reports-specify what's in the report
 - Authorize distribution or distribute reports
- **View Only/Read Only Access**
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

5.1.3. Level 3 Access

Level 3 access is granted by the account holder. There is no limit to the number of users that can be granted Level 3 access. Level 3 access includes access to all of the following functions:

- **Account Holder Maintenance**
 - Updating/changing acct holder data
 - Creating new subaccounts
 - Changing alias' on subaccounts
- **Generation Data Management (For specific or all generating units registered within the account)**
 - Submit GU generation allocation data in case of a multi-fuel GU w/ a single meter
 - Key in generation data (only for those facilities that are allowed to self-report generation data)
 - Accept or reject reported generation used for certificate creation
 - Provide and update GU characteristics and facility info
- **Certificate Management and Maintenance**
 - Initiate all transfers, except transfers to retirement subaccounts
 - Set up/remove standing orders, except standing orders to retirement subaccounts
 - Accept/reject transfers, imports
- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
 - Create new reports-specify what's in the report
- **View Only/Read Only Access**
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

5.1.4. Level 4 Access: Regulator

Regulators will automatically be granted Level 4 access to all accounts in M-RETS. Level 4 access includes access to all of the following functions:

- **Report Management**
 - Run standard reports (includes sorting and filtering within standard reports)
- **View Only/Read Only Access**
 - Subaccount read-only access
 - Certificate look-up function
 - Generation Unit and Generation Activity Log view only

Table 1. Account Permissions

Table 1. below has the same information as the lists above, but was left in for ease of reviewing because it is a quick way to see what is different between the different levels of access.

M-RETS Functions	Level 1: Account Holder ¹⁴	Level 2	Level 3	Level 4: Regulator	System Admin.
Acct Holder Registration					
-Ability to assign and revoke access to others within the account holder's organization	X				X
-Ability to authorize third party access ¹⁵ to account (e.g. agent, regulator)	X				X
-Ability set up and terminate account	X				X
-Ability to merge two accts	X				X
-Any activity requiring an electronic signature	X				X
Acct Holder Maintenance					
-Updating/changing acct holder data	X	X	X		X
-Creating new subaccounts	X	X	X		X
-Changing alias' on subaccounts	X	X	X		X
Generating Unit (GU) Registration (Only for accounts that have GUs associated with them)					
-Register a generating unit(GU)	X	X			X
-Terminate GU registration for an account	X	X			X
-Transfer GU registration to another account	X	X			X
-Assign/change the subaccount a registered GU is associated with	X	X			X
-Identify/authorize the "reporting entity" to provide generation data to M-RETS for GU	X	X			X
-Submit 1 time data needed to verify GU characteristics	X	X			X
-Set up forward certificate transfers	X	X			X
Generation Data Management (For specific or all generating units registered within the account)					
-Submit GU generation percent allocation data in case of a multi-fuel GU w/ a single meter or multiple GUs on one meter	X	X	X		X
-Key in generation data (only for those facilities that are allowed to self-report generation data)	X	X	X		X
-Accept or reject reported generation used for certificate creation	X	X	X		X
Generating Unit Maintenance					
-Provide and update GU characteristics and facility info	X	X	X		X
Certificate Management and Maintenance Intra-					

¹⁴ person or entity who signs the account agreement w/ M-RETS

¹⁵ Defined broadly to include everything from full access to modify account, to read-only access

Account Active Transactions					
-Initiate transfers active to active accts (intra accts)	X	X	X		X
-Set up/remove standing orders for active to active accounts	X	X	X		X
Certificate Management and Maintenance Intra-Account Retirement Transactions					
-Initiate transfers from active to retirement accts	X	X			X
-Set up/remove standing orders for active to retirement accts	X	X			X
Certificate Management and Maintenance Inter-Account					
-Initiate transfers active to exports, including standing orders	X	X	X		X
-Initiate transfers active to active (inter accts), including standing orders	X	X	X		X
-Accept/reject transfers, imports	X	X	X		X
Report Management					
-Run standard reports (includes sorting and filtering within standard reports)	X	X	X	X	X
-Create new reports-specify what's in the report	X	X	X		X
-Authorize distribution or distribute reports	X	X			X
View Only/Read Only Access					
Subaccount Read-Only access				X	X
Certificate look-up function	X	X	X	X	X
Generation Unit and Generation Activity Log view only	X	X	X	X	X
Generation logging (at GU level)					
-Accept/reject generation data from a control area operator					X
Certificate Creation (at GU level)					
-Ability to issue a certificate from posted and accepted generation					X

5.2. Confidentiality

Except where permission has been explicitly granted, all Account Holder information will be held strictly confidential. Account Holder information will only be released in aggregate through the reporting process.

6. Static Data in M-RETS

Static data fields describe the physical attributes of the generating unit. This data is provided by Account Holders to the M-RETS Administrator during the generator registration process, and the subsequent update processes described below.

For static data to be included in M-RETS, it must be verified. The method of verification for each data field is found in Appendix B-1. In addition, the M-RETS Administrator may conduct site visits to further verify the information as needed.

6.1. Updating Static Data

After the initial registration with M-RETS, static data for each generating unit shall be updated annually by prompting all account holders to review and update their account information, including information about generating units associated with their account. M-RETS will stop issuing certificates to any Account Holder that does not review and confirm or update their generating unit static data within the time specified by the M-RETS Administrator.

In addition to the annual update, Account Holders must notify M-RETS of the following that have the effect of changing static data tracked by M-RETS:

- (a) A change in fuel type at a generating unit, and the date on which the change occurred, within 30 calendar days from when the change is implemented.
- (b) A change in generating unit ownership, and the date on which the change occurred, within 30 calendar days after the sale closes. A change in ownership must be confirmed by a letter signed by both the seller and the buyer of the generating unit, and provided to the M-RETS Administrator. Agreements between M-RETS and Account Holders shall state that M-RETS will not be liable for depositing certificates into an account that no longer represents a generating unit if the incorrect deposit occurs as a result of a lack of notification by the buyer and seller of the generating unit.
- (c) A change to generator eligibility for any programs or certification tracked by M-RETS. This must be communicated by the state, province or independent certifier, and confirmed by the Account Holder, within 30 calendar days after the change occurs.
- (d) A change to any of the “essential generating characteristics” used for aggregate metering.

6.2. Misrepresentation of Static Information:

Generators can be removed from M-RETS for cause, including willful misrepresentation of static data.¹⁶ The M-RETS dispute resolution process can be used to address such situations, and M-RETS will accept no liability for generator misrepresentations. M-RETS reserves the right to withhold issuing certificates, to freeze an account associated with a particular generating unit, or to withhold participation in M-RETS for generation units that have willfully misrepresented static data.¹⁷

¹⁶ M-RETS will need to develop a policy for handling situations of willful misrepresentation. A comprehensive definition of willful misrepresentation and malfeasance has not been developed yet, and will be address later.

¹⁷ These are three possible actions the M-RETS administrator might take, but a more comprehensive policy needs to be developed for how M-RETS will handle various situations of malfeasance.

7. Dynamic Data in M-RETS - Generation MWh Data

7.1. Generation Data Requirements

M-RETS certificates may be issued for any energy production serving a load that otherwise would have been served by the grid if not for the generator. M-RETS will not create certificates for generation supplying station service.

Data used to produce certificates in M-RETS must be derived from control area settlements data polled from a revenue quality meter, except for (1) generators that do not go through a control area settlements process, and (2) customer sited distributed generators.

For generators that do not go through a control area settlements process and that are not customer-sited distributed generators, the data must be from a revenue quality meter adjusted to reflect the energy delivered into the transmission grid at the high side of the transformer, and communicated to the M-RETS Administrator by a Qualified Independent Party.

For customer-sited distributed generators, the original data source for reporting total energy production must be from revenue-quality metering at the AC output of an inverter, adjusted to reflect the energy delivered into either the transmission or distribution grid at the high side of the transformer. In the absence of a meter measuring production as described above (i.e. if there is no meter at the inverter), the original data source for reporting total energy production must be from revenue-quality metering placed to measure only the hourly positive generation flowing to the distribution system, adjusted to reflect the energy delivered into either the transmission or distribution grid at the high side of the transformer.

7.2 Revenue Metering Standards

All generators participating in M-RETS must use a revenue quality meter. For generators that are interconnected to a utility or control area operator, a revenue-quality meter is any meter used by the reporting control area operator for settlements. The data must be electronically collected by a meter data acquisition system, such as a MV-90 system, or pulse accumulator readings collected by the control area's Energy Management System, and verified through a control area checkout/energy accounting or settlements process which occurs monthly. The preferred source for the data is a meter data acquisition system. If the control area does not have an electronic source for collecting revenue meter data, then manual meter reads will be accepted. Manual meter reads must be performed by a Qualified Independent Party.

Deleted: (or any party other than the generator)

For customer-sited generators or generators that do not go through a control area settlements process, a revenue-quality meter is one that meets the applicable ANSI C-12 standard or applicable state standards.

7.3. Measurement of Generation and Adjustments

The output from each generating unit registered in M-RETS will be measured at the point of interconnection to the transmission or distribution company's facility, or adjusted to reflect the energy delivered into either the transmission or distribution grid at the high side of the transformer. Losses occurring on the bulk transmission or distribution systems after the metering point are not reflected in the certificates created. M-RETS will not create certificates for that portion of the generation that is used to supply station service, and therefore, generation data should also be netted of station service supplied from the generator's side of the point of interconnection. For wholesale generators also serving on-site loads, M-RETS will create certificates for the on-site load distinct from station service, if the Generator Owner can provide evidence that the metering used is capable of distinguishing between on-site load and station service. Otherwise, the M-RETS Administrator will assume a conservative default fraction of total generation will be deemed to be from station service unless it can be proved otherwise.

If adjustments are needed, due to metering, reporting, error or any other reason, the reporting entity must report the adjustment as soon as possible to the M-RETS Administrator. If certificates have not yet been created for the original generation amount to which the adjustment applies, the credit or debit will be posted to the Generation Activity Log, and will be reflected in the number of certificates created that month. If certificates have been created, the adjustment will be treated as a prior period adjustment described below in Section 7.4.

7.4. Prior Period Adjustments

Adjustments that are made after the data are reported to M-RETS and certificates are issued are known as prior period adjustments. All Account Holders will be made aware that there may be debits and credits in the current period as prior period settlement quality data are finalized.

Prior period adjustments must be reported to the M-RETS Administrator by the reporting entity. The M-RETS Administrator will post the prior period adjustment to the generation activity log associated with the generating unit. This will have the effect of applying a credit or debit to the generation amount reported in the current month. Consequently, the adjustment will be realized when M-RETS certificates are next issued. If new certificates are created, the vintage of the certificates shall be the same as all other certificates created that month. The M-RETS Administrator will not accept adjustments for generation reported more than two years prior to the current month.

7.5. Notification of Adjustments

The Account Holder will be informed of all credit or debit adjustments as soon as the adjustment has been posted to the Generation Activity Log. Once M-RETS informs the

Account Holder of a need for adjustment, the Account Holder then has 90 calendar days¹⁸ to dispute or accept the adjustment. If after 90 days the Account Holder has done nothing, the M-RETS Administrator will automatically accept the adjustment.¹⁹

7.6. Frequency of Data Collection/Meter Reading

Energy generation data used in the development of M-RETS certificates must be measured on an end-of month basis, except for small generators with a nameplate capacity of 150kW or smaller. Such generators may report generation data no less frequently than annually.

7.7. Data Transmittal

Data files are to be electronically transmitted to M-RETS using a secured protocol and a standard format specified by M-RETS Administrator. The data shall reflect, at a minimum, the month and year of the generation, monthly accumulated MWhs for each meter ID and the associated meter ID(s) for each resource.

The generator owner, as the owner of the metered data, or their designated representative, has the responsibility to direct the Control Area Operator to release generation data to M-RETS. M-RETS participants will have 45 days from the end of the generation month to submit their generation data to the M-RETS Administrator.

The data must be transmitted by a single entity, which must be either (1) the Control Area Operator, or (2) a Qualified Independent Party. In addition to these two options, customer-sited distributed generation installations less than or equal to 150 kW nameplate capacity, may opt to be treated as a Self-Reporting Generator.

7.8. Special Requirements for Self-Reporting Generators Only

A Self-Reporting Generator must enter actual cumulative meter readings measured in kWh and the date of the meter reading via the Self-Reporting Interface. Actual cumulative meter readings must be entered no less frequently than annually. Self-Reporting Generators that do not enter meter readings via the Self-Reporting Interface as required will receive a reminder notice from the WREGIS Administrator. Any such generator not entering a cumulative meter reading within 30 days of receipt of such a notice may be deemed inactive by the M-RETS Administrator. If and when a Self-Reporting Generator's Generation Activity Log is reactivated, the next meter read shall be the new baseline for accumulated generation data.

A Self Reporting Generator must have its cumulative hourly meter readings verified by a Qualified Independent Party, not less than annually.

¹⁸ This reason we are recommending that the Account Holder has 90 days to accept or dispute the adjustment (as opposed to 7 days for regular generation postings) is because if the adjustment is a debit, it could result in the Account Holder being short on other contractual obligations. Therefore, this 90 day window gives them ample time to make arrangements.

¹⁹ This is to prevent someone from stalling if a debit is pending.

7.9. Generation Activity Log

Each generation unit registered in M-RETS will have a Generation Activity Log associated with it. The Generation Activity Log is an electronic ledger where generation is posted prior to certificate creation. Each time generation data is received by M-RETS for a particular generation unit, the date and quantity of MWhs is posted to the Generation Activity Log. Similarly, adjustments received will be posted likewise.

The status of each entry in the Generation Activity Log will be noted, where the possible values are:

- **M-RETS Accepted:** This label is used for all generation that has been reported to M-RETS and has been logged to the Generation Activity Log, but has not yet been accepted (or disputed) by the Account Holder.
- **M-RETS Pending:** The M-RETS Administrator is waiting for the resolution of a situation before the certificates can be issued. For example, if the M-RETS administrator is waiting to receive a 'fuel type' allocation from a multi-fuel generator or other update from the generator.
- **Account Holder Accepted:** The Account Holder has accepted the posted generation, but the certificates have not yet been issued.
- **Account Holder Auto-Accepted:** The account holder did not accept or dispute the generation posted within the given time period and the system automatically accepted the generation.
- **Account Holder Disputed:** The Account Holder has disputed the posted amount of generation.
- **M-RETS Cancelled:** The generation was logged, but certificates were never issued for any number of reasons, for example, if there was fraudulent activity and further investigation determined that certificates should not be issued.
- **Certificates Issued:** This label may or may not be needed depending on how the Generation Activity Log is designed in the software. For now, it is a placeholder for indicating that certificates were issued for logged generation.

