

**STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION**

Pre-rulemaking Workshops --)	
Indiana Voluntary Clean Energy)	RM #11-05
Portfolio Standard Program)	
)	

WIND ON THE WIRES' WRITTEN COMMENTS

NOW COMES Wind on the Wires in response to prior solicitations¹ from the Indiana Utility Regulatory Commission (the "Commission") for comments and communications regarding the Indiana Voluntary Clean Energy Portfolio Standard Program (the "Program"). We provide these comments to aid the Commission staff in preparing its draft proposed rule (the "Proposed Rule").

Introduction

Wind on the Wires is pleased that the Indiana General Assembly passed Senate Enrolled Act 251 ("SEA 251") and created a portfolio standard intended to promote the development of clean and renewable energy. The Program outlined in SEA 251 is a voluntary program as contrasted with a required procurement of clean energy. SEA 251 allows the Commission to award certain incentives to an electric supplier for achieving stated clean portfolio standard goals ("CPS Goals") for provision of clean energy. SEA 251 identifies two incentives: first, a flexible, sliding scale increase in an electricity

¹ The Commission's solicitation of comments and other communications are evidenced by the document entitled "Rulemaking Procedures & Estimated Timeline" which has been posted on the Commission's web page at <http://www.in.gov/iurc/2608.htm>.

supplier’s overall return on equity whenever the supplier attains a CPS Goal; and second, a periodic rate adjustment that allows recovery of “all just, reasonable, and necessary program costs incurred by a participating electricity supplier.” I.C. 8-1-37-13(a) and (c).

SEA 251 was intended to incite and encourage: (1) the further diversification of electricity suppliers’ current energy portfolios; and (2) the development of new clean energy resources within Indiana’s borders. See I.C. 8-1-37-10(a); I.C. 8-1-37-12(b). The Proposed Rule should be drafted in a manner that maximizes these objectives.

Table of Contents

Introduction..... 1

Bringing Diversity to Electric Supplier’s Energy Portfolio..... 2

Cost–Effectiveness Evaluation in Section 11(c)(3) 5

Clean Energy Credits..... 7

Compliance with the CPS Plan Approved by the IURC 8

Conclusion..... 11

Appendix A – Estimate of Existing Clean Energy Resources Ability to Meet CPS Goals through 2025

Appendix B -- Comparison of Cost-Effectiveness Tests from Different States

Bringing Diversity to Electric Suppliers’ Energy Portfolio

In keeping with the objectives of SEA 251, the return on equity and rate adjustment incentives should ideally be awarded for new development and investment as opposed to actions the utilities have undertaken prior to the enactment of the bill.

Two key issues that impact the effectiveness of SEA 251 are the use of existing or planned clean energy resources to comply with the CPS goals, and the potential “double-counting” of clean energy that is already being used to comply with other incentive programs.

The Proposed Rule should set limits or parameters around the use of pre-existing clean energy resources. If participating electricity suppliers are allowed to use pre-existing clean energy resources, nearly all Indiana utilities would already meet the first period goal of 4%. See Appendix A, which includes a forecast of the electric supplier’s clean energy demand through 2025. Moreover, permitting an electric supplier to comply with the CPS Goals using clean energy from a facility that was built long ago (for instance a hydro facility built in 1904 could potentially count towards the CPS goal) would undermine the objectives of the statute. If the Commission does not impose parameters on the clean energy facilities that can be included in an electric supplier’s Program application, SEA 251 would fail to incite further portfolio diversification and/or new Indiana development until 2019 or later.²

There are a variety of ways the Commission can manage the electric suppliers’ existing resources to fulfill the objectives of SEA 251. For example, the Commission could: [1] require that all qualifying clean energy be derived from resources that have not previously been identified by the supplier as a generation source in its integrated resource plans prior to the enactment of SEA 251; [2] require that all qualifying clean energy be derived from resources placed into service after a fixed point in time (e.g., the enactment date of SEA 251); [3] impose separate standards for awarding the periodic

² In effect, this would reward past behavior rather than encourage a change in future behavior.

rate adjustment incentive and the return on equity incentive (e.g., allow the automatic rate adjustment incentive for any justifiable clean energy resources identified in a utility's application, but award the return on equity incentive only for the development of *new* clean energy resources); or [4] a combination of any of the three aforementioned options.

