

North Dakota Public Service Commission

Work Session: Thursday - March 4, 2010 @ 1:30 pm

Renewable Energy Objective Reports

Work Session Background Information

Commissioner Clark received a letter dated February 22, 2010 from Basin Electric Power Cooperative (“Basin”) regarding the Renewable Energy Objective (“REO”) reports submitted to the North Dakota Public Service Commission (“Commission”) in June 2009. Basin indicated that after reviewing reports submitted by other utilities all varied in content including the treatment of renewable energy credits (“RECs”). The main issue with Basin is the fact they retired the green tags associated with their sales to cooperative members from its North Dakota Midwest Renewable Energy Tracking System (“M-RETS”) sub-account for the January 1, 2008 through December 31, 2008 reporting period and other utilities have not followed suit.

Basin requests that the Commission clarify its opinion on content for the reports including the treatment of RECs in terms of recording and retiring them.

Applicable Code and Commission Orders

- **N.D.C.C. § 49-02-28. State renewable and recycled energy objective.** The legislative assembly establishes a state renewable and recycled energy objective that ten percent of all electricity sold at retail within the state by the year 2015 be obtained from renewable energy and recycled energy sources. The objective must be measured by qualifying megawatt-hours delivered at retail or by certificates representing credits purchased and retired to offset non-qualifying retail sales. The objective is voluntary and there is no penalty or sanction for a retail provider of electricity that fails to meet this objective. The objective applies to all retail providers of electricity in the state, regardless of the ownership status of the electricity retailer. Municipal and cooperative utilities that receive wholesale electricity through a municipal power agency or generation and transmission cooperative may aggregate their renewable and recycled energy objective resources to meet this objective.
- **N.D.C.C. § 49-02-34. Public reporting on progress toward meeting the renewable energy and recycled energy objective.** Commencing on June 30, 2009, retail providers shall report annually on the provider’s previous calendar year’s energy sales. This report must include information regarding qualifying electricity delivered and renewable energy and recycled energy certificates purchased and retired as a percentage of annual retail

sales and a brief narrative report that describes steps taken to meet the objective over time and identifies any challenges or barriers encountered in meeting the objective. The last annual report must be made on June 30, 2016. Retail providers shall report to the public service commission, which shall make data and narrative reports publicly available and accessible electronically on the internet. Distribution cooperatives may aggregate their reporting through generation and transmission cooperatives and municipal utilities may aggregate their reporting through a municipal power agency.

- **N.A.C.C. § 69-09-08 Renewable Electricity and Recycled Energy Tracking System**
 - **N.A.C.C. § 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.
 - **N.A.C.C. § 69-09-08-05. Responsibilities of program administrator.** At minimum, the program administrator shall perform the following functions:
 - **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.
- **Case No. PU-07-318. Order Adopting M-RETS as Program Administrator.** In this Order the Commission designated M-RETS as the program administrator which is responsible for tracking, recording, and verifying the transactions associated with certificates and credits for electricity generated from renewable electricity sources.

Synopsis of Submitted June 2009 Renewable Energy Reports

- **Case No. PU-09-328. Cass County Electric Cooperative**
 - Minnkota Power Cooperative will receive sufficient green tags for the reporting year 2015 but doesn't plan to make incremental progress in prior years.

- **Case No. PU-09-390. Basin Electric Power Cooperative**
 - Basin plans to ramp up by 1.25% beginning in 2008 to meet the 10% REO by 2015.
 - Basin has retired the green tags associated with its North Dakota (“ND”) electric sales (1.25%) to cooperative members from its ND M-RETS subaccount for the 2008 reporting period.
- **Case No. PU-09-391. Otter Tail Power**
 - ND renewable and recycled energy is allocated across the Otter Tail Power (“OTP”) system based on retail sales kWh with the ND percentage equal to 38.19%.
 - It is likely that OTP will exceed the ND REO at some future time. At that time, the surplus RECs will likely be sold and/or banked for future use.
- **Case No. PU-09-428. Montana-Dakota Utilities**
 - Montana-Dakota Utilities (“MDU”) retired 34,718 of the RECs produced by Diamond Willow on February 24, 2009 to meet its obligations under Montana’s renewable standards.
 - MDU continues to evaluate wind and other renewable resources available on the system in support of the ND state renewable objective and will incorporate such resources as part of the resource mix when reasonable and economic to do so.
- **Case No. PU-09-392. Northern States Power Company**
 - ND customers pay approximately five percent of the cost of Northern States Power Company’s (“NSP”) integrated generation system including renewable-based generation.
 - NSP has portrayed the REO as requiring no REO retirements until 2015. NSP is willing to adjust its REC management accordingly if the Commission desires to set intermediate milestones.
 - If a market exists, NSP proposes to establish the value of RECs by selling excess jurisdictional RECs into the market.
- **Case No. PU-09-570:575. Missouri River Energy Services**
 - The initial reports filed in ND and South Dakota (“SD”) indicate zero qualifying renewable sales during 2008 and will identify the projected plans to meet the REO goals of ND and SD going forward.
 - Missouri River Energy Services (“MRES”) will allocate its renewable energy generation and RECs based on its Rate Schedule S-1 energy sales on a pro rata basis by state, beginning in 2009.
 - MRES will progressively ramp up its renewable resources in the state to meet the statutory goal of 10% by 2015 for its ND municipal utility members.