Formatted: Font: Not Bold

Formatted: Font: Not Bold

Deleted:

The status of each entry in the Generation Activity Log will be changed by the M-RETS Administrator, according to the receipt of information by the M-RETS administrator regarding the status of the certificates. On the day of certificate creation, certificates will be issued based on the total whole number of MWhs on the Generation Activity Log that are marked as follows: "Account Holder Accepted" or "Account Holder Auto-Accepted." Only certificates that are marked as such will contribute to certificate creation. Any fractional MWhs will be rolled forward until sufficient generation is accumulated for the creation of an M-RETS certificate.

Each time an item is posted to the Generation Activity Log, the Account Holder will be notified. Account Holders will have at least 10 business days to accept or dispute any new regular entries to the Generation Activity Log and up to 90 days to accept or dispute adjustments. If the Account Holder does nothing, the posting will be automatically accepted after the specified period.

Deleted: 7

The Generation Activity Log will include, at minimum, the following entries:

- (a) Opening Balance/Prior Month's Balance Forward: reflecting the kWh (fraction of a MWh) remaining after the prior month's certificate creation date;
- (b) MWh of generation reported to M-RETS (via Control Area, Qualified Independent Party or self-reported) during the current month;
- (c) administrative adjustments (for instance, for adjustments received from Reporting Entities occurring later than 90 days after the end of the month of generation);
- (d) creation of WREGIS Certificates; and
- (e) balance forward.

For generation units where the Reporting Entity supplies M-RETS meter readings, rather than net production, the Generation Activity Log shall include a column where the meter readings are recorded, and net generation is calculated.

7.10. Multi-Fuel Generation Units

A Multi-fuel Generation Unit is one that is capable of producing energy using more than one fuel type, where the quantity of each of the fuels used is greater than 1% annually on a total heat input basis, excluding fuels used for start-up. Such facilities must register with M-RETS as a Multi-fuel Generation Unit. If the relative quantities of electricity production from each fuel can not be measured or calculated, and verified, the generator is not eligible to register in M-RETS.

Separate Certificates will be created for the renewable fuel type only. Each Certificate issued for a Multi-fuel Generation Unit will reflect only one fuel source, where the total number of Certificates issued for the fuel type will be proportional to the overall output from that fuel type for that reporting period. A generator that uses 1% or less of second fuel may elect to register as a multi-fuel generator if they want certificates issued for second fuel type.²⁰

Deleted: each fuel type, including both

Deleted: and non-renewable

Deleted: s

Deleted: each

Deleted: per

Deleted: both fuel types

Each M-RETS Account Holder or Responsible Party that has registered a Multi-fuel Generation Unit must report monthly to the M-RETS Administrator the proportion of electric output per fuel type, by MWh, generated by the unit during that month, calculated according to the applicable provisions of Section 7.10.1.²¹ Such information shall be used to allocate Certificates for such Multi-fuel Generation Units for each month for which it was supplied. Generators and their Responsible Parties will have up to T1+45 calendar days to submit their proportion of electric output per fuel type for the month to the M-RETS Administrator where T1 equals the last day of the generation month. Certificates will not be logged to the Generation Activity Log until such information is provided by the Account Holder or

²⁰ For example, a large coal plant that uses 1% less of biomass co-firing may still want to be considered a multi-fuel generator so that they can have biomass certificates issued.

²¹ The intent here is that the generator would report the total generation from the generating unit by fuel type but the M-RETS Administrator would only issue certificates for the renewable portion. The reason that all generation would be reported is so that a data validity check can be performed. However, the software vendor may suggest a more cost-effective way to meet the basic functional needs.

Responsible Party. Generators that fail to provide the required information in the time specified will not have certificates issued for that month of generation.

The generator or its Account Holder must maintain supporting documentation related to the derivation of the proportion of electric output per fuel type for each month, at the generation facility for a minimum of 2 years from the date of submission to the M-RETS Administrator. The M-RETS Administrator may require copies of such calculations, and supporting documentation will be subject to audit by the M-RETS Administrator, state regulators, or their agents. Data submitted to or audited by the M-RETS Administrator subject to the requirements of this paragraph that is not contained in reports available to the public will be treated as Confidential Information by the M-RETS Administrator.

7.10.1 Allocating Output for Each Fuel Source

For purposes of creating M-RETS Certificates reflecting the fuel source mix of Multi-fuel Generation Units, the proportion of Certificates attributable to each fuel source shall be determined consistent with the following rules:

- (a) For biomass co-fired with fossil fuels or using fossil fuels for startup or supplemental firing: In each month, the Certificates for each fuel in such Multi-Fuel Generation Unit will be created in proportion to the ratio of the net heat content of each fuel consumed to the net heat content of all fuel consumed in that month, adjusted to reflect differential heat rates for different fuels, if applicable.
- (b) For solar thermal energy co-fired with fossil fuels, or using fossil fuels for startup or supplemental firing: In each month, the fraction of Certificates for each fossil fuel used in such a facility will be calculated as the ratio of (i) the net heat content of the fuel divided by the plant's heat rate operating on that fuel, to (ii) the total net electricity production of the generating unit during that month. The fraction of Certificates designated as solar thermal will be imputed as the remaining fraction of production not attributed to fossil fuel(s) consumed in the plant during that month.
- (c) Other: Multi-fuel Generation Units not fitting the descriptions in (a) and (b) may request from the M-RETS Administrator a decision on allocating output for each fuel source for their situation. Such a decision will set a precedent for similarly situated generators. Any new methodology must be approved by the WREGIS Administrator prior to certificates being issued for that Generating Unit.

In addition, upon registration, all multi-fuel generators must submit to the M-RETS Administrator a report prepared by an independent professional engineer containing documentation for measuring and verifying the quantities of each fuel type, the net heat content of each fuel source, and the heat rate, if applicable. More details on this requirement are found in Appendix B-3.

8. Requirements of Data Reporting Entities

M-RETS will accept generation data from Control Area Operators²², Qualified Independent Parties²³, and Self-Reporting Generators.

The M-RETS Administrator will develop an agreement with each of these entities, known as an Interface Control Document that describes the terms and conditions under which the entity agrees to exchange information and conduct business with M-RETS. The Interface Control Document will identify generating units registered in M-RETS to be reported, as well as the protocols for collection of information such as meter IDs, data format, communication protocols and timing, and security requirements for data collection. This document will be updated as required when a new generator registers in M-RETS or when any other changes are made that may impact the data collection process. To minimize the impact of document changes, the intent is to have a general template document that outlines a common approach and set of standards. The M-RETS Administrator will prepare the ICD based on the master template and will work with the personnel from the reporting entities to verify information and address specific requirements of the reporting entity. Appendices would contain the specific data collection parameters for each reporting entity. This would provide clear requirements to all parties up front. This rule would apply to all data collection.

M-RETS reserves the right to audit the MWh data totals.

9. Data Security

The following are a minimum set of security practice requirements for M-RETS to ensure data integrity and confidentiality:

1. Secured web portal interface with password protection for static data collection, user access and reporting.
2. Restricted access privileges based on participant and user roles using digital certificates.
3. Well-defined system backup and recovery processes.
4. Secured file transfer and data upload processes using encrypted communications for all data interfaces.

Notes: We recommend 24/7 availability and help desk available during business hours during two time zones. need to investigate liability if system is down.

²² A Control Area Operator is defined broadly to include a system operator, a transmission grid operator, or a utility.

²³ A Qualified Independent Party may include the interconnecting utility, scheduling coordinator, independent third-party meter reader,

The WREGIS Institutional Committee will draft these agreements, define what entities may qualify to be Qualified Independent Parties, and establish standards of conduct. The ORC recommends that the Qualified Independent Party may be the buyer of the generation unit's certificates, but not the owner of the facility.

10. Creation of Certificates

A certificate created and tracked within M-RETS will represent all of the renewable attributes from one MWh of renewable generation. M-RETS certificates are “Whole Certificates.” Once a M-RETS certificate is created, no changes can be made to that certificate.

M-RETS does not define the life time or expiration date for certificates. States and provinces may do so outside of M-RETS to meet their own requirements.

10.1. Certificate Creation

The M-RETS Administrator will issue one electronic certificate for each MWh of energy that is generated by those generation units that are registered with M-RETS and are physically located in one of the participating M-RETS states or provinces.

Certificates will be issued based on the number of whole MWhs on the Generation Activity Log on the day of certificate creation. For self-reporting generators, the reported electricity production will be calculated by M-RETS as the difference between current and previous cumulative meter read entered.

Each certificate shall have a unique serial number. Certificate serial numbers shall contain codes embedded in the number that indicate such things as the generation unit ID, the location of the generator, and the vintage (month and year of generation) of the certificate. The exact serial number format will be determined at a later date.

Certificates imported from a compatible tracking system must meet equivalent standards to M-RETS. M-RETS will issue an M-RETS serial number for certificates imported from compatible tracking systems, as described below in Section 15.

Note: We will have to specifically define what constitutes equivalent standards.

10.2. Frequency of Certificate Creation

M-RETS will issue certificates no more frequently than once per month per generating unit.

10.3. Process and Timeline for M-RETS Certificate Creation

M-RETS Generators and their Responsible Parties will have up to T1+45 calendar days to submit their generation data to the M-RETS Administrator where T1 equals the last day of the generation month. Generators that fail to submit generation data within the specified time period will not be able to have certificate issued for that month of generation. As soon as the generation data is received by the M-RETS Administrator and a data validity check is performed, they will post it on the generator’s “Generation Activity Log” and notify the account holder via email that generation has been posted. The generation posting will be marked “M-RETS Pending” on the Generation Activity Log. Once the generation is

Deleted: In the event that an error is discovered after certificates have been issued, the M-RETS Administrator will take measures to rectify the problem depending on the nature and the egregiousness of the error. If the error is related to the number of certificate issued, the M-RETS administrator will first attempt to rectify this by making an adjustment to the generation activity log associated with the generator. If the error is found in one of the fields on the certificate, the M-RETS Administrator will handle each situation on a case by case basis. Examples of actions that could be taken include, but are not limited to: notifying purchasers of the erroneous certificates, freezing the account of the offending party, levying an administrative fine, banning participation in M-RETS.

Formatted: Normal, Indent: Left: 0.25"

Deleted: 10.2. Data Validity Check¶
All generation data received by M-RETS will undergo an automatic data validity check to ensure that erroneous and technically infeasible data is not entered into M-RETS. The data validity check will compare reported electricity production to an engineering estimate of maximum potential production, calculated as a function of technology type, associated maximum capacity factor, nameplate capacity, fuel (if relevant), and time period since the previous cumulative meter reading entered. If data entered exceeds an estimate of technically feasible generation, M-RETS Administrator will be notified and the generation will be posted to the Generation Activity Log with a status “M-RETS Pending” until resolution is reached. ¶

¶
For self-reporting generators, the reported electricity production will be calculated by M-RETS as the difference between current and previous cumulative meter read entered.¶

Deleted: 3

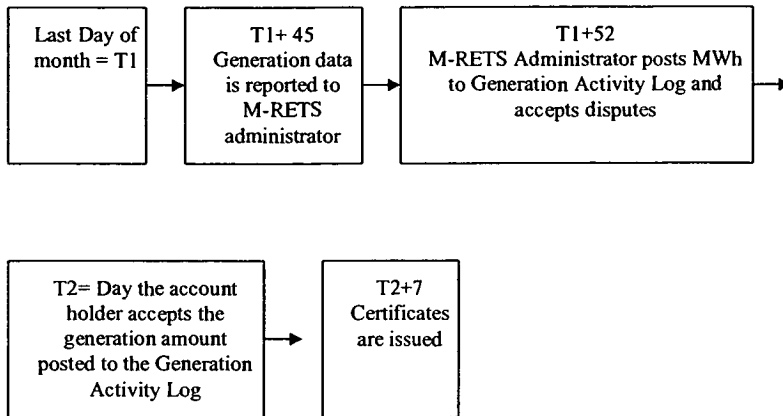
Deleted: 4

accepted, the generation posting will be marked “Generation Accepted.” Certificates will be issued on T2 + 7 days, where T2 is the day the generation posted is accepted by the Account Holder. No changes will be allowed to the generation MWh data for seven calendar days prior to the M-RETS certificate creation.

The Account Holder must notify the M-RETS Administrator if they believe the generation data amount recorded on the Generation Activity Log is inaccurate for any reason.²⁴ This is known as registering a dispute. The Account Holder may register a dispute any time after the generation is posted within the T1+52 period, and they will have at least 7 calendar days to do this. If there is a dispute registered, every reasonable effort should be made to resolve the dispute within T1+52 days. However, if the dispute is not resolved within the T1+52 day period, the certificates for disputed posting will be created seven days after the Account Holder has accepted the revised generation amount.²⁵ While the generation posting dispute is being resolved, the generation posting will be marked “Generation Disputed.” If the Account Holder does not register a dispute with the M-RETS Administrator within 52 days from the end of the generation month, the certificates will be created.

²⁴ This should be in the M-RETS users Agreement.

²⁵ In a simple case, the certificates might be issued the next month. In a more complicated case, for example, if the dispute was awaiting a court ruling, the certificates would be issued much later.

Figure 3: Timeline for M-RETS Certificate Creation**10.4. Certificate Creation for Accumulated Generation**

Generation data from generators that are under 150kW and that are not reported to M-RETS on a monthly basis may be accumulated over one or more months prior to submittal to M-RETS for certificate issuance.

Each generator not reported by a reporting entity on a monthly basis must submit accumulated data at least 12 months from the date M-RETS last received generation data. If a generator fails to report meter readings within a 12 month period, M-RETS will issue a reminder and demand a meter read within a month, to prevent over-accumulation and gaming.²⁶

The vintage on the issued certificate will be the last month and year of generation contributing to an accumulated MWh. Certificate creation for accumulated generation will occur on the same schedule as all other generation in M-RETS as described in Section 10.4

10.5. Data fields Carried on Each Certificate

Appendix B-1 lists the essential data fields that shall be carried on each certificate.