The first option would likely bring about the greatest amount of portfolio diversification and new economic development to Indiana, since the CPS requires at least 50% of the clean energy originate from resources within Indiana. The second option would likely achieve some new diversification and development while simultaneously allowing the utilities to reap a benefit from the facilities it has already planned but which do not yet produce energy. The third option would encourage some new diversification by allowing cost recovery for clean energy resources, while reserving the reward of an increase to the return on equity for electric suppliers who invest in the development of new resources.

The objectives of SEA 251 are also undermined if the electric supplier can "double-count" clean energy. To prevent electric suppliers from receiving multiple benefits from multiple state or federal programs that offer incentives for clean or renewable energy, the Proposed Rule should only allow incentives for clean energy that is not used for compliance with any other state programs or incentive programs (such as, but not limited to, the clean energy project program described in IC 8-1-8.8-11).

In summary, to maximize the effectiveness of SEA 251 the Proposed Rule should impose reasonable limits on the participating electric suppliers' ability to rely on existing and planned clean energy resources and prohibit "double-counting."

Cost–Effectiveness Evaluation in Section 11(c)(3)

The Commission should establish a cost-effectiveness test that furthers the intent of SEA 251 to diversify Indiana’s energy portfolio within reasonable cost expectations.

Under IC 8-1-37-11(c)(3):

(3) approving the application will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved;

The existing framework for approving long-term renewable power purchase agreements and fuel cost charge adjustments is instructive in evaluating the cost-effectiveness of an application pursuant to IC 8-1-37-11(c)(3). For example, in the Order issued on December 6, 2006, in Cause No. 43097 (the “43907 Order”), the price was deemed reasonable by comparing the pricing of the renewable energy contract to market forecasts for purchased power, such as those included in the State Utility Forecasting Group, and then factoring in the potential impacts of a carbon constrained operational environment. 43907 Order at 17. The Commission also took into account the environmental, economic, educational and other social benefits created, procurement using a “thorough RFP process” and the reasonable addition and diversification of the portfolio which may mitigate the volatility of prices from other sources. Id.

At least thirty-seven (37) states have enacted renewable portfolio standards or goals. Many different approaches are used by these RPS statutes to determine if the pricing is reasonable. Three relevant approaches are summarized below and Appendix B, attached hereto, provides further background on the statute or rule.

1) Nevada Approach (Individual Project Analysis). In Nevada, the commission reviews and approves each long-term renewable energy contract and determines during that review whether the price is reasonable. The commission considers, without limitation, whether the renewable energy system will reduce environmental costs (e.g., air, water, waste and impacts on wildlife, etc.), the net economic impact and all environmental benefits and costs, any economic development benefits accruing to the state, the diversity of energy suppliers, the value of price hedging or price stability, whether the contract results in benefits to transmission system, whether the electricity acquired or saved is priced at or below the utility provider's long-term avoided cost rate, and other factors.

2) Hawaii Approach (Third Party Baseline). The Hawaii rule provides for commission determination of the composition of each utility's renewable energy resource portfolio. This composition is heavily influenced by renewable energy cost-effectiveness studies performed by the University of Hawaii and commentary thereon published by experts from recognized public institutions. The University of Hawaii produces an annual study on the capability of utility companies to achieve the renewable portfolio standards in a cost-effective manner, taking into account the impact the cost renewable energy will have on consumer rates, on utility system reliability, the costs and availability of appropriate renewable energy resources, permitting approvals, effects on the economy, balance (of trade, culture, community, environment, land and water), climate change policies, and demographics.

3) Michigan Approach (Comparison to a Market Standard). A third method for evaluating the cost-effectiveness of a portfolio is a comparison of clean energy costs to a

long-term market standard. The Michigan statute directs the commission to approve the electric provider's plan if the life-cycle cost of renewable energy acquired or generated under the plan does not exceed the expected life-cycle cost of electricity generated by a new conventional coal-fired facility. It is reasonable to compare the cost of clean energy to the cost of energy from a new plant for a few reasons. First, this is a reasonable estimate of whether the cost of clean energy is effective with respect to other types of facilities the electric supplier would build if clean energy sources were not built. Second, the United States Environmental Protection Agency is in the process of implementing four regulations³ that will change the cost of new plants that are built after 2012. These regulations will impact new generation that will be built and its cost and should be factored into the evaluation in Indiana Code 8-1-37-11(c)(3).

