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March 5, 2010

VIA HAND DELIVERY

Ms. Renne C. Vance, Chief Clerk
North Carolina Utilities Commission
430 N. Salisbury Street
5th Floor – Clerks Office
4325 Mail Service Center
Raleigh, NC 27699-4325

Re: NCUC Docket E-100, Sub 113

Dear Ms. Vance:

E-100, Sub 121

FILED
MAR 05 2010
Clerk's Office
N.C. Utilities Commission
OFFICIAL COPY

We are legal counsel to ElectriCities of North Carolina, Inc. Enclosed for filing in the above-referenced docket are an original and thirty (30) copies of the Supplemental Comments of ElectriCities in Response to the Commission's Order Proposing Rules and Requesting Comments Issued January 27, 2010.

Also enclosed is an additional copy of the document to be stamped as "filed" and returned to me via my courier.

Thank you for your assistance in this matter.

Very truly yours,

POYNER SPRUILL LLP

W. Mark Griffith
W. Mark Griffith

WMG:dll
Enclosures

cc: Parties of Record

*Carr
AG
NCCM
Bennin
Wibby
Watson
Hoover*

*Wite
Hilburn
Jones
Sessions
Ericson
Grober*

*2 Pseco
3 PS legal
3 PS acctg
4 Pselect.*

DOCKET NO. E-100, SUB 113

E-100, Sub 121

FILED
MAR 05 2010
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In the Matter of
Rulemaking Proceeding to Implement
Session Law 2007-397

**SUPPLEMENTAL COMMENTS OF
ELECTRICITIES
IN RESPONSE TO THE COMMISSION'S
ORDER PROPOSING RULES AND
REQUESTING COMMENTS ISSUED
JANUARY 27, 2010**

1. ElectriCities proposes that subsection (4) of proposed Commission Rule R8-67(h) be modified, as follows, to allow municipalities and electric membership corporations to elect to have their reporting and record maintenance obligations therein performed by their agents:

- (4) Each electric power supplier that has registered renewable energy facilities and new renewable energy facilities interconnected with its electric distribution system, and that routinely reads the electric generation production meters for those facilities, shall provide, at least monthly, the facilities' production data to the REC tracking system. Such electric power supplier shall retain documentation verifying the production data for audit by the Public Staff. Municipalities and electric membership corporations may elect to have the facilities' production data reported and/or retained by a third party. *(Also contains suggested modifications to this subsection proposed by ElectriCities in its Initial Comments.)*

The Commission, by its Order dated August 27, 2008, waived the obligations of the municipal members of North Carolina Municipal Power Agency Number 1 or North Carolina Eastern Municipal Power Agency (each a "Power Agency," and collectively, the "Power Agencies") to file individual REPS Compliance Plans and Reports and allowed the Power Agencies to file consolidated REPS Compliance Plans and Reports on behalf of their respective members. As previously reported to the Commission, the Power Agencies have entered into agreements with their municipal members to develop, assist in the development of, and coordinate their members' REPS compliance reporting obligations. Therefore, ElectriCities proposes that subsection (4) be amended to allow the municipalities' agents to report and maintain the production data information described in subsection (4) of proposed Commission Rule R8-67(h). A requirement that the Power Agencies' municipal members must establish their own individual accounts in NC-RETS, individually report such production data information, and individually maintain records of such production data information, creates unnecessary and burdensome

administrative duties for the municipal members that are duplicative of duties that the Power Agencies have agreed to undertake on their behalf.

2. ElectriCities also proposes that the last sentence of subsection (1) of proposed Commission Rule R8-67(h) be modified, as follows, to be consistent with the Commission's holding described in Section 1, above, that the Power Agencies may file consolidated REPS Compliance Plans and Reports on behalf of their respective members:

- (1) Each electric power supplier shall participate in the REC tracking system established by the Commission, and shall, contemporaneously with the filing of its REPS Compliance Report, provide the same REPS compliance data to the tracking system (consistent with the tracking system's requirements) as is provided in the REPS Compliance Report, which data may be audited by the Public Staff and the Commission to verify REPS compliance. Municipalities and electric membership corporations may elect to have their compliance data reported by a third party, and to have their compliance data consolidated with the compliance data of other municipalities or electric membership corporations, as applicable. (Also contains suggested modifications to this subsection proposed by ElectriCities in its Initial Comments.)

3. For the same reasons set forth in Section 1, above, ElectriCities also proposes that subsection (9) of proposed Commission Rule R8-67(h) be modified, as follows, to allow municipalities and electric membership corporations to elect to have their forecasted and verified energy savings from their energy efficiency and/or demand side management programs be reported to NC-RETS by their agents and to have their reported savings consolidated with the reported savings of other municipalities or electric membership corporations, as applicable:

- (9) Each electric power supplier that complies with REPS by implementing energy efficiency and/or demand side management programs shall use the REC tracking system to track the forecasted and verified energy savings of those programs. Municipalities and electric membership corporations may elect to have their forecasted and verified energy savings from their energy efficiency and/or demand side management programs reported to the REC tracking system by a third party, and to have their reported savings consolidated with the reported savings from other municipalities or electric membership corporations, as applicable. (Also contains

suggested modifications to this subsection proposed by ElectriCities in its Initial Comments.)