²⁶ As an issue for later, M-RETS may want to consider punitive action if no more generation is reported, e.g. de-registering the generation unit or other actions to strongly discourage people from waiting too long before submitting their generation data.

11. Certificate Errors and Correction

11.1 Data Validity Check

All generation data received by M-RETS will undergo an automatic data validity check to ensure that erroneous and technically infeasible data is not entered into M-RETS. The data validity check will compare reported electricity production to an engineering estimate of maximum potential production, calculated as a function of technology type, associated maximum capacity factor, nameplate capacity, fuel (if relevant), and time period since the previous cumulative meter reading entered. If data entered exceeds an estimate of technically feasible generation, M-RETS Administrator will be notified and the generation will be posted to the Generation Activity Log with a status "M-RETS Pending" until resolution is reached.

Formatted: Heading 2

11.2 Certificate Errors Discovered After Certificate Issuance

Once a M-RETS certificate is created, no changes can be made to that certificate. In the event that an error is discovered after certificates have been issued, the M-RETS Administrator will take measures to rectify the problem depending on the nature and the egregiousness of the error. If the error is related to the number of certificate issued, the M-RETS administrator will first attempt to rectify this by making an adjustment to the generation activity log associated with the generator. If the error is found in one of the fields on the certificate, the M-RETS Administrator will handle each situation on a case by case basis. Examples of actions that could be taken include, but are not limited to: notifying purchasers of the erroneous certificates, freezing the account of the offending party, levying an administrative fine, banning participation in M-RETS.

Formatted: Indent: Left: 0.25"

Formatted: Normal

Formatted: Bullets and Numbering

12. Initial Deposit of Certificates in M-RETS Accounts

The M-RETS certificates will be first deposited into the M-RETS account that is associated with the generating unit, as established during the generating unit registration process described in Section 3. The sole exception to this rule is in the case of forward certificate transfers, where the first point of deposit is the account identified as the recipient of the forward certificate transfer.

Formatted: Bullets and Numbering

13. Transfers of Certificates

13.1. Transferring Certificates between Accounts

Deleted: 2

M-RETS Account Holders may transfer active certificates to other M-RETS Account Holders at any time. Account Holders transferring such Certificates shall effectuate the transfer in M-RETS by indicating in a designated screen in the interactive M-RETS website that a specified Certificate or block of Certificates (as indicated by their serial numbers) are designated for transfer. The Account Holder will also select the recipient from a pull-down list of M-RETS Account Holders. After the transfer has been requested, M-RETS will

provide a pop-up “Are you sure you want to transfer” screen that lists the details of the proposed transfer and ask for a final confirmation by the transferring Account Holder. After the request to transfer has been confirmed, M-RETS will send an electronic confirmation to the Account Holder that requested the transfer notifying them that a request to transfer certificates has been entered into M-RETS.

After the transfer has been initiated, the certificates that are pending transfer will be marked as “transfer pending” in the Account Holders active account. This will have the effect of “freezing” the certificates so that they cannot be moved to another to subaccount or to another account holder. If the transfer is not confirmed within 14 days, certificates will be released in the Account Holder’s Active Account and the “transfer pending” status removed.

After the transfer has been initiated, M-RETS will then send an electronic notification of the request to transfer certificates to the proposed recipient. The Certificate recipient must confirm the transfer within 14 calendar days of when it was requested by the transferee, or the transfer request will be deleted. The confirmation screen shall list the details of the proposed transfer and asks the proposed recipient to confirm the transfer. A pop-up screen will ask for a final confirmation (“Accept transfer?”). Once the recipient has confirmed the transfer, M-RETS will send an automatic electronic communication to the recipient notifying them that they have confirmed the certificate transfer.

The transferring Account Holder may cancel any transfer before such transfer has been confirmed by the recipient by withdrawing the transfer in a designated screen on the website. M-RETS will notify the recipient that the transfer was canceled.

The transfer of any Certificate of block of Certificates shall only be registered in the M-RETS upon the electronic confirmation by both the transferring Account Holder and the recipient.

Once M-RETS has completed the transfer of certificates from one account to another, M-RETS will send an electronic confirmation to both Account Holders confirming that the transfer has been completed.

13.2. Standing Orders

Account Holders may request reoccurring, automatic transfers of certificates from Active Accounts to any of their other accounts (active, retirement, export), and also to Active Accounts held by different Account Holders. Such a transfer (a “Standing Order Transfer”) will occur through designated screens and processes in M-RETS in the same fashion all other certificate transfers (as described in Section 12.1), except that the transferor (party initiating transfer) would only be able to rescind a Standing Order Transfer up to 7 calendar days prior to the date the transfer is to be implemented by the M-RETS Administrator.

In the registration of Standing Order Transfer, the transferor shall indicate:

- The active account/subaccount from which the certificates should be transferred;
- The active account/subaccount to which the certificates should be transferred;

- The generation unit(s) whose certificates are to be transferred;²⁷
 - The day and month(s) that the Standing Order should be executed, and the end date if applicable;
 - The maximum number of certificates to be transferred, or the percentage of total certificates in the account/subaccount to be transferred, during each such month; and
1. The priority of the Standing Order relative to other Standing Orders, if applicable.

Each Standing Order Transfer has one transferee. An Account Holder may set up multiple Standing Order Transfers. Each Standing Order Transfer will be set up based on percentage of certificates within a designated account/subaccount or as a fixed quantity, both within a certain month.

- (a) **Percentage:** When Standing Orders indicate a transfer of percentages of Certificates from a specific subaccount during the same period, the Certificates shall be allocated in proportion to the percentages indicated, except that in the event that such allocations would result in fractional Certificates being transferred, the transferor must specify a preference among multiple transferees for the last undivided Certificate.
- (b) **Fixed Quantity:** When a Standing Order designates a number of Certificates to be transferred, the transferor may establish a preference among multiple transferees. The transferor may indicate priorities (first, second, third, and so on) to designate the order in which fixed Standing Order Transfers shall be executed in a given month. In the instance when the total of Standing Order Transfers for a given month exceed the actual number of certificates available, M-RETS will fill each Standing Order Transfer in order of priority, but only if each Standing Order Transfer can be fulfilled completely. If the first priority Standing Order can not be filled, the Account Holder will be able to specify at the time of registration, whether M-RETS should try to fill lower priority Standing Orders or not. Any Standing Order Transfers that cannot be fulfilled completely will not be executed.

Standing Order Transfers will be executed by the M-RETS Administrator no more frequently than a monthly basis.

Account Holders are responsible in the case that there are insufficient certificates to complete a Standing Order Transfer.

When a Standing Order Transfer is initially registered, the M-RETS Administrator will send a notice to the transferee asking them if they accept the terms of the Standing Order. Acceptance of the Standing Order means that the transferee accepts all future transfers under the Standing Order. After the initial acceptance, the transferee will receive a notice from the M-RETS Administrator after each time certificates are deposited into the transferee's

²⁷ Although standing orders are not limited to accounts that have generating units associated with them, the transferor needs to be able to specify which certificates will be transferred on an ongoing basis without knowing in advance the certificate serial numbers. Therefore, during the initial Standing Order registration, the transferor will be required to indicate the generating unit as a way of identifying which certificates should be transferred.

account. In addition, the notification will explain if the Standing Order deposit was not fulfilled as expected (e.g. as indicated by the original terms of the Standing Order.)

13.2.1 Rescission of Standing Orders

Deleted: 2

Standing Orders can be rescinded at any time by the Account Holder that set up the Standing Order. If the request to rescind a Standing Order is received within 7 calendar days prior to the date the transfer is to be implemented by the M-RETS Administrator, the rescission will be implemented in the following month.

Standing Orders can only be rescinded in their entirety; they can not be rescinded on a month by month basis. When a Standing Order is rescinded, the M-RETS Administrator will send a notice to the transferee.

Deleted: 2

13.3. Forward Certificate Transfers

Account Holders that have a generating unit linked to their active account may request that certificates from a specific generating unit be directly deposited into another M-RETS account when the certificates are created. Such a request would occur in advance of the certificate Creation Date and is known as a Forward Certificate Transfer. In this case, the generation will be posted to the Generation Activity Log as usual. After it has been accepted by the Account Holder, such Forward Certificates, when converted into Certificates on their Creation Date, will be deposited directly into the account of the transferee, and the transferor will not at any point have possession of those Forward Certificates.

When a Forward Certificate Transfer is initially registered, the M-RETS Administrator will send a notice to the transferee asking them if they accept the terms of the Forward Certificate Transfer. Acceptance of the Forward Certificate Transfer means that the transferee accepts all future transfers under the Forward Certificate Transfer. After the initial acceptance, the transferee will receive a notice from the M-RETS Administrator after each time certificates are deposited into the transferee's account. In addition, the notification will explain if the Forward Certificate Transfer deposit was not fulfilled as expected (e.g. as indicated by the original terms of the Forward Certificate Transfer.)

Forward Certificates may be subject to only one Forward Certificate Transfer – from the generation unit's account (account to which certificates would have otherwise been originally deposited (Transferor)) to another M-RETS account –prior to the then applicable Creation Date.

Forward Certificate Transfers can be used for transfers to the Active Account of another M-RETS Account Holder, transfers to any of the other subaccounts of the transferor's own account, and exports of Certificates to compatible tracking systems.

After the Creation Date for a Forward Certificate, such Certificate shall be treated like any other Certificate and may be transferred again, retired, exported, etc.

In the registration of a Forward Certificate Transfer, the transferor shall indicate:

- a) The generation unit that will create such Forward Certificates;
- b) The active account/subaccount to which the certificates should be transferred;
- c) The day and month(s) that the Forward Certificate Transfer will be executed and the end date if applicable;
- d) The maximum number of Forward Certificates to be transferred, or the percentage of total Certificates actually created that will be transferred, during each such month; and,
- e) The priority of the Forward Certificate Transfer relative to any other Forward Certificate Transfers, if applicable.

Forward Certificate Transfers can be requested to multiple transferees based on percentage of certificates deposited within a certain month, or as a fixed quantity within a certain month.

- (a) **Percentage:** When Forward Certificate Transfers transfer percentages of Certificates from a specific generator during the same period, the Certificates into which such Forward Certificates are converted shall be allocated in proportion to the percentages indicated, except that in the event that such allocations would result in fractional Certificates being transferred, the transferor must specify, before the applicable Creation Date, a preference among multiple transferees for the last undivided Certificate.
- (b) **Fixed Quantity:** When Forward Certificate Transfers transfer a designated number of Certificates created during a single period, the transferor may establish a preference among multiple transferees in those Forward Certificate Transfers. The transferor may indicate priorities (first, second, third, and so on) to designate the order in which fixed Forward Certificate Transfers shall be executed in a given month. In the instance when the total of Forward Certificate Transfers exceeds the number of available certificates, M-RETS will fill each Forward Certificate Transfer in order of priority, but only if each Forward Certificate Transfer can be fulfilled completely. If the first priority Forward Certificate Transfer can not be filled, the Account Holder will be able to specify at the time of registration, whether M-RETS should try to fill lower priority Forward Certificate Transfers or not. Any Forward Certificate Transfer that cannot be fulfilled completely will not be executed.

The transferor and the transferee Account Holders will not have any control over which Certificates for a particular generator are transferred for the requested month.

Forward Certificate Transfers will be executed by the M-RETS Administrator on a monthly basis. Account holders are responsible in the case that there are insufficient certificates to complete a Forward Certificate Transfer.

13.3.1 Rescission of Forward Certificate Transfers

Forward Certificate Transfers can be rescinded at any time by the Account Holder that set up the Forward Certificate Transfer. If the request to rescind a Forward Certificate Transfer is received within 7 calendar days prior to the date the transfer is to be implemented by the M-RETS Administrator, the rescission will be implemented in the following month.

Forward Certificate Transfers can only be rescinded in their entirety; they can not be rescinded on a month by month basis. When a Forward Certificate Transfer is rescinded, the M-RETS Administrator will send a notice to the transferee.

Any exercise of a contractual right of rescission of a Forward Certificate Transfer by a transferor shall be effected upon notice to the M-RETS Administrator, and in no event will the M-RETS Administrator be required to determine whether conditions to that rescission, other than receipt of the rescission notice, have been satisfied before effecting the rescission.

Formatted: Bullets and Numbering

14. Retirement of Certificates

Any M-RETS Certificate retirement must be initiated by the M-RETS Account Holder. The M-RETS Administrator is not responsible for ensuring that Account Holders retire certificates when appropriate.

Note: We might want to consider including retirement guidelines in the registration agreement form signed by the Account Holder when they initially establish the account within M-RETS.

Deleted: 3

14.1. Mechanism for Certificate Retirement

When an Account Holder wishes to retire a certificate or block of certificates they will notify the M-RETS Administrator by selecting the certificates serial numbers and indicating that such certificates should be retired, and indicating the reason for retirement (a optional field) if desired, and selecting the Retirement Subaccount to which the certificates should be deposited. This notification will occur on a designated page of the M-RETS website. When the M-RETS Administrator receives this notification, the certificates will be withdrawn from the Account Holder's Active Account and moved into the designated Retirement Subaccount. The Retirement Subaccount will show the serial numbers of the certificates retired, the date of retirement, and the reason for retirement. In addition, there will be a mechanism to view the generation characteristics/certificate fields of the retired certificates. Once certificates are retired, they cannot be moved or transferred out of the retirement account.

Formatted: Bullets and Numbering

15. Interaction of M-RETS with the Wisconsin Renewable Resource Credit Tracking Program

New Wisconsin renewable resource credits (RRCs), for renewable generation after Jan. 1, 2004, can be exchanged for M-RETS certificates on a one for one basis. The State of Wisconsin will accept either old Wisconsin RRCs or M-RETS certificates as proof of compliance with its Renewable Portfolio Standard.

16. Imports and Exports of Certificates

As a general principle, it is intended that M-RETS will be compatible with other certificate tracking systems in North America to the extent that these other systems meet essentially equivalent standards, including but not limited to, metering, data quality, verification of registration information, and disaggregation of emissions attributes. Certificates may only be imported into M-RETS from a Compatible Certificate Tracking System and, similarly, exported to a Compatible Certificate Tracking System. A Compatible Certificate Tracking System is a generation tracking system that has an operating agreement with the M-RETS Administrator regarding the transfer of certificates between tracking systems. No imports or exports can occur until a protocol has been developed between the M-RETS Administrator and the administrator of the other tracking system.