Clean Energy Credits

SEA 251 allows the CPS Goals to be met with clean energy credits ("CECs"), however, as with any portfolio standard the use of credits needs to be clearly stated within the rule. In other states, portfolio standard rules have limited the applicability of credits or the term of banking a credit so as to encourage investment in the clean or renewable energy in a consistent manner with the statutory intent. Similarly, the Proposed Rule needs to include guidelines for CECs that further the intent of the statute.

³ The four EPA regulations are to go into effect between 2012 and 2018. Those EPA regulations are [1] Cooling Water Intake Structures section 316(b) of the Clean Water Act; [2] Coal Combustion Residuals (CCR); [3] Cross State Air Pollution Rule (CSAPR)(formerly known as Clean Air Transport Rule (CATR)); [4] Mercury and Air Toxics Standard (MATS) (formerly known as EGU Maximum Achievable Control Technology (MACT)).

Compliance with the CPS Plan Approved by the IURC

Wind on the Wires recommends a two-stage approval process for the CPS Plan. In the first stage, the electricity utility should apply for approval to join the CPS program under Indiana Code 8-1-37-11, proposing its plan to achieve the clean energy targets for each of the goal periods. Such a proceeding should be open for comment from outside entities and agencies, but streamlined to ensure that utilities are able to enter the program in a reasonable time. The Commission should affirm the utility's CPS Plan through an order to retain the Commission's authority over the implementation of the CPS Plan. By its nature, the order would have a binding effect on the participating electricity supplier and would ensure that the utility undertakes its best efforts to meet its CPS Plan. A requirement that the electric supplier comply with its CPS Plan approved by the Commission would also provide certainty within the Indiana market for wind energy and, most importantly, protect Indiana retail energy customers. If participating electric suppliers are freely able to move in and out of the program without Commission oversight, there will be a potential opportunity to exploit the return on equity financial incentive under Indiana Code 8-1-37-13(a).

The second stage of the process should be the Commission's award of the return on equity incentive. Pursuant to Indiana Code 8-1-37-13(f) the Commission is to issue a determination of eligibility for the return on equity incentive or the periodic rate adjustment incentive. That determination should include a requirement that the participating electricity supplier comply with its' CPS Plan in order to receive the return on equity incentive. Moreover, the rule should specify guidelines the IURC would use in evaluating and awarding the return on equity incentive. Depending on how prescriptive

those guidelines are, this second stage may not need to be a contested proceeding. Nonetheless, a Commission order would be necessary to determine the amount of the incentive.

Of course, certain unforeseen events may justifiably impact a participating electric supplier's ability to comply with its' CPS Plan. In the event a participating electric supplier does not comply with its' approved CPS Plan, we recommend that the company be required to petition the Commission for either a variance, modification, or termination of its' CPS Plan. The Commission should require that any such petition include a justification as to why the electric supplier is unable to comply with the CPS Plan. These petitions are necessary to uphold the Commission's mandate in Indiana Code 8-1-37-10(b)(1) to measure and evaluate a participating electricity supplier's compliance with the CPS goals. If a participant can freely opt-out of the program without explanation or justification, the Commission will be unable to determine impediments towards diversifying Indiana's energy supply and encouraging the development of new clean energy.

To the extent possible, the Commission should encourage remediation to bring the electric supplier back into compliance with its CPS Plan. Termination of a CPS Plan should be a last resort and undertaken only under the most severe circumstances. In the evaluating a petition for termination, the Commission may need to examine any previously awarded shareholder financial incentives.

To meet the policy objectives above, Wind on the Wires recommends the Commission adopt the following rule regarding enforcement of a participating electricity supplier's CPS Plan:

In the case that a participating electricity supplier is unable or unwilling to comply with its approved CPS Plan under Indiana Code 8-1-37-11, a participating electricity supplier shall petition the Commission for relief from its CPS Plan by requesting either a variance, modification, or termination of the CPS Plan. In addition to the standard requirements prescribed in the Commission's rules, a request shall include a detailed listing of the participating electricity supplier's attempts to comply with the CPS Plan and specific causes for its inability to comply with the Commission's Order under Indiana Code 8-1-37-11.