Case No. PU-10-19. NSP Sales of Renewable Energy Credits

- In this application filed on January 4, 2010, NSP proposes a pilot program to sell excess RECs allocated to the ND jurisdiction and credit the net proceeds back to the ND jurisdiction in the form of a credit through the Fuel Cost Rider (“FCR”).
- NSP’s plan includes the following four elements:
 1. RECs are allocated among NSP’s state jurisdictions the same way renewable energy is currently being allocated with approximately five percent of the RECs being allocated to North Dakota.
 2. NSP will document compliance with North Dakota’s REO by retiring RECs from a pool of active RECs allocated to the North Dakota jurisdiction.
 3. NSP will sell RECs allocated to North Dakota in excess of those needed for compliance with North Dakota’s REO.
 4. NSP proposes to return 85 percent of the applicable net revenue generated through REC sales to customers through a credit to the FCR and retain 15 percent of the net revenue as an incentive to maximize the value of RECs in an immature market.
- NSP interprets N.D.C.C. § 49-02-28 (State renewable and recycled energy objective) to allow utilities to have until 2015 to meet the ten percent goal, with no specific objective for the years prior to 2015.
- While ND’s REO is not mandatory, NSP has interpreted as its obligation to utilize or retire RECs allocated to ND up to the 10 percent level but is open to Commission feedback on its interpretation.

Policy Discussion Points

- N.D.C.C. § 49-02-28 establishes a REO that ten percent of all electricity sold at retail within the state by 2015 be obtained from renewable energy and recycled energy sources. The objective is voluntary with no penalty or sanction for failing to meet this benchmark. Moreover, it is silent on requesting retail providers of utilities to meet intermediate milestones prior to 2015. However, it doesn’t preclude utilities from implementing intermediate benchmarks as part of their strategy for meeting the objective.
- Commencing on June 30, 2009, N.D.C.C. § 49-02-34 requires retail providers to report on progress in meeting the REO. This requirement was affirmed in a memorandum sent to all North Dakota electric utilities from the Commission dated June 4, 2008 as Docket Card 13 in Case No. PU-07-318. The Public Utilities Division (“PUD”) recently sent out a notice to those electric utilities who have not yet complied with this requirement. Based on the reports submitted and summarized, utilities have employed different strategies in meeting the REO.
- N.A.C.C. § 69-09-08 establishes a program to include tracking, recording, and verifying the transactions associated with certificates and credits for electricity generated from

renewable electricity sources. This chapter addresses the reporting aspect of this activity but does not provide policy direction for the activity itself i.e. the retiring of RECs to show compliance with the REO and the inclusion of the sale of RECs and how the revenue from these sales should be treated from a regulatory standpoint.

- N.A.C.C. § 69-09-08-05 requires the program administrator to provide an annual report to the commission beginning in the year following commission designation of the program administrator on or before April fifteenth of each year. There currently is discussion in regard to the due date of the first report i.e. April 2009 or April 2010. It is assumed that this report will provide the information needed to monitor and verify REC activity by the affected ND electric utilities.

Policy Options

- It is the recommendation of the PUD that the Commission consider establishing additional guidelines in further defining existing rules as to the compliance of the REO, the retirement of RECs, the sale of RECs and reporting guidelines. With additional guidelines and further defined rules, electric utilities will be provided further guidance that may lend to more uniform reporting but yet continue to provide flexibility in meeting the REO, a voluntary objective.
- Since the REO is voluntary with no specific objectives prior to the year 2015, electric utilities as part of their strategic planning process should be allowed to meet the objective through intermediate benchmarks if they so choose.
- Electric utilities with RECs allocated to ND should be encouraged not to retire RECs in the years leading up to 2015.
- Electric utilities with RECs allocated to ND should be encouraged to sell all these RECs in the years leading up to 2015. It is understood that the mechanism to credit ND rate payers will differ between investor-owned utilities vs. generation & transmission cooperatives and municipal joint action agencies.
- By the year 2015 and after, if the electric utility has shown compliance with the REO, the PUD recommends that the Commission consider allowing electric utilities to continue to sell all of their RECs attributable to ND rather than retiring them to show compliance, given that the objective is voluntary.