After agreements have been reached with other tracking systems, M-RETS will post a list of Compatible Systems on their website. As other tracking systems develop, M-RETS will strive for compatibility. This compatibility will be based on minimum standards to ensure the security and integrity of the certificate information and reciprocity of certificate conversion.

Note: There needs to be more work done on imports/exports and Compatible Tracking System standards.

Deleted: 5

16.1. Import of Certificates

Certificates may be imported into the M-RETS from a Compatible Certificate Tracking System by a process of conversion. Conversion entails retiring the certificate from the exporting tracking system and creating of a corresponding M-RETS Certificate. When the new M-RETS certificate is issued, all data fields will remain with the imported certificate, and the certificate serial number will be structured in a way to identify it as a certificate that originated in a Compatible Tracking System.

To import certificates into M-RETS, the M-RETS Account Holder must arrange for the transfer of certificates from the counterparty privately. In general, as with all transfers, the party in possession of the certificates must initiate the transfer. Therefore, the transferor will notify their system administrator of the desire to export certificate from their system into M-RETS, along with the information about the transferee, such as name and M-RETS account number. The administrator of the transferor's tracking system will then communicate with the M-RETS Administrator of the certificate pending certificate conversion. The M-RETS Administrator will then notify the M-RETS Account Holder of the transfer, and ask them to accept or reject the transfer. If the Account Holder accepts the transfer, the conversion of certificates will ensue. Such a conversion will involve the export of the certificate from the exporting system, and the issuance of a new certificate by M-RETS. The converted certificate will designate the system of origin and M-RETS will maintain a record of the serial number that was assigned in the exporting system. Through a coding system, the M-RETS serial number will identify the certificate as imported and the tracking system of origin.

If the Account Holder rejects the import, the M-RETS Administrator will notify the administrator of the other system, and no certificate conversion will take place.

Deleted: 5

16.2. Export of Certificates

Certificates can only be exported out of M-RETS in one case: to a Compatible Certificate Tracking System. Any other removal of certificates from M-RETS will be managed through the retirement process.

Account Holder's accounts shall include a minimum of one Export Subaccount. The Export Subaccount will include all the data related to each export, including the name of the compatible tracking system to which the certificate was exported.

To export certificates from M-RETS to a Compatible Tracking System, the M-RETS Account Holder must notify the M-RETS Administrator of the desire to export certificates. The Account Holder must identify at a minimum the following information:

- the name and account information of the party that will receive the certificates,
- the serial numbers of certificates that are to be exported, and
- the export subaccount to which they want the M-RETS Administrator to move the certificates if the export is completed, and if the Account Holder has more than one export account.

When the M-RETS Administrator receives this request, they will assign the designated certificate an "export pending" status to ensure that the certificates cannot be inadvertently transferred or sold. The M-RETS Administrator will communicate with the Administrator of the Compatible System and arrange for the transfer of certificates. If the transfer is accepted by the Compatible System, the certificates will be moved from the Account Holder's active account to their export account by the M-RETS Administrator. The status of the certificates will be changed from "export pending" to "exported."

Deleted: 5

16.3. Re-Import of Exported Certificates

Certificates may be re-imported in M-RETS. To the extent any data fields were lost when the certificate was originally exported, these fields will be repopulated with the original data when the certificate is re-imported. It is recommended that during the RFP process, this function is re-evaluated for its cost-effectiveness and for the consistency with the operations of other certificate tracking systems

Deleted: 5

16.4. Preventing Double Counting of Imported/Exported Certificates

For Certificates that are being imported/exported from another tracking system, the problem of double-counting will be handled through the cooperative agreements between the two tracking systems.

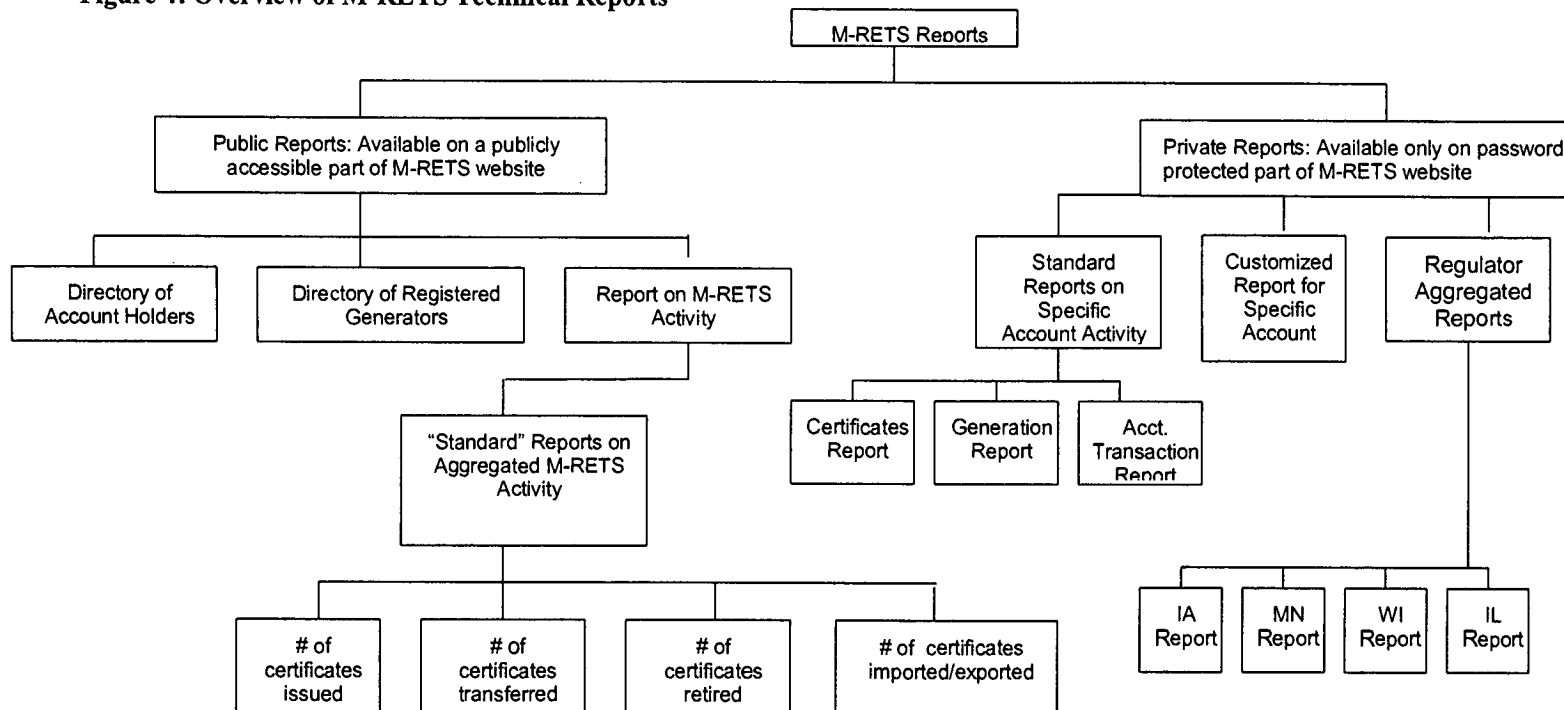
Formatted: Indent: Left: 0"

Deleted: 1

1

17. Reporting

Figure 4: Overview of M-RETS Technical Reports



¹ Account Holder Custom Report

This would allow the Account Holder to sort certificate data in any of their subaccounts. To produce a custom report, M-RETS would prompt the Account Holder to select the fields to include in the report.

17.1. Public Reports

There are three types of public reports: Directory of Account Holders, Directory of Registered Generators, and Report on Aggregated M-RETS Activity. Public reports will be accessible to anybody via the public page on the M-RETS website.

17.1.1. Public Directory of Account Holders:

This report contains a listing of all Account Holders with some limited contact and other information.

Data fields contained in report:

- Account Holder name
- Designated contact person
- Mailing address
- Contact telephone
- Contact email
- Web site URL
- Type of organization (Pull-down options include: generator/aggregator, IOU, retail marketer, broker, tribal organization, customer-owned utility, public interest organization, regulator, federal marketer, wholesale marketer, other load serving entity, other)- allow multiple categories
- State/province where generating unit(s) is located, if applicable. Allow multiple fields as some Account Holders will have multiple generators.
- 6 placeholders for future additions

Sorting options: Sorting would be possible by any of the data fields above. There will also be the capability to do a keyword search of this directory.

17.1.2. Public Directory of all Registered Generators:

This report contains a listing of all registered generating units grouped by facility with each generating unit registered in M-RETS listed under the facility.

Data fields contained in report:

- Generator owner
- Account holder name
- Contact name
- Contact email
- Contact phone
- Generator ID number
- Ownership type (pull-down options include: IOU, co-op, municipal/public utility, QF, electric wholesale generator, federal, tribal, wholesale marketer, other non-utility)
- Facility name (allow 3 fields – primary field to use EIA name, if available, and 2 additional fields for AKA names) Allow searches under any of the names.
- Location (county, state/province)

There may be more than one Account Holder associated with a single facility if the facility has multiple GUs and each GU is linked to a different account.

- Technology
- Fuel type
- Multi-fuel facility? (Y/N) If yes, indicate percent RE.
- Commercial operation date (on-line date)
- FERC ID #
- FERC Hydro licensing information: (Pull down menu options: most recent license date, non-jurisdictional, application pending, not applicable)
- Nameplate capacity. Units in MW with up to 4 decimal places
- Generator registration date
- Certification or eligibility for voluntary certification programs
- Generator registration date (needed for WI)
- 6 placeholders for future fields

Sorting options: Sorting would be possible by any of the data fields above. There will also be the capability to do a keyword search of this directory.

17.1.3. Public Report on Aggregated M-RETS Activity

Deleted: 6

This report will allow the viewer to create a standard report or customized report on M-RETS activity over a selected time period. There are four pre-formatted or “standard” reports available: (1) certificates issued, (2) certificates transferred, (3) certificates retired, and (4) certificates exported to a compatible tracking system or imported from a compatible tracking system. To protect confidentiality, reports will not be created where there are 4 or fewer generators included in the report output.

Data fields for standardized M-RETS Activity Report:

- Aggregated number of certificates (in MWh)
- Technology
- Fuel type
- State/province (where generating unit is located)
- Facility ownership type
- Type of activity (e.g., imported from compatible tracking system, retired, etc.)
- Reason for retirement²⁸ (if this is a retirement report)
- System to which certificate is imported or exported (if this is an import/export report)
- 6 placeholders for future fields

Sorting Options: The viewer can sort by any of the fields above for a specific time period.

17.2. Private Reports

Deleted: 6

²⁸ We need to determine if this is a mandatory or voluntary field.

Private reports for a specific account will only be accessible to the account holder, their designated agents, regulators and the M-RETS Administrator. Regulators will have read-only access to all account information in M-RETS.

17.2.1. Private Account Holder Reports

Deleted: 6

This report will allow Account Holders to create a standard or custom report on their own subaccount activity over a selected time period. Account holders can access and create these reports at any time. Standard reports include:

- Certificates Report - summary of certificates in each account/subaccount
 - Account/Subaccount number
 - Account/Subaccount name
 - Account/Subaccount Type (e.g. retirement, active, import/export)
 - Generator ID #
 - Technology
 - Fuel Type
 - Month/Year issued
 - Quantity MWh
 - 2 placeholders for future use
- Generation Report- lists certificates deposited to account by administrator based on generation data by date
 - Month/Year of generation
 - Generator ID #
 - Generation amount (MWh)
 - Subaccount number of deposit
 - Subaccount name
 - 2 placeholders for future use
- Account transaction report- Like a bank statement, shows account transfers
 - Account/Subaccount number
 - Account/Subaccount name
 - Account/Subaccount Type (e.g. retirement, active, import/export)
 - Transaction type
 - Counter party name (if applicable)
 - Counter party account number (if applicable)
 - Generator ID #
 - Certificate numbers
 - Date of generation (month and year)
 - If retired, reason for retirement
 - Balance of certificates in account
 - Total MWhs of imports that month
 - Total MWhs of exports that month
 - 2 placeholders for future use

To create a custom report, the Account Holder would indicate the subaccount(s) for which the report is being generated, the activity (e.g. transfers, retirement, etc.), the time period of the report, and the data fields. M-RETS shall provide a mechanism that will allow an Account Holder to save a custom report template for future use.

17.2.2. Regulator Aggregated Reports

Deleted: 6

Regulators will be able to aggregate information to create a standard report for each state. Each state regulator will identify for the M-RETS Administrator what information fields should be included in their respective reports. Regulators will report back on this issue.

17.2.3. Private Third Party Reporting

Deleted: 6

M-RETS will have the capability to send a private report to a third party with the consent of the Account Holder. The Account Holder will notify the M-RETS Administrator that they want a designated report sent to a third party. The Account Holder must specify what fields/data are to appear in the report. M-RETS will create the report and the Account Holder must review its contents and provide an affirmation that the report is complete and correct. The Account Holder will be able to specify the email address of the person /entity to which the report is sent. M-RETS software will provide a final "are you sure" screen in which the Account Holder agrees to the name/contact information to which the report will be sent, as well as to the complete contents of the report. Upon receipt of confirmation from the Account Holder, M-RETS Administrator will send the report.