The Commission shall prefer remedial measures to comply with an approved CPS Plan. In case of a request for variance or modification, a participating electricity supplier must show good cause for deviating from the Commission-approved CPS Plan. In case of a request for termination, the participating electricity supplier bears the burden to demonstrate that termination is necessary because a variance or modification of the CPS Plan is impossible or impractical.

The Commission shall retain the authority to adjust the utility's shareholder financial incentive during a variance, modification, or termination proceeding.

Conclusion

WHEREFORE, Wind on the Wires recommends that the draft proposed rule reflect the recommendations contained herein.

Respectfully submitted,

_____/s_____
Sean R. Brady

Regional Policy Manager
Wind on the Wires
70 West Madison Street, Suite 1400
Chicago, IL 60602
312.867.0609
sbrady@windonthewires.org

DATED: August 15, 2011

Appendix A:

Estimate of Existing Clean Energy Resources ability to Meet CPS Goals through 2025

The chart below estimates the clean energy needed for each Indiana electric supplier (that meets the definition of Indiana Code 8-1-37-6) to comply with the CPS Goals of the Voluntary Clean Energy Portfolio Standard. The table also estimates the corresponding clean energy demand in wind adjusted MWs.

This chart is based on the following assumptions:

1. All Indiana electric suppliers opt-in to the voluntary clean portfolio standard
2. Anticipated electricity demand is from current Indiana electricity consumption figures, extrapolated out to 2025 with expected load growth (rates from internal calculations)
3. Indiana electric suppliers that currently have a surplus of clean energy credits (“CECs”) per the voluntary standard will sell surplus CECs to electric suppliers who have an insufficient number of CECs to comply with the CPS Goals
4. All existing clean energy, either owned or under contract by the electricity suppliers, count towards the voluntary CPS (with amounts below):

Estimated capacity of current wind power purchase agreements and current hydro facilities sorted by utility:*

Generation Inputs By Utility	Wind PPAs			Hydro			
	Current, MW	In State	Out of State	Subtotal	In State	Out of State	Subtotal
Duke		100.0	0.0	100.0	64.8	0.0	64.8
NIPSCO		0.0	100.0	100.0	16.4	0.0	16.4
AEP		150.0	0.0	150.0	8.2	14.1	22.3
IPL		106.0	205.5	311.5	0.0	0.0	0.0
Vectren		80.0	0.0	80.0	0.0	0.0	0.0
Total		436.0	305.5	741.5	89.4	14.1	103.5

*Does not include any new clean energy contracts entered into in 2011, such as NIPSCO’s feed-in-tariff contracts, AEP’s contract for 100 MW of wind, IPL’s feed-in-tariff contracts, or any demand side management product sponsored by any electric supplier.

RENEWABLES DEMAND BY UTILITY														
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
New Renewables Demand, MWh														
Duke	218,234	222,453	222,689	225,821	235,234	247,714	260,737	939,288	958,739	975,739	992,197	1,013,897	1,037,558	1,777,184
NIPSCO	344,919	347,388	347,526	349,359	354,867	362,170	369,791	766,860	778,242	788,190	797,821	810,519	824,365	1,257,174
AEP	(131,939)	(129,588)	(129,456)	(127,711)	(122,466)	(115,512)	(108,256)	269,835	280,673	290,145	299,316	311,408	324,591	736,713
IPL	(266,905)	(264,687)	(264,563)	(262,917)	(257,970)	(251,411)	(244,567)	112,045	122,267	131,201	139,851	151,256	163,691	552,400
Vectren	(111,903)	(111,123)	(111,080)	(110,500)	(108,760)	(106,452)	(104,044)	21,437	25,034	28,178	31,221	35,234	39,610	176,385
Renewables Demand, In Wind Adjusted MW														
Duke	71	73	73	74	77	81	85	306	313	318	324	331	338	580
NIPSCO	56	57	57	57	58	59	60	165	169	172	175	179	184	325
AEP	(43)	(42)	(42)	(42)	(40)	(38)	(35)	88	92	95	98	102	106	240
IPL	(87)	(86)	(86)	(86)	(84)	(82)	(80)	18	20	21	23	25	27	90
Vectren	(36)	(36)	(36)	(36)	(35)	(35)	(34)	7	8	9	10	11	13	58
TOTAL	(39)	(36)	(35)	(33)	(25)	(15)	(4)	585	601	615	629	648	668	1,292

Appendix B:

Comparison of Cost-Effectiveness Tests from Different States

Table of Contents

a) Nevada Approach (Individual Project Analysis)..... 1
b) Hawaii Approach (Third Party Baseline) 4
c) Michigan Approach (Comparison to New Coal Generation)..... 5

a) Nevada Approach (Individual Project Analysis)

- Renewable Portfolio Standard is Mandatory
- OVERVIEW: The utility submits annual reports on April 1 of each year demonstrating that it has met the portfolio standard. The commission reviews and approves each long-term renewable energy contract and at that time determines whether the terms and conditions are just and reasonable and whether the price is reasonable. The plan for meeting the portfolio standard is also reflected in the long -term resource plans; however, there does not appear to be any review and approval process related to the portfolio standard during the planning phase. The long-term plan simply identifies how the utility intends to comply with the portfolio standard and becomes incorporated into the base long term resource plan.

NAC 704.8871 Compliance with portfolio standard. (NRS 703.025, 704.210, 704.7828)

1. Except as otherwise provided in [NAC 704.8831](#) to [704.8899](#), inclusive, each provider shall comply with its portfolio standard during each compliance year by generating, acquiring or saving electricity from a portfolio energy system or efficiency measure in the amounts required by [NRS 704.7821](#) for that compliance year.
2. Each provider has the burden to prove that it complied with its portfolio standard during each compliance year.

NAC 704.8885 Long-term portfolio energy credits contracts, long-term renewable energy contracts and energy efficiency contracts: Review by Commission; criteria for approval. (NRS 703.025, 704.210, 704.7821, 704.7828)

1. If a utility provider executes a long-term portfolio energy credits contract, long-term renewable energy contract or energy efficiency contract, the utility provider shall submit the contract to the Commission for approval. The contract shall be deemed to be a long-term purchase obligation for the purposes of [NAC 704.9005](#) to [704.9525](#), inclusive, and the utility provider

shall submit the contract to the Commission for approval in accordance with the provisions of those sections.

2. To approve a long-term portfolio energy credits contract, long-term renewable energy contract or energy efficiency contract executed by a utility provider, the Commission must determine that the terms and conditions of the contract are just and reasonable. In making its determination, the Commission will consider, as applicable and without limitation:
 - (a) The reasonableness of the price for the electricity based on the factors set forth in [NAC 704.8887](#);
 - (b) The term of the contract;
 - (c) The location of each portfolio energy system or efficiency measure that is subject to the contract;
 - (d) The use of natural resources by each renewable energy system that is subject to the contract;
 - (e) The firmness of the electricity to be delivered and the delivery schedule;
 - (f) The delivery point for the electricity;
 - (g) The characteristics of similar renewable energy systems;
 - (h) The requirements for ancillary services;
 - (i) The unit contingent provisions;
 - (j) The system peak capacity requirements of the utility provider;
 - (k) The requirements for scheduling;
 - (l) Conditions and limitations on the transmission system;
 - (m) Project insurance;
 - (n) The costs for procuring replacement power in the event of nondelivery;
 - (o) Information verifying that each renewable energy system which is subject to the contract transmits or distributes or will transmit or distribute the electricity that it generates from renewable energy in accordance with the requirements of [NRS 704.7815](#);
 - (p) For each owner and for each operator of a renewable energy system that is subject to the contract, the total number of renewable energy systems that each such owner and each such operator is or has been associated with as an owner or operator, including, without limitation, all renewable energy systems that are actively being constructed by or have been constructed by the owner or operator;
 - (q) For each renewable energy system that is subject to the contract, the points of interconnection with the electric system of the utility;
 - (r) The interconnection priority which has been established for the available transmission capacity of the utility provider for all proposed renewable energy systems that will interconnect and begin commercial operation within the 3-year period immediately following the date on which the contract is submitted for approval;
 - (s) Any requests for transmission service that have been filed with the utility provider;
 - (t) For each renewable energy system that is subject to the contract, any evidence that an environmental assessment, an environmental impact statement or an environmental impact report is being completed or has been completed with regard to the renewable energy system, or any evidence that a contract has been executed with an environmental contractor who will prepare such an assessment, statement or report within the 3-year period immediately preceding the date on which the renewable energy system is projected to begin commercial operation;
 - (u) Whether any required permits have been acquired from or any applications for such permits have been filed with the appropriate governing agencies within the 3-year period immediately preceding the date on which the renewable energy system is projected to begin commercial operation;
 - (v) Whether any applications for developmental rights have been filed with the appropriate federal agencies, including, without limitation, the United States Bureau of Land Management, where the granting of such developmental rights is not contingent upon a competitive bidding process;
 - (w) For each renewable energy system that is subject to the contract, any evidence that establishes rights of ownership, possession or use concerning land or natural

resources, including, without limitation, deeds, land patents, leases, contracts, licenses or permits concerning land, geothermal drilling rights or other rights to natural resources; and