Formatted: Bullets and Numbering

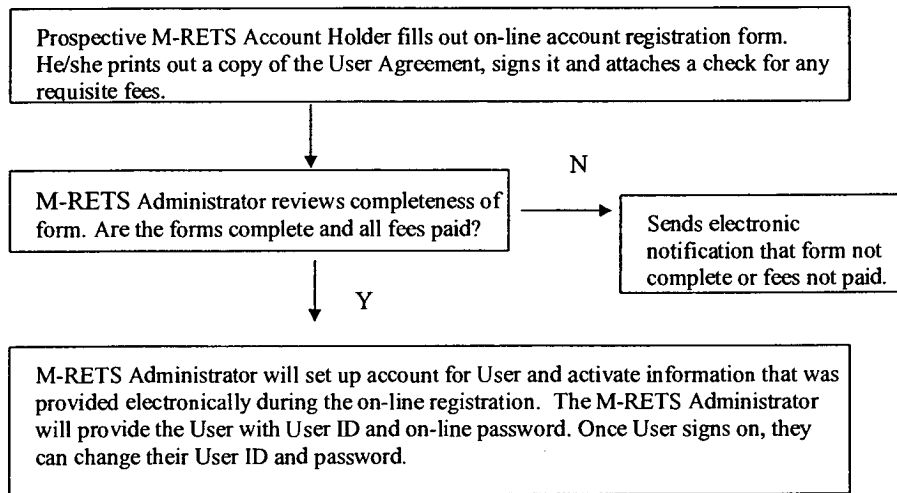
18. Additional Functionality

Possible additional functions that have been suggested but not agreed upon:

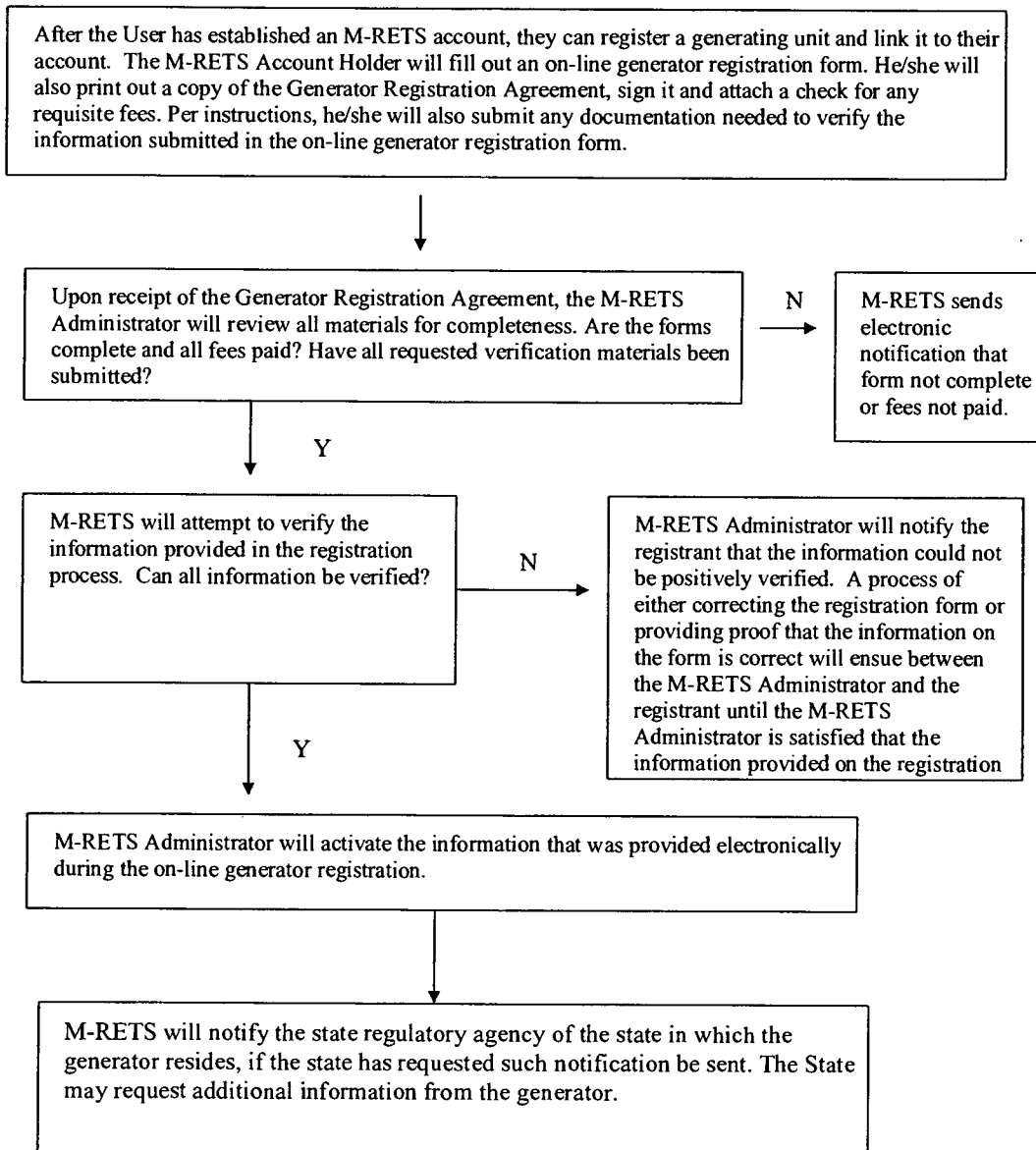
- **Ability to Issue Certificates for Generation that Occurred Prior to M-RETS Start Date**
- **Certificate Serial Number Look-up Function:**
- **Serial number coding**
- **Message Boards**
- **Archiving Account Records:**
- **Inactive Accounts:**
- **Price discovery**
- **Others**

Appendix A: Account Holder Registration Process and Generator Registration Process

Account Holder Registration Process



Generator Registration Process



Appendix B-1: Data Fields

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
1	Generator name	y	Mandatory	Attestation		
2	Company phone	n	Mandatory	Attestation		
3	Company street address	n	Mandatory, if different from mailing address	Attestation		
4	Company mailing address	n	Mandatory	Attestation		
5	Company fax	n	Optional	Attestation		
6	Company website/URL	n	Optional	Attestation		
7	Contact person's name and title	n	Mandatory	Attestation		
8	Contact mailing address	n	Mandatory	Attestation		
9	Contact email	n	Either fax or email required.	Attestation		
10	Contact phone	n	Mandatory	Attestation		
11	Generator registration date with WI RRC Program	n	Mandatory for WI RRC participants only	WI PSC	Generator will key in registration date, but field will not be activated until confirmation from WI PSC	
12	Organization type of account holder- Pull-down options include: Generator/generation aggregator IOU Retail marketer Broker Tribal organization Municipal Utility Coop Utility Crown Utility Public interest organization Regulator Federal marketer Wholesale marketer	n		Attestation		

²⁹ We need to decide which of these fields are mandatory for people to fill in, or optional. They could be mandatory for a particular state or particular program, and optional for everyone else. the thing you need to consider with each field is how it will be verified by the M-RETS administrator and the ease in which it will be verified (ease of verification relating to cost)

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	Other load-serving entity Other (fill in)					
13	Generator ID number	y	Mandatory	Provided by M-RETS administrator or WI PSC	If the facility is located in WI, system will prompt for a WI ID number. If facility is not located in WI, then M-RETS will assign the number.	make sure that the cost of doing this is no more than if M-RETS issued all numbers
14	Facility Name (Primary name should be EIA name; Provide space to list 2 additional names "AKA")	y	mandatory for generators	EIA Form 860		
15	Primary Facility owner	n	mandatory for generators	EIA Form 860/Attestation	Add a check box for "if not single owner". If the box is checked, then a window should pop open allowing the account holder to enter all owners, indicating a primary account holder or percent of ownership. There should be an indicator if the facility is owned by an LLC.	
16	Is the facility owner a retail electricity provider in WI? (Y/N) If no, list retail electric providers with which the facility has wholesale contracts	n	Optional except for WI.	Attestation	Needed for WI.	
17	Facility Operator Company Name	n	mandatory for generators	EIA Form 860/Attestation		
18	Facility Operator: Contact person's name	n		EIA Form 860/Attestation		
19	Facility Operator: Contact mailing address	n		EIA Form 860/Attestation		
20	Facility Operator: Contact email	n		EIA Form 860/Attestation		

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field?	Method of verification	Decisions/Rules	Outstanding Questions/Comments
21	Facility Operator: Contact phone	n		EIA Form 860/Attestation		
22	Physical location of the generator (City/Town, state/province)	y	mandatory for generators	EIA Form 860/Attestation		
23	Latitude/Longitude of the generator	n	optional	Attestation	The lat/long will be optional and will not be disclosed in public reports for national security reasons.	
24	Generator classification Pull down options = (1) Generation reported by a Control Area Operator on a unit-specific basis; (2) Small Wholesale Generation; (3) Wholesale Generation Also Serving On-Site Loads; (4) Customer-Sited Distributed Generation.	n	mandatory for generators	Attestation		These are the options needed for meter data collection (we think) See survey results
25	"Mandated by Minnesota Laws 1994, Chapter 641, or by Minnesota Public Utilities Commission order issued pursuant to that chapter prior to August 1, 2001." (yes/no)	y	mandatory for generators	Attestation	Needed for MN	
26	Data Reporting Entity Type: pull-down options include: Control Area Operator/Utility Qualified Independent Party Self/Account Holder	y	Mandatory for generators	Attestation	Needed for M-RETS administrator	
27	Reporting Entity Name	y	Mandatory for generators	Attestation	Needed for M-RETS administrator	
28	Reporting Entity Phone	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
29	Reporting Entity Mailing Address	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
30	Reporting Entity telephone	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
31	Reporting Entity fax	n	Mandatory for	Attestation	Needed for M-RETS	

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
			generators		administrator	
32	Reporting Entity web site/URL	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
33	Reporting Entity contact name	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
34	Reporting Entity contact phone	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
35	Reporting Entity contact email address	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
36	Reporting Entity mailing address	n	Mandatory for generators	Attestation	Needed for M-RETS administrator	
37	Control area operator for facility (Utility name or ISO name)	n	mandatory for generators	Attestation		Unsure whether this is needed in addition to the next field below, or if these are duplicative
38	Utility to which generating unit is physically interconnected	y	mandatory for generators	Attestation		this field will not tell you who is receiving the power
39	Voltage level at which facility is interconnected	n	mandatory for generators	Attestation	Not sure if it is needed for MN; keep as placeholder	
40	Nameplate installed capacity of Facility - MW (consistent with EIA definition of Maximum Generator Nameplate Capacity; If multiple generating units, aggregate at facility level)	y	Mandatory for Generators	EIA Form 860/	EIA definition is: Generator nameplate capacity (installed): The maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer. Installed generator nameplate capacity is commonly expressed in megawatts (MW) and is usually indicated on a nameplate physically attached to the generator.	Any other background info needed to verify if 860 form not available High level of verification needed
41	Are multiple generating units (GUs)	n	Mandatory for	Attestation		

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	aggregated under one meter? (Y/N) If yes, list capacity of each generating unit:		Generators			
42	Repowered or additional capacity added? (Y/N) If yes, Amount of additional capacity in MW If yes, Repower Date: (mm/yyyy)	y	Mandatory for Generators	EIA Form 860		High level of verification needed
43	Expected annual capacity factor (percentage) or maximum annual capacity	n	Mandatory for Generators	Attestation	Needed for verification- this would be a guess for some generators, so don't need a more rigorous verification	
44	Technology (pull down options include:) • Wind • Solar PV • Hydropower • biomass (specify method of combustion (pull down options include:)) ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify • Hydrogen (specify technology used) • Geothermal • Tidal or wave power • Other • (Need ability to add options here)	y	Mandatory for Generators	EIA Form 860/Attestation		High level of verification needed
45	Fuel Type (pull down options include:) For Biomass: Agricultural products—please specify, Wood products—please specify, Agricultural by-products, including wastes—please specify, Landfill gas, Mixed-municipal solid waste,	y		EIA Form 860/Attestation	Collect this data average heat rate for the facility through verification but this data field will not be tracked on each certificate.	High level of verification needed

Deleted: June

Deleted: 30

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	Refuse-derived fuel. Other, please specify For Hydrogen: • Wind • Solar PV • Hydropower • biomass (specify method of combustion and fuel type:) Method of Combustion ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify Fuel Type ○ Agricultural products—please specify, ○ Wood products—please specify, ○ Agricultural by-products, including wastes—please specify, ○ Landfill gas, ○ Mixed-municipal solid waste, ○ Refuse-derived fuel. ○ Other, please specify • Geothermal • Tidal or wave power • <u>Coal</u> • <u>Nuclear</u> • <u>Natural gas</u> • Other Multi fuel generator (Y/N)					

Formatted: Bullets and Numberi

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	If yes, designate the percentage of each fuel used at the facility allocated on an output basis: • Wind • Solar PV • Hydropower • biomass (specify method of combustion and fuel) - Method of Combustion ○ Direct combustion, ○ Gasification, ○ Liquifaction ○ Other, please specify - Fuel Type ○ Agricultural products—please specify, ○ Wood products—please specify, ○ Agricultural by-products, including wastes—please specify, ○ Landfill gas, ○ Mixed-municipal solid waste, ○ Refuse-derived fuel. ○ Other, please specify • Hydrogen (specify source from list below) ○ Wind ○ Solar PV ○ Hydropower ○ Geothermal ○ Tidal or wave power ○ Coal ○ Natural gas ○ Nuclear ○ Other ○ Biomass (specify method of					

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	combustion and fuel type: Method of Combustion - o Direct combustion, - o Gasification, - o Liquifaction - o Other, please specify Fuel Type - o Agricultural products—please specify, - o Wood products—please specify, - o Agricultural by-products, including wastes—please specify, - o Landfill gas, - o Mixed-municipal solid waste, - o Refuse-derived fuel. - Other, please specify					
46	For Biomass: Average heat rate of facility per kWh of net generation (BTU/kWh)	n	Mandatory for Generators	?		High level of verification needed b/c this might be basis for which certificates are issued
47	For Biomass: Emission Control Technology (pull down options include) • constructed in compliance with new source performance standards promulgated under the federal Clean Air Act for a generation facility of that type, • employs the maximum achievable or best available control technology available for a generation facility of that type,	y	Mandatory for Generators	?	Needed for MN	High level of verification needed Operating permit might be used for verification

	Mandatory Static Data Fields	Data Field on Certificate?	Mandatory /Optional Field ²⁹	Method of verification	Decisions/Rules	Outstanding Questions/Comments
	neither.					
48	Meter manufacturer	n	Mandatory for Generators	Attestation	Used for verification purposes by WI	
49	Meter type	n	Mandatory for Generators	Attestation	used for verification purposes by WI	
50	Meter serial number	n	Mandatory for Generators	Attestation	used for verification purposes by WI	
51	Date of last meter certification	n	optional	Evidence of last meter certification	used for verification purposes by WI	
53	Is the facility certified by an independent body? Pull down options: - Green-e eligible - Ecologo certified - Low Impact Hydro certified - Muni COTI certification - WI PSC certified eligible for RPS (Others can be added as they develop)	y	Optional	Furnished by certification entity	Field is not activated until confirmation by certification body; burden on generator to get the certifier to furnish proof	
	Dynamic Data Fields					
54	Certificate serial number	y	n/a	Filled in by M-RETS Administrator		
55	Date of generation (mm/yyyy)	y	n/a	Filled in by M-RETS Administrator	for accumulated certificates will be the last month in which the MWH was completed	

In addition, there will be 30 blank placeholder fields for future use.