(x) Whether the utility provider has any economical dispatch rights.

(Added to NAC by Pub. Utilities Comm'n by R144-01, eff. 5-31-2002; A by R167-05, 2-23-2006; R064-10, 10-15-2010)

NAC 704.8887 Long-term portfolio energy credits contracts, long-term renewable energy contracts and energy efficiency contracts: Determination of whether price for electricity is reasonable. (NRS 703.025, 704.210, 704.7821, 704.7828)

1. For the purposes of this section, each utility provider shall calculate the price for electricity acquired or saved pursuant to a long-term portfolio energy credits contract, long-term renewable energy contract or energy efficiency contract by calculating the levelized market price for the electricity based on:

- (a) The rates for electricity and capacity set forth in the contract;
- (b) Any escalators or inflation indices set forth in the contract;
- (c) Any delivery projections for electricity and capacity set forth in the contract; and
- (d) Any other terms and conditions set forth in the contract that would affect the price paid for electricity acquired or saved pursuant to the contract.

All data that the utility provider uses to make its calculation must be based on the most current projections available when the contract is executed.

2. After the utility provider calculates the price pursuant to subsection 1, **the Commission will determine whether the price is reasonable. In making its determination, the Commission will consider, without limitation:**

- (a) Whether the contract comports with the utility provider's most recently approved plan to increase its supply of or decrease the demand for electricity that is submitted to the Commission pursuant to [NAC 704.9005](#) to [704.9525](#), inclusive;
- (b) The reasonableness of any price indexing provision set forth in the contract;
- (c) As compared to competing facilities or energy systems that use one or more fossil fuels as their primary source of energy to generate electricity, whether the renewable energy systems that are subject to the contract will reduce environmental costs in this State, including, without limitation:
 - (1) Air emissions;
 - (2) Water consumption;
 - (3) Waste disposal and other land uses; and
 - (4) Impacts on wildlife;
- (d) The net economic impact and all environmental benefits and environmental costs to this State in accordance with [NAC 704.9005](#) to [704.9525](#), inclusive;
- (e) Any economic development benefits that might inure to any sector of the economy of this State;
- (f) The diversity of energy sources being used to generate the electricity that is consumed in this State;
 - (g) The diversity of energy suppliers generating or selling electricity in this State;
- (h) The value of any price hedging or energy price stability associated with the contract;
- (i) The date on which each renewable energy system that is subject to the contract is projected to begin commercial operation;
- (j) Whether the utility provider has any flexibility concerning the quantity of electricity that the utility provider must acquire or save pursuant to the contract;
- (k) Whether the contract will result in any benefits to the transmission system of the utility provider; and
- (l) Whether the electricity acquired or saved pursuant to the contract is priced at or below the utility provider's long-term avoided cost rate.

3. **If a utility provider will be using a long-term portfolio energy credits contract, long-term renewable energy contract or energy efficiency contract to comply with the solar energy requirements of its portfolio standard, the price for electricity acquired pursuant to that contract will be evaluated separately from the price for electricity acquired or saved pursuant**

to other long-term portfolio energy credits contracts, long-term renewable energy contracts or energy efficiency contracts that will not be used to comply with the solar energy requirements of the portfolio standard.

(Added to NAC by Pub. Utilities Comm'n by R144-01, eff. 5-31-2002; A by R004-04, 5-25-2004; R167-05, 2-23-2006; R064-10, 10-15-2010)

NAC 704.9215 Summary of resource plan. ([NRS 703.025](#), [704.210](#), [704.741](#))

1. A utility's resource plan must be accompanied by a summary that is suitable for distribution to the public. The summary must contain easily interpretable tables, graphs and maps and must not contain any complex explanations or highly technical language. The summary must be approximately 30 pages in length.

2. The summary must include:

...

(e) A summary of renewable energy showing how the utility intends to comply with the portfolio standard and listing each existing contract for renewable energy and each existing contract for the purchase of renewable energy credits and the term and anticipated cost of each such contract.

b) Hawaii Approach (Third Party Baseline)

- Renewable Portfolio Standard is Mandatory
- OVERVIEW: The commission determines the composition of each utility's renewable energy resource portfolio. It appears that the composition of the portfolio is heavily influenced by cost - effectiveness studies performed by the University of Hawaii and Hawaii and commentary thereon published by experts from recognized public institutions. The cost effectiveness studies evaluate the cost effectiveness of various types of renewable energy.

§269.95 The public utilities commission shall:

(1) By December 31, 2007, develop and implement a utility ratemaking structure, which may include performance-based ratemaking, to provide incentives that encourage Hawaii's electric utility companies to use cost-effective renewable energy resources found in Hawaii to meet the renewable portfolio standards established in section 269-92, while allowing for deviation from the standards in the event that the standards cannot be met in a cost-effective manner or as a result of events or circumstances, such as described in section 269-92(d), beyond the control of the utility that could not have been reasonably anticipated or ameliorated;

(3) Use funds from the public utilities special fund to contract with the Hawaii natural energy institute of the University of Hawaii to conduct independent studies to be reviewed by a panel of experts from entities such as the United States Department of Energy, National Renewable Energy Laboratory, Electric Power Research Institute, Hawaii electric utility companies, environmental groups, and other similar institutions with the required expertise. These studies shall include findings and recommendations regarding:

(A) The capability of Hawaii's electric utility companies to achieve renewable portfolio standards in a cost-effective manner and shall assess factors such as:

- (i) The impact on consumer rates;
 - (ii) Utility system reliability and stability;
 - (iii) Costs and availability of appropriate renewable energy resources and technologies;
 - (iv) Permitting approvals;
 - (v) Effects on the economy;
 - (vi) Balance of trade, culture, community, environment, land, and water;
 - (vii) Climate change policies;
 - (viii) Demographics[;]; and
 - (ix) Other factors deemed appropriate by the commission;
- and
- (B) Projected renewable portfolio standards to be set five and ten years beyond the then current standards;

c) Michigan Approach (Comparison to New Coal Generation)

- Renewable Energy Standard is Mandatory
- OVERVIEW: The utility submits a plan to the commission for review and approval. That plan is updated every two (2) years. The utility must demonstrate that the plan is reasonable and prudent. Further, the utility must include a cost comparison of the life-cycle cost of renewable energy acquired or generated under the plan to the expected life-cycle cost of a new conventional coal-fired facility. The statute allows the utility to meet at least 50% of its RPS goal with unbundled renewable energy credits (“RECs”). There is a separate test for the reasonableness and prudence of unbundled RECs.

460.1021

(1) This section applies only to electric providers whose rates are regulated by the commission.

...

(6) The commission shall not approve an electric provider's plan unless the commission determines both of the following:

- (a) That the plan is reasonable and prudent. In making this determination, the commission shall take into consideration projected costs and whether or not projected costs included in prior plans were exceeded.
- (b) That the life-cycle cost of renewable energy acquired or generated under the plan less the projected life-cycle net savings associated with the provider's energy optimization plan does not exceed the expected life-cycle cost of electricity generated by a new conventional coal-fired facility. In determining the expected life-cycle cost of electricity generated by a new conventional coal-fired facility, the commission shall consider data from this state and the states of Ohio, Indiana, Illinois, Wisconsin, and Minnesota, including, if applicable, the life-cycle costs of the renewable energy system and new conventional coal-fired facilities. When determining the life-cycle costs of the renewable energy system and new conventional coal-fired facilities, the commission shall use a methodology that includes, but is not limited to,

consideration of the value of energy, capacity, and ancillary services. The commission shall also consider other costs such as transmission, economic benefits, and environmental costs, including, but not limited to, greenhouse gas constraints or taxes. In performing its assessment, the commission may utilize other available data, including national or regional reports and data published by federal or state governmental agencies, industry associations, and consumer groups.