Appendix B-2: Essential Generation Characteristics for Aggregate Metering

Aggregate metering is a term used here to describe what occurs when more than one generating unit is associated with a single revenue meter. As a rule, aggregate metering is only allowed in M-RETS if all of the generating units associated with the single meter have the same “essential generation characteristics.”

Formatted: Font: 12 pt

As a principle, the “essential generation characteristics” for the purposes of aggregate metering should be any characteristic that affects the certificate’s eligibility for any state program, certification program or in general determines value in the marketplace and that is relevant to a generating unit (GU) (as opposed to the facility). For example, FERC licensing may be relevant to market value of certificates, but this is applied on a facility basis, not a GU basis; therefore we assume that all GUs at the facility will have the same value in this field and it is not a characteristic that would meaningfully differentiate one GU from another GU all at the same facility. Therefore it is unnecessary to include this characteristic on the list of essential characteristics for the purposes of aggregate metering.

Formatted: Font: 12 pt, Not Italic

Characteristics that determine eligibility or create value in the marketplace create an incentive for distortion of facts and could bias someone to report incorrect allocation of output from the aggregate meter. Although we acknowledge that it is difficult to predict all of the characteristics of a GU that might determine value now or in the future, we believe that a list of essential characteristics can be developed that capture the vast majority of characteristics that confer value to certificates and are relevant.

Because the determination of whether aggregate metering is allowed will be applied on a facility by facility basis, it makes sense to identify a list of essential characteristics that are resource-specific, i.e. organized by fuel type. Although slightly more complicated in terms of programming, allowing each resource to have its own list of “essential characteristics” decreases the overall number of characteristics that any facility would need to meet in order for aggregate metering to be allowed.

Essential Characteristics for Purposes of Aggregate Metering Organized by Fuel Type

Wind

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date

Hydro

Fuel type
Generation technology
Date when GU first commenced operation
Repowered indicator
Repowered date
Nameplate capacity

Solar

Fuel type
Generation technology
Date when GU first commenced operation;
Repowered indicator
Repowered date

Biomass

Fuel type
Date when GU first commenced operation;
Repowered indicator
Repowered date
Emissions profile (if provided)
Generation technology
Multi-fuel indicator

Biodiesel

Fuel type
Date when GU first commenced operation;
Repowered indicator
Repowered date
Emissions profile (if provided)
Generation technology
Multi-fuel indicator

Geothermal

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date
Capacity

Hydrogen

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date

Municipal Solid Waste

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date
Generation technology
Other criteria or eligibility characteristics
Multi-fuel indicator

Natural Gas

Deleted: Ocean

Fuel type
Date when GU first commenced operation
Repowered indicator
Repowered date
Generation technology

Fuel type
Generation technology
Multi-fuel indicator

Coal

Fuel type
Generation technology
Multi-fuel indicator

Diesel

Fuel type
Generation technology
Multi-fuel indicator

Jet Fuel

Fuel type
Generation technology
Multi-fuel indicator

Appendix B-3: Documentation Requirements for Multi-Fuel Generation Units

Upon registration with M-RETS as a Multi-fuel Generation Unit, each such Multi-Fuel Generation Unit's Account Holder must submit to the M-RETS Administrator a report prepared by an independent Professional Engineer containing documentation of a methodology for calculating the electricity production associated with each fuel used during a month, consistent with the applicable requirements of Section 7.10.1. Following the M-RETS Administrator's review and acceptance of such a report's methodology, the Multi-Fuel Generation Unit's Account Holder may seek creation of M-RETS Certificates subject to the provisions of Section 7.10. This requirement will be waived for facilities that provide fuel-split information to a state, provincial or other regulatory authority.

Documentation of the following information used to calculate the proportion of electric output per fuel type, by MWh, generated by the unit during a calendar month must be maintained by Multi-Fuel Generation Units seeking M-RETS Certificates, using the best available sources of information. If the generating unit already provides documentation to regulatory entities addressing each of the items below or otherwise provides substantiation of the percentage of generation from each fuel type to regulatory entities, this documentation may substitute, upon approval of the M-RETS Administrator, for the requirements listed below.

1. Quantities of each fuel type (other than solar) must be measurable and verified by documentation provided to Control Area Operators, EPA or state air regulators, if available. If such documentation is not available, verifiable documentation of fuel quantities consumed during the month may be considered, such as: metered liquid or gaseous fuel input where the meter is read by an independent third party so long as such entity has an agreement with the M-RETS Administrator, or financial records of fuel supply deliveries coupled with plant reports documenting mass of each fuel consumed in each calendar month.
2. Documentation of net heat content for each fuel source other than solar thermal must be supported by documentation of heat content measurement by an independent laboratory.
3. If specification of a heat rate is required according to provisions of Section 7.10.1, the heat rate must be determined according to testing certified by an independent third party consistent with the protocol accepted for plant heat rate testing in the plant's control area. If different heat rates apply for different fuels, the determination for each applicable heat rate must meet the requirements of this paragraph.

Appendix C: Outstanding Issues

Technical Issues:

1. Is there a circumstance where an account can be inactivated, but not terminated? For example, if it is not used?
2. If the M-RETS Administrator is also the fiscal agent, you will also need to specify what sort of financial capabilities the system will have when developing the software.
3. What is the expected format/protocol that will be used for submitting metered unit MWhs
4. Should there be a process whereby M-RETS users who mistakenly perform a transaction that cannot be reversed (such as a retirement) can request that a specific transaction be reversed by the Administrator? Should this be allowed, and if so, what is the process, and what are the circumstances under which it would be allowed?
5. How is the certificate number coded?
6. What happens if somebody submits their generation data after the 60 day limit?
7. What action should the M-RETS administrator take if the data validity check finds an inappropriate value?
8. What, if any, punitive action with the M-RETS Administrator take if a small generator does not report their generation within a 12 month period. e.g. de-registering the generation unit or other actions to strongly discourage people from waiting too long before submitting their generation data.
9. From Section 17 imports/exports- in general, are there any limitations on the type of certificates we will allow in. Are there any restrictions (state or otherwise) for what type of certificate can be imported- for example, what if it is resource that M-RETS doesn't issue certificate for, e.g. gas certificate from NEPOOL? There is also a concern that we should not allow disaggregated RECs at this time.
10. What if the data fields do not specifically match up between tracking systems- case 1: the exporting system has all M-RETS fields, and then some, do we keep info in those extra fields? When we export certificate to that system, do we try to gather that additional info? case 2: the exporting system has fewer data fields than M-RETS- do we try to populate those fields (e.g. by getting more info), or leave them blank, or reject certificate?
11. What are the equivalent standards for the purposes of importing certificates from another system?
12. What is the expected format/protocol that will be used for importing/exporting M-RETS certificates and how will the conversion work?
13. Describe the views for each account, and how next to a block of certificates there is a status column, where possible entries include: active, transfer pending, transferred to XXXX, exported to XXX, export pending, retired, reason for retirement, administrator hold.

Formatted: Bullets and Numbering

Deleted: <#>What are the equivalent standards for the purposes of importing certificates from another system?¶

Formatted: Bullets and Numbering

Formatted: Right: 0", Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0" + Tab after: 0.25" + Indent at: 0.25"

Formatted: Bullets and Numbering

Governance Issues:

1. Who is the M-RETS Fiscal Agent?
2. Under what circumstances would M-RETS terminate an account for cause?
3. Who makes the determination of whether to terminate or not?
4. M-RETS will need to develop a policy for handling situations of willful misrepresentation of data. What is the policy if M-RETS Administrator has cause for terminating a generating unit's participation in M-RETS; e.g. what will the administrator do with the account when the problem is identified, what will the administrator do with any generation logged but for which certificates have not yet been issued, what to do about any certificates in the account?

- Ceasing to issue any more certificates from the generating unit
- Notifying who? GU Owner? buyers? regulators?
- removing the GU from the Directory of Registered Generators
- Other steps- posting their name on the website?
- Notifying the state AG?
- Freezing the account to which the GU is linked

Legal Issues

1. Are there any legal issues if the account registration process, generator registration, and account termination process are conducted electronically.
2. Will we require electronic versus written signatures for the following:
 - account holder agreement
 - termination of account
 - registration of GU with account or termination of GU
 - Changing the account to which a generating unit is linked
 - Assignment of rights of registration
 - granting permissions for acct access to agents, terminating agent access
3. What terms of use does an agent have to agree to? Is it the same as an account holder or different?
4. Are there any liability issues related to the certificate transfer functions, including forward transactions if mistakes are made.
5. Can a certificate or block of certificates ever be withdrawn from an account by the system administrator (without the express consent of the account holder), and if so, under what circumstances?
6. What happens if the organization ceases to exist, will the certificates be transferable?

Formatted: Bullets and Numbering

Financial Issues:

1. Are generator registration fees refunded if they terminate a GU's participation in M-RETS?
2. Do new GU registration fees apply when you change accounts that a GU is linked?

Appendix D: Glossary

Account Holder: An M-RETS Account Holder is a party that has registered with M-RETS and has established an Account within the M-RETS system.

Active Certificates: An active M-RETS certificate is a certificate that is held in an M-RETS Active Subaccount. Such certificates may be traded, transferred, exported, retired etc. at the discretion of the holder of the Active Subaccount or his/her Agent.

Active Subaccount: The Active Subaccount is the holding place for all active M-RETS certificates. If the Account Holder is a registered generator, or is the designated representative of a registered generator, their Active Subaccount will be the first point of deposit for any M-RETS certificates created that are associated with the generating unit ID number, unless the certificate is subject to a Forward Certificate Transfer. An Active Subaccount may be associated with one or more generating units.

Agent: Any party other than the Account Holder that has been granted access (by the Account Holder) to "use" their account, which may include viewing information, performing transactions, changing personal information etc. The Account Holder may at any time revoke the permissions granted to an Agent by notifying the M-RETS Administrator. The M-RETS System will be able to track the specific activities of each Agent through the unique user ID and password. Also known as a User.

Certificate: The term "Certificate," as used in this document, refers to an M-RETS Certificate of generation, or M-RETS Certificate. An M-RETS Certificate represents all of the attributes from one MWh of electricity generation from a renewable generating unit registered with the M-RETS tracking system or a Certificate imported from a Compatible Certificate Tracking System and converted to an M-RETS Certificate. The M-RETS system will create exactly one Certificate per MWh of generation that occurs from a registered generating unit or that is imported from a Compatible Certificate Tracking System. See also definition of "Whole Certificate."

Compatible Certificate Tracking System: A Compatible Certificate Tracking System is a generation tracking system that has an operating agreement with the M-RETS Administrator regarding the conversion and transfer of certificates between tracking systems. This can not occur until a protocol has been developed between the M-RETS Administrator and the administrator of the other tracking system for converting certificates from another tracking system into M-RETS Certificates.

Control Area: An electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other Control Areas and contributing to frequency regulation of the Interconnection. For the purposes of this document, a Control Area is defined in broad terms to include transmission system operations, market, and load-serving functions within a single organization. A Control Area operator may be a system operator, a transmission grid operator, or a utility.

Conversion: A process by which certificates from a Compatible Certificate Tracking System are made available for import into the M-RETS system. The process involves designating the certificate as exported from the compatible tracking system according to the protocol agreed upon jointly by the Administrator of the Compatible Certificate Tracking System and the M-RETS Administrator. After

such designation is made, the M-RETS Administrator will issue a corresponding M-RETS certificate that can be used within the M-RETS system.

Customer-Sited Distributed Generation: Generation interconnected behind a retail customer meter and therefore not directly interconnected with either the distribution system or transmission system (including net metered facilities).

Creation Date: The date that M-RETS certificates are created. Certificates are created monthly, seven days after the Account Holder has accepted the generation amount of the Generation Activity Log.

Date of First Operation: The month and year a generation unit first began commercial operation or for non-commercial facilities, the date approved by the licensing or permitting agency. For repowered or refurbished generation units, this is the date of original operation, not the date of the repower or refurbishing. The M-RETS Administrator may refine the definition of Date of First Operation for small non-commercial generation units in the future.

Directory of Account Holders: The Directory of Account Holders is a listing of all Account Holders registered with M-RETS. This directory includes limited information for contacting the Account Holder.

Directory of Registered Generating Units: This is a listing of all registered generating units within the M-RETS system grouped by facility.

Dispute Resolution Process: Administrative process managed by the M-RETS Administrator to resolve disputes regarding M-RETS functionality and actions, including but not limited to disputes related to the number of certificates in an account/subaccount, static data, Account Holder requests to reverse permanent transactions (such as retirements), and certificate creation.

Dynamic Data: Dynamic data is variable information that is associated with a specific MWh from a registered generating unit, such as certificate serial number or date of generation. See Appendix B-1 for a list of dynamic data fields.

Emission Factor: The emission factor of a generating unit indicates the amount of emissions released in terms of mass of emitted substance per MWh.

Export Subaccount: The Export Subaccount is the Account Holder's designated subaccount for certificates that have been exported out of M-RETS to a Compatible Certificate Tracking System. M-RETS Account Holders may have multiple Export Subaccounts corresponding to the various compatible tracking systems to which exports are made.

Facility/Generating Facility: One or more Generating Units at a single physical location.

Forward Certificate Transfer: Normally, the first point of deposit for M-RETS certificates is the account to which a generating unit is registered. With a Forward Certificate Transfer, the Account Holder to which the generating unit is registered requests that the certificates be directly deposited into another M-RETS account when the certificates are created. As a result, the first point of deposit for certificates subject to a Forward Certificate Transfer is that other specified account. After this initial deposit, certificates subject to Forward Certificate Transfers shall be treated like any other Certificate for all purposes.

Deleted: First Point of Interconnection: The first point of interconnection to the grid is defined as the substation where radial lines from a given power plant interconnect to the transmission system, or the generator delivery point as defined by that generator's agreement with the local Control Area Operator.¶

Generating Facility: See Facility.

Generation Activity Log: The Generation Activity Log is an electronic ledger where generation is posted prior to certificate creation. Each time generation data is received by M-RETS for a particular generation unit, the date and quantity of MWhs is posted to the Generation Activity Log. Similarly, adjustments received will be posted likewise.

Generation Month: The generation month is the calendar month in which the generation occurred.