460.1037. Unbundled RECs

If, after the effective date of this act, an electric provider whose rates are regulated by the commission enters a renewable energy contract or a contract to purchase renewable energy credits without the associated renewable energy, the commission shall determine whether the contract provides reasonable and prudent terms and conditions and complies with the retail rate impact limits under section 45. In making this determination, the commission shall consider the contract price and term. If the contract is a renewable energy contract, the commission shall also consider at least all of the following:

- (a) The cost to the electric provider and its customers of the impacts of accounting treatment of debt and associated equity requirements imputed by credit rating agencies and lenders attributable to the renewable energy contract. The commission shall use standard rating agency, lender, and accounting practices for electric utilities in determining these costs, unless the impacts for the electric provider are known.
- (b) Subject to section 45, the life-cycle cost of the renewable energy contract to the electric provider and customers including costs, after expiration of the renewable energy contract, of maintaining the same renewable energy output in megawatt hours, whether by purchases from the marketplace, by extension or renewal of the renewable energy contract, or by the electric provider purchasing the renewable energy system and continuing its operation.
- (c) Electric provider and customer price and cost risks if the renewable energy systems supporting the renewable energy contract move from contracted pricing to market-based pricing after expiration of the renewable energy contract.

460.1045 Charges for electric provider's tariffs that permit recovery of incremental costs of compliance; calculation; report to residential customer in billing statement; values; determining long-term, life-cycle, levelized costs of building and operating and acquiring nonrenewable electric generating capacity and energy.

- (1) For an electric provider whose rates are regulated by the commission, the commission shall determine the appropriate charges for the electric provider's tariffs that permit recovery of the incremental cost of compliance subject to the retail rate impact limits set forth in subsection (2).
- (2) An electric provider shall recover the incremental cost of compliance with the renewable energy standards by an itemized charge on the customer's bill for billing periods beginning not earlier than 90 days after the commission approves the electric provider's renewable energy plan under section 21 or 23 or determines under section 25 that the plan complies with this act. An electric provider shall not comply with the renewable energy standards to the extent that, as determined by the commission, recovery of the incremental cost of compliance will have a retail rate impact that exceeds any of the following:
 - (a) \$3.00 per month per residential customer meter.
 - (b) \$16.58 per month per commercial secondary customer meter.
 - (c) \$187.50 per month per commercial primary or industrial customer meter.
- (3) The retail rate impact limits of subsection (2) apply only to the incremental costs of compliance and do not apply to costs approved for recovery by the commission other than as provided in this act.

- (4) The incremental cost of compliance shall be calculated for a 20-year period beginning with approval of the renewable energy plan and shall be recovered on a levelized basis.
- (5) In its billing statements for a residential customer, each provider shall report to the residential customer all of the following in a format consistent with other information on the customer bill:
 - (a) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the renewable energy program requirements of this act. In the first bill issued after the close of the previous year, an electric provider shall notify each residential customer that the customer may be entitled to an income tax credit to offset some of the annual amounts collected for the renewable energy program.
 - (b) An itemized monthly charge, expressed in dollars and cents, collected from the customer for implementing the energy optimization program requirements of this act.
 - (c) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the reductions in the monthly energy bill produced by the energy optimization program under this act.
 - (d) An estimated monthly savings, expressed in dollars and cents, for that customer to reflect the long-term, life-cycle, levelized costs of building and operating new conventional coal-fired electric generating power plants avoided under this act as determined by the commission.
 - (e) The website address at which the commission's annual report under section 51 is posted.
- (6) For the first year of the programs under this part, the values reported under subsection (5) shall be estimates by the commission. The values in following years shall be based on the provider's actual customer experiences. If the provider is unable to provide customer-specific information under subsection (5)(b) or (c), it shall instead specify the state average itemized charge or savings, as applicable, for residential customers. The provider shall make this calculation based on a method approved by the commission.
- (7) In determining long-term, life-cycle, levelized costs of building and operating and acquiring nonrenewable electric generating capacity and energy for the purpose of subsection (5)(d), the commission shall consider historic and predicted costs of financing, construction, operation, maintenance, fuel supplies, environmental protection, and other appropriate elements of energy production. For purposes of this comparison, the capacity of avoided new conventional coal-fired electric generating facilities shall be expressed in megawatts and avoided new conventional coal-fired electricity generation shall be expressed in megawatt hours. Avoided costs shall be measured in cents per kilowatt hour.