Formatted: Font: Not Bold

Generator Agent: See Agent.

Interface Control Document: An Interface Control Document contains the protocol for collecting and transferring generation data from participating control areas and other reporting entities to the M-RETS Administrator for the purposes of creating M-RETS certificates. The Interface Control Document will identify M-RETS Registered Generators to be reported for that interface, as well as the collection of information such as meter IDs, data format, communication protocols, timing, and security requirements for data collection.

M-RETS Administrator: The M-RETS Administrator is the entity with the authority to administer or oversee the administration and implementation of the M-RETS Operating Rules.

M-RETS Certificates: See Certificate.

Nameplate Capacity/Maximum Generator Nameplate Capacity: The maximum rated output of a generator, prime mover, or other electric power production equipment under specific conditions designated by the manufacturer.

Qualified Independent Party: Any entity not affiliated with the generation owner. These may include the interconnecting utility, scheduling coordinator, independent third-party meter reader, or Generator Agent, so long as the Qualified Independent Party has an agreement with the M-RETS Administrator. The agreement with the M-RETS Administrator shall describe the terms and conditions under which the Qualified Independent Party agrees to conduct business with M-RETS.

Registered Generator: A renewable energy source, known as Generating Unit, that has registered with the M-RETS Administrator.

Renewables Portfolio Standard (RPS): Generally, a Renewables Portfolio Standard is a legislative or administrative requirement on electrical utilities or load-serving entities in a jurisdiction to include a designated percentage of renewable electricity in their generation/retail portfolio.

Reporting Entities: A Reporting Entity is an entity reporting meter reading and other generation data to the M-RETS Administrator. Reporting Entities may include control areas and Qualified Independent Parties, and for certain Customer-Sited Distributed Generation, the generation owner or customer (see Section 6.c.6). The protocol for such reporting is the Interface Control Document.

Responsible Party: An M-RETS Account Holder who has been assigned the Rights of Registration for a given generating unit. This gives the designated Account Holder *full and sole* management and authority over the transactions and activities related to the generating unit within M-RETS.

Retirement Subaccount: A Retirement Subaccount is used as a repository for M-RETS certificates that the Account Holder wants to designate as retired and remove from circulation. Once a certificate has been transferred into an M-RETS Retirement Account, it cannot be transferred again to any other account.

Retirement of Certificates: Retirement of certificates is an action taken to remove a certificate from circulation within the M-RETS system. Retirement may be initiated only by the M-RETS Account Holder for certificates in his/her own account(s). Retirement is effectuated by transferring certificates into a Retirement Subaccount.

Revenue Meter: For generators that are interconnected to a utility or control area operator, a revenue-quality meter is any meter used by the reporting control area operator for settlements. The data must be electronically collected by a meter data acquisition system, such as a MV-90 system, or pulse accumulator readings collected by the control area's Energy Management System, and verified through a control area checkout/energy accounting or settlements process which occurs monthly. The preferred source for the data is a meter data acquisition system. If the control area does not have an electronic source for collecting revenue meter data, then manual meter reads will be accepted. Manual meter reads must be performed by a Qualified Independent Party.

Formatted: Indent: Left: 0"

For customer-sited generators or generators that do not go through a control area settlements process, a revenue-quality meter is one that meets the applicable ANSI C-12 standard or applicable state standards.

Formatted: Normal indent 2

Formatted: Font: Not Bold

Revenue-Quality Meter Output: The energy delivered into the transmission grid at the high side of the transformer. The data must be electronically collected by a meter data acquisition system, such as a MV-90 system, or pulse accumulator readings collected by the control area's energy management system, and verified through a control area checkout/energy accounting or settlements process that occurs at the end of each month. Metering standards for generation units not reported by control areas are further described in Section 7.2.

Self-Reporting Generator: A Customer-Sited Distributed Generation installation with a nameplate capacity of less than or equal to 150 kW that elect to have dynamic data transmitted to the M-RETS Administrator via the Self-Reporting Interface pursuant to Section 7.8.

Self-Reporting Interface: A standard Internet-based data entry portal which serves as the method for a Self-Reporting Generator to communicate dynamic data to the M-RETS Administrator pursuant to Section 7.8. The protocol for entering data via Self-Reporting Interface will be documented in the Interface Control Document for Self-Reporting Generators.

Standing Orders: A reoccurring, automatic transfer of M-RETS certificates from an Account Holder's Active Subaccount to one of their other Subaccounts, or to an Active Subaccount held by a different Account Holder.

Static Data: Static data describes the attributes of the generating unit. Static information generally includes information related to the characteristics of the generation facility such as technology type, ownership or location. See Appendix B-1 for a list of M-RETS Static Data Fields.

Station Service: The electric supply for the ancillary equipment used to operate a generating station or substation.

Whole/ Whole Certificate: A “Whole Certificate” is one where none of the renewable attributes have been separately sold, given, or otherwise transferred to another party by a deliberate act of the certificate owner. Renewable attributes shall include the environmental attributes that are defined as any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to the generation from the generation unit(s). Individual states and provinces may create different definitions of renewable certificates. The M-RETS Administrator may consider revision of the definition of an M-RETS certificate in the future if needed to better meet the needs of state and provincial programs. See also definition of “Certificate.”

Wholesale Generation Also Serving On-Site Loads: Generators interconnected to the transmission systems, but with on-site loads other than station-service drawing service from the generator before the control area’s revenue metering point. Such generators either (i) have the net generation supplied to the grid reportable by the control area to M-RETS, or (ii) are not reportable by the control area to M-RETS on a unit-specific basis.

Deleted: M-RETS Administrator:
The M-RETS Administrator is the entity with the authority to administer or oversee the administration and implementation of the M-RETS Operating Rules.¶

¶ M-RETS Certificates: See Certificate. ¶

Formatted: Heading 1

Appendix E: State and Provincial Definitions of Renewable Energy

Illinois

Formatted: Font: Bold, Underline

"Renewable energy resources" include energy from wind, solar thermal energy, photovoltaic cells and panels, dedicated crop grown for energy production and organic waste biomass, hydropower that does not involve new construction or significant expansion of hydropower dams, and other such alternative sources of environmentally preferable energy. "Renewable energy resources" does not include energy from the incineration, burning or heating of waste wood, tires, garbage, general household, institutional and commercial waste, industrial lunchroom or office waste, landscape waste, or construction or demolition debris.

Source: The Renewable Energy, Energy Efficiency, and Coal Resources Development Law (20 ILCS 687,) passed in December of 1997.

Formatted: Indent: Left: 0.5"

Iowa

Formatted: Font: Bold, Underline

The Iowa Code defines renewable energy as energy produced by either an "alternate energy production facility" or "small hydro facility." Specifically, Iowa Code 476.42(1) defines "alternate energy production facility" as: "a solar, wind turbine, waste management, resource recovery, refuse-derived fuel, agricultural crops or residues, or woodburning facility." Iowa Code 476.42(4) defines "small hydro facility" as: "a hydroelectric facility at a dam." In practice, Iowa "small hydro facilities" have been less than 4 MW in size.

Source: Iowa Code 476.42(1) and Iowa Code 476.42(4)

Formatted: Indent: Left: 0.5"

Manitoba

Formatted: Font: Bold, Underline

Definition under development.

Minnesota

Formatted: Font: Bold, Underline

The following energy sources are defined as renewable energy sources under Minnesota statutes and proceedings.³⁰ Since this definition encompasses the definition of renewable energy under multiple Minnesota statutes and proceedings, it is broader than the definition under any specific Minnesota statute and therefore does not define eligibility under any particular Minnesota program.

Renewable energy sources in Minnesota are:

Formatted: Bullets and Numbering

1. wind,
2. solar,
3. hydroelectric facilities,
4. hydrogen,
5. biomass, and
6. geothermal.

The following biomass fuels are defined as renewable:

Formatted: Bullets and Numbering

- Primary woody or herbaceous vegetative matter (plants), including but not limited to wood, grasses, agricultural crops or residues;

³⁰ Minn. Stat. §§ 216B.1691, 216B.2422, subd. 1 (c); 216C.051, subd. 7 (g) (1); 216B.2411, subd. 2 (c); and 216B.2424, subds. 1 and 6 (f), and Minnesota Public Utilities Commission proceedings under Docket No. E999/CI-03-869.

- Processed plant materials from industry waste sources, including manufacturing, construction, or demolition;
- Methane or other combustible gases derived from the processing or decay of plant, animal, or municipal solid waste materials;
- Liquid fuels derived from plant or animal sources, including but not limited to ethanol, biodiesel, vegetable oil, or animal fats; and
- Mixed municipal solid waste (MSW) and refuse-derived fuel from MSW.

Source: Minn. Stat. §§ 216B.1691, 216B.2422, subd. 1 (c); 216C.051, subd. 7 (g) (1); 216B.2411, subd. 2 (c); and 216B.2424, subds. 1 and 6 (f), and Minnesota Public Utilities Commission proceedings under Docket No. E999/CI-03-869.

Formatted: Font: 12 pt

Formatted: Indent: Left: 0.25"

North Dakota

Renewable electricity electricity and recycled energy include electricity generated from facilities using the following sources:

Formatted: Font: Bold, Underline

1. Solar, using the sun as the source of energy for producing electricity.
2. Wind, using the wind as the source of energy for producing electricity.
3. Biomass, using agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, and landfill gas as the fuel to produce electricity.
4. Geothermal, using energy contained in heat that continuously flows outward from the earth as the source of energy to produce electricity.
5. Hydrogen, provided that the hydrogen is generated from a source listed in this section.
6. Recycled energy systems producing electricity from currently unused waste heat resulting from combustion or other processes into electricity and which do not use an additional combustion process. The term does not include any system whose primary purpose is the generation of electricity.

Formatted: Indent: Left: 0.5"

Source: Public Utilities Chapter 393, Section 2 (House Bill 1314)

South Dakota

No definition available.

Formatted: Font: Bold, Underline

Wisconsin

(h)Renewable resource" means any of the following:

Formatted: Font: Bold, Underline

1. A resource that derives electricity from any of the following:

Formatted: Font: (Default) Times New Roman

- a. A fuel cell that uses a renewable fuel.
- b. Tidal or wave action.
- c. Solar thermal electric or PV.
- d. Wind power.
- e. Geothermal technology.
- f. Biomass.

Formatted: Font: (Default) Times New Roman

Formatted: Indent: Left: 0.5"

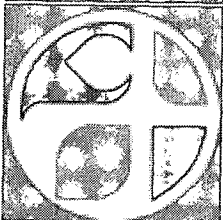
- 1m.Hydro with a capacity of less than 60 MW

2. Any other resource, except a conventional resource, that the Commission designates as a renewable resource.

Formatted: Indent: Left: 0.5"

Source: Wis. Stat. §196.378(1)(h)

Formatted: Font: (Default) Times New Roman



Renewable Energy Credit Tracking and Trading



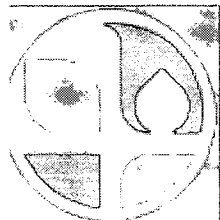
Establishing a Midwest Renewable Energy Credit Tracking System:

Rational, Status of Work, and Next Steps

Presentation to the
North Dakota Public Service Commission

June 14, 2005
Bismarck, ND

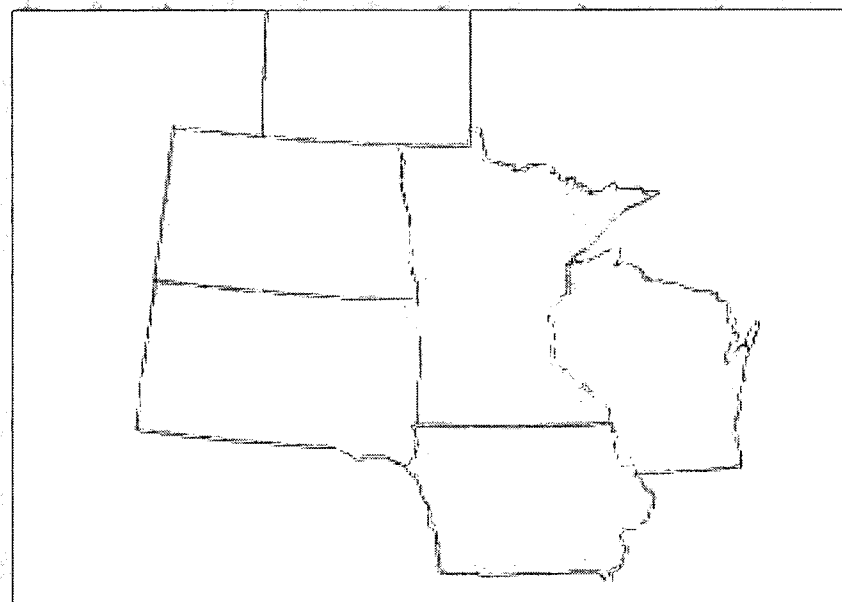




Outline of Presentation



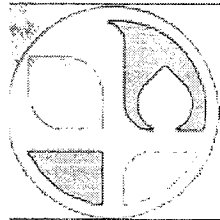
1. Quick background on Powering the Plains Project
2. Overview of renewable energy credit tracking and trading
3. Development of Midwest Renewable Energy Tracking System (M-RETS)
4. Status of M-RETS



PTP Region

Implementation and next



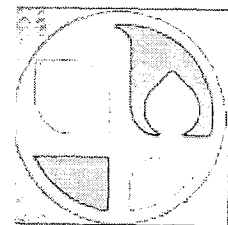


Powering the Plains?



- Regional partnership initiative to harness full energy potential of Upper Midwest
- PTP seeks to:
 - Add economic value to energy and agriculture while mitigating risks of climate change
 - Help capitalize on region's energy advantages
 - Renewable energy;
 - Hydrogen production;
 - Coal gasification with CO₂ sequestration;
 - Terrestrial carbon sequestration; and
 - Marketing credits to regions with less resource potential.





Working on the Solutions with Today's Leaders

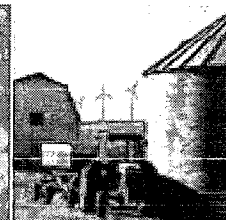


- Federal and government officials
- Energy industry executives
- Farm organization representatives and agricultural producers
- Environmental advocates





PTP Funding and Staffing



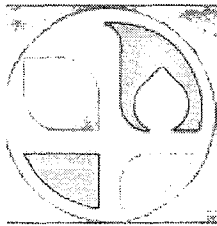
Funding

- Participating private firms, non-governmental organizations and individuals
- Foundations
- Government agencies

Staffing

- Great Plains Institute, a regional nonprofit based in MN and ND





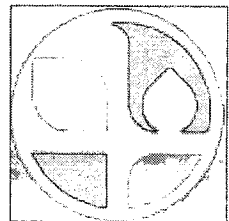
Powering the Market for Renewable Energy



Exchange of Renewable Energy Credits:

- Facilitates exercise of market preference for renewable and environmental attributes of power generation
- Assists renewable energy policy compliance
- Reduces barriers of transmission and variability
 - Separates generation from consumption in time
 - Separates generation from actual delivery of electricity at retail (in some cases)



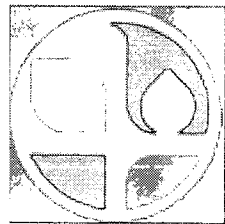


State of Credit Trading for North Dakota



- Increased utilization of low-cost resources
favors jurisdictions with highest resource
potential
- Provides incentive for development
beyond existing tax credits or portfolio
requirements
- Rewards domestic renewable generation
absent transmission capacity for export





Powering the Plains: Looking Back and Trading: Growing Trend



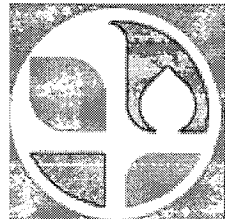
Broad public and private support

- Shared priority of utilities, renewable energy developers, regulators and environmental advocates

Regional precedents

- New England, Mid-Atlantic states and Texas
- Western states/provinces under development



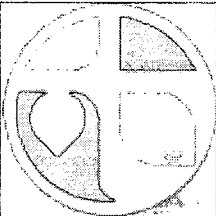


Regional Background

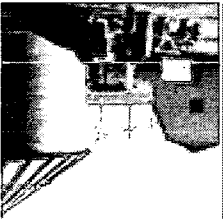


- MN Renewable Energy Objective (2003)
 - Granted MN PUC authority to establish a program for cross-border exchange of credits
 - Stipulates passage of renewable standard, portfolio or objective and similar definition of renewable energy for neighboring states to participate
- Legislators Forum tasked PTP with development of regional renewables policy (2003)
 - Manitoba, Minnesota, North and South Dakota legislators





Final Report



Key stakeholder workshops hosted by MN
PSC and WI PSC of WI (Winter-Summer 2004)
– Strong ND participation
– Identified PTP for design of regional tracking system

• Joyce Foundation support for design of
regional system (Summer 2004)

– Partnership of PTP, Izaak Walton League and
Center for Resource Solutions

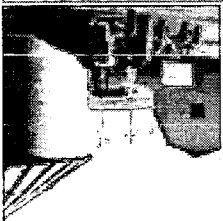
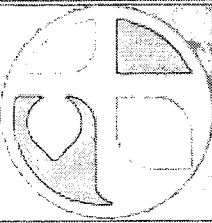


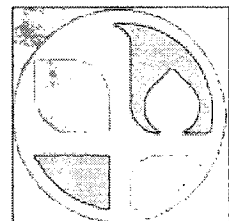


- Major investor-owned, coop and public utilities
 - Regulatory commissioners and staff
 - NGO representatives
- Committee for system design (Fall 2004)

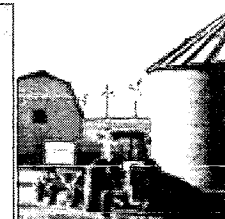
Established Technical Review

at Background





Renewable Energy Linking Systems

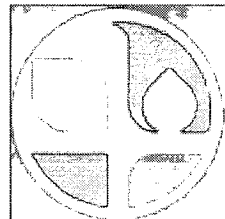


Our work will serve:

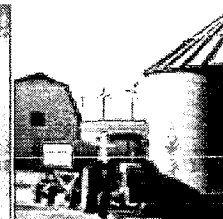
- the Dakotas
- Illinois
- Iowa
- Manitoba
- Minnesota
- Wisconsin

- Potential for other jurisdictions in MISO footprint



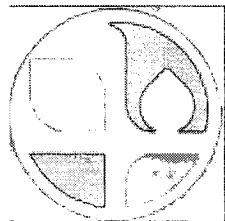


M-RETS Core Functions



- Record and verify creation, exchange and retirement of renewable energy credits
 - Generation from any certified renewable energy source qualified by any jurisdiction
 - M-RETS will track non-renewable generation if generator pays additional incremental costs to system
 - Avoidance of “double-counting”
 - Verification of credit retirement from marketplace





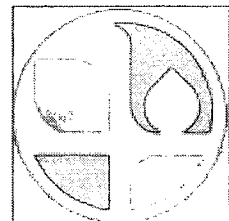
Plains Institute Core Functions



Provide independent, third party seal of approval

- Enhance value of generators/utilities' credits in marketplace
- Builds regulator and public confidence in policy compliance and marketing claims





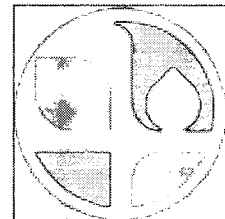
Markets Core Functions



Ensure seamless credit export/import with other regional tracking systems

- Enhanced access to national credit market for generators/utilities
- Positions region in event of future unbundling of credits in East and West coast markets





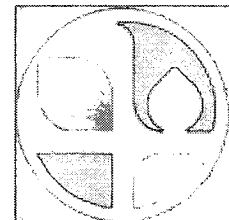
Western Implementation Status

Legislative Approaches



- North Dakota: HB 1314 passed, authorizing PSC to determine state participation in M-RETS
- South Dakota: Companion legislation failed
- Illinois, Iowa, Minnesota and Wisconsin: Require no additional legislation
- Manitoba: Determining whether additional authority is needed





North Dakota Legislative Authority



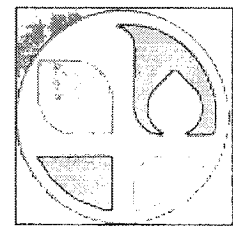
- Created by the TF stakeholders

- Strong bi-partisan sponsorship:

- Representatives Jon Nelson, Lois Delmore, Matthew Klein, and Ken Svedjan
- Senators Dennis Bercier and Tom Trenbeath

- Supported in testimony by Basin Electric, Excel Energy, ND RECs and ND PSC





Key Elements of HB 1314



– Grants authority for PSC to define whether/how ND participates

– Defines energy sources to qualify for credits

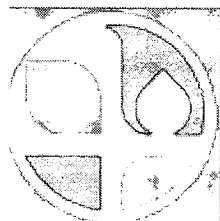
- All renewable electricity sources

- Except hydropower (excluded at legislators' determination)

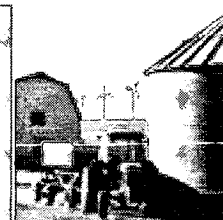
- Recycled energy from waste heat

- Hydrogen produced from qualified renewable energy sources





Interoperation State Recommendations

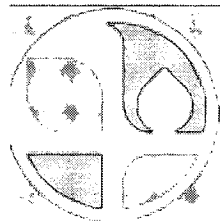


• Basis for system functionality, operating
• External future software development

• Technical Review Committee to complete
first draft next week

– Dissemination for preliminary review and
comment by June 24th



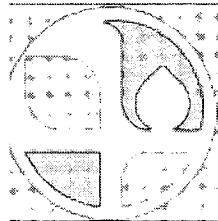


Emergency Interjurisdictional State Emergency Governance



- Appointment of Governing Board
 - One commissioner from each jurisdiction
 - Technical Review Committee to continue advising
- First meeting in June at MARC
 - Convened by MN Commissioner Reha
 - Commissioner Wefald participating with IA, IL, SD, and WI commissioners
 - Input on future by-laws and Request for Proposals
 - No binding decisions in advance of PSC rule-making





Implementation Status

Business Hosting



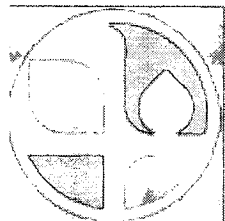
Hosting, ability to provide:

- Office space
- Administrative and IT systems support
- Contracting and financial management

Various options under consideration:

- MISO, MRO and state agencies have expressed interest
- Non-profit or for-profit institution





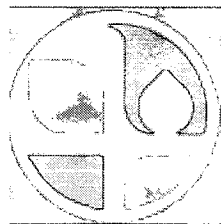
Water & Implementation Status



Three categories of cost

- Technical design, development of governance mechanism and RFPs
 - Supported by Joyce Foundation
- Development of system software
 - Funding being explored from multiple sources:
 - Federal agency grants
 - Federal appropriation
 - Amortization of up-front costs through system user fees





Implementation Status

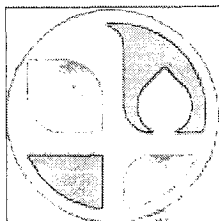
System Operation and Maintenance



System operation and maintenance

- Goal of minimizing transaction costs to avoid disincentive to use system
- Mix of account registration and user fees
- Software design and operation costs estimate
 - To be determined upon completion of technical recommendations





Key Dates and Timeline



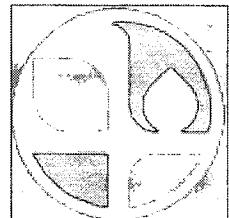
- Draft M-RET FS technical recommendations for public comment in July

• M-RETs for software development and system hosting in fourth quarter of 05

– Following review and approval by commissioners

- M-RETS slated for start-up by end of 06





Thank You
Brad Crabtree, Director
Powering the Plains Project

9195 70th Avenue, SE

Ashley, ND 58413

(701) 647-2041

bcrabtree@gplisd.net

Great Plains Institute

2801 21st Avenue South, Suite 230

Minneapolis, MN 55407

(612) 278-7150

www.gplisd.net



**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

NOTICE OF WORKSHOP

May 9, 2005

Purpose: To explore issues and options to implement 2005 House Bill 1314 concerning the possible North Dakota participation in a regional program to track, record and verify the trading of credits for electricity generated from renewable and recycled heat sources.

When: Tuesday, **June 14, 2005**
9:00 to 11:00 a.m. CDT

Where: Commission Hearing Room
State Capitol, 12th Floor
Bismarck, ND 58501

Audio

Broadcast: <http://www.psc.state.nd.us/media/comm-live.html>

Agenda:

9:00 – 9:30 Energy Credit Tracking and Trading System.
 Presentation by: Mr. Brad Crabtree, Director
 Powering the Plains Project
 Great Plains Institute
 Ashley, North Dakota

9:30 - 10:30 Participant Discussion and Comment, including identification
 of implementation issues and options.

10:30 – 10:50 Next Steps.

10:50 -11:00 Wrap Up and Adjourn.

This workshop, as with any Commission meeting, is open to the public and you are encouraged to attend. Telephone participation is encouraged for those with travel conflicts. For more information contact the Public Service Commission, 600 East Boulevard Avenue, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please notify Illona A. Jeffcoat-Sacco, Executive Secretary at least 24 hours before the workshop.

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1314
(Representatives Nelson, Delmore, Klein, Svedjan)
(Senators Bercier, Trenbeath)

AN ACT to create and enact three new sections to chapter 49-02 and two new subsections to section 57-38-01.8 of the North Dakota Century Code, relating to a renewable electricity and recycled energy credit trading and tracking system by the public service commission and a tax credit for a wind energy device; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

Renewable electricity and recycled energy credit trading and tracking system. Notwithstanding any other provision of law, the commission by rule may establish or participate in a program to track, record, and verify the trading of credits for electricity generated from renewable and recycled heat sources among electric generators, utilities, and other interested entities within this state and with similar entities in other states. This section applies to all public utilities, electric cooperatives, and municipal electric utilities.

SECTION 2. A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

Renewable electricity and recycled energy defined. As used in section 1 of this Act, renewable electricity and recycled energy include electricity generated from facilities using the following sources:

1. Solar, using the sun as the source of energy for producing electricity.
2. Wind, using the wind as the source of energy for producing electricity.
3. Biomass, using agricultural crops and agricultural wastes and residues, wood and wood wastes and residues, animal wastes, and landfill gas as the fuel to produce electricity.
4. Geothermal, using energy contained in heat that continuously flows outward from the earth as the source of energy to produce electricity.
5. Hydrogen, provided that the hydrogen is generated from a source listed in this section.
6. Recycled energy systems producing electricity from currently unused waste heat resulting from combustion or other processes into electricity and which do not use an additional combustion process. The term does not include any system whose primary purpose is the generation of electricity.

SECTION 3. A new section to chapter 49-02 of the North Dakota Century Code is created and enacted as follows:

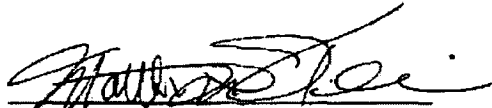
Qualifying for renewable electricity and recycled energy credits. For purposes of qualifying for renewable electricity and recycled energy credits, electricity must be generated from a source identified in section 2 of this Act.

SECTION 4. Two new subsections to section 57-38-01.8 of the North Dakota Century Code are created and enacted as follows:

If a taxpayer entitled to the credit provided by this section is a member of a group of corporations filing a North Dakota consolidated tax return using the combined reporting method, the credit may be claimed against the aggregate North Dakota tax liability of all of the corporations included in the North Dakota consolidated return.

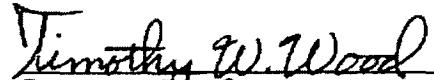
The credit allowed under this section may not exceed the liability for tax under this chapter. If the amount of credit determined under this section exceeds the liability for tax under this chapter, the excess may be used as a credit carryover to each of the five succeeding taxable years.

SECTION 5. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2004.


Speaker of the House


President of the Senate


Chief Clerk of the House


Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1314.

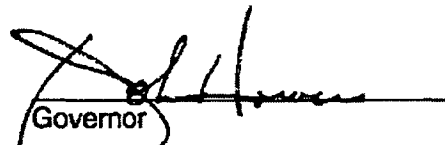
House Vote: Yeas 82 Nays 3 Absent 9

Senate Vote: Yeas 45 Nays 0 Absent 2


Chief Clerk of the House

Received by the Governor at 10:20 A.M. on this 21st day of April, 2005.

Approved at 12:27 P.M. on this 22nd day of April, 2005.


Governor

Filed in this office this 25th day of April, 2005,
at 11:05 o'clock A. M.


Secretary of State