4. ElectriCities further proposes that subsections a. and b. of proposed Commission Rule R8-67(h)(10) be amended as follows to confirm that the “transaction fees” set forth therein will not apply to electric power suppliers:

- (10) Each participant in the REC tracking system established by the Commission shall pay the REC tracking system administrator for REC tracking system services according to the following fee schedule:
 - a. \$0.01 for each REC exported by a participant other than an electric power supplier to an account residing in a different REC tracking system.
 - b. \$0.01 for each REC retired by a participant other than an electric power supplier for reasons other than compliance with North Carolina’s REPS.

Since subsection d. of proposed Commission Rule R8-67(h)(10) makes all electric power suppliers responsible for all of the costs of NC-RETS, the payment of any additional fees by an electric power supplier per subsections a. and b. would be unnecessary.

5. Finally, ElectriCities repeats the request made in its Initial Comments and respectfully requests that the Commission extend the time for filing comments on proposed Commission Rule R8-67(h) until the NC-RETS Stakeholder Group and the Commission Staff have completed discussions with APX, Inc. (“APX”) concerning APX’s suggestions for the structure and operation of NC-RETS. APX’s suggestions must be considered in light of the functions of NC-RETS desired and/or intended by the Commission, the Public Staff, the Commission Staff, the NC-RETS Stakeholder Group, and other interested parties (“Interested Parties”). Many issues, such as the reporting of energy savings from energy efficiency and demand side management programs implemented by the electric power suppliers, must still be discussed with APX, and definitive decisions cannot be made until such discussions are

completed. Accordingly, continued review of proposed Commission Rule R8-67(h) is required in light of such discussions and the conclusions reached as a result thereof.

WHEREFORE, Electricities respectfully requests that the Commission modify proposed Commission Rule R8-67(h) as set forth above, in addition to those modifications submitted in its Initial Comments, which cumulative proposed modifications are set forth in Attachment A hereto, and, as requested herein and in the Initial Comments, extend the comment period concerning proposed Commission Rule R8-67(h) until the Interested Parties' discussions with APX concerning the structure and operation of NC-RETS have been completed.

Respectfully submitted this the 5th day of March, 2010.

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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing document has been served upon all parties of record by depositing copies thereof in the United States mail, first class postage prepaid.

This the 5th day of March, 2010.

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ATTACHMENT A

(Cumulative proposed modifications to proposed Commission Rule R8-67(h))

Commission Rule R8-67. Renewable Energy and Energy Efficiency Portfolio Standard (REPS)

(h) Renewable Energy Certificate Tracking System

- (1) Each electric power supplier shall participate in the REC tracking system established by the Commission, and shall, contemporaneously with the filing of its REPS Compliance Report, provide the same REPS -compliance data to the tracking system (consistent with the tracking system's requirements) as is provided in the REPS Compliance Report, which data may be audited by the Public Staff and the Commission to verify REPS compliance. Municipalities and electric membership corporations may elect to have their compliance data reported by a third party, and to have their compliance data consolidated with the compliance data of other municipalities or electric membership corporations, as applicable.
- (2) Each renewable energy facility and new renewable energy facility registered with the Commission pursuant to Rule R8-66 shall participate in thea REC tracking system and facilitate the transfer of production data to such tracking system for the creation, tracking, and retirement of RECs. On a monthly basis, registered mMulti-fuel renewable energy facilities shall calculate on a monthly basis the percentage of their energy output that is attributable to renewable energy resources-qualifying fuels and provide such percentage to the tracking system. Such facilities shall retain documentation verifying those calculations for audit by the Public Staff. ~~Multi-fuel facilities shall monthly provide the results of the calculations to the REC tracking system.~~ The REC tracking system shall create ~~appropriate RECs only for that portione qualifying portion of the multi-fuel facility's energy output produced from renewable energy resources.~~
- (3) Each balancing area operator shall provide, at least monthly, electric generation production data to the REC tracking system for renewable and new renewable energy facilities that are interconnected to the operator's electric transmission system. Such balancing area operator shall retain documentation verifying the production data for audit by the Public Staff.
- (4) Each electric power supplier that has registered renewable energy facilities and new renewable energy facilities interconnected with its electric distribution system, and that routinely reads the electric generation production meters for those facilities, shall provide, at least monthly, the facilities' production data to the REC tracking system. Such electric power supplier shall retain documentation verifying the production data for audit by the Public Staff. Municipalities and electric membership corporations may elect to have the facilities' production data reported and/or retained by a third party.

- (5) A renewable energy facility or new renewable energy facility that produces thermal energy that qualifies for RECs shall self-report to the REC tracking system the facility's qualifying thermal output at least once a year. Such facilities shall retain documentation verifying the production data for audit by the Public Staff.
- (6) A renewable energy facility or new renewable energy facility that self-reports its production data pursuant to ~~Commission~~ Rule R8-67(g)(3) shall self-report its output to the REC tracking system at least once a year. Such facilities shall retain documentation verifying the production data for audit by the Public Staff.
- (7) The owner of an inverter-based solar photovoltaic system with a nameplate capacity of 10 kW or less may estimate its output using generally accepted analytical tools pursuant to ~~Commission~~ Rule R8-67(g)(2). Such a facility shall self-report its output to the REC tracking system at least once a year. Such facilities shall retain documentation verifying their production data for audit by the Public Staff.
- (8) All energy production and fuel data provided to the tracking system, including underlying calculations and estimates, shall be retained by the facility's owner and made available to the Public Staff for audit for at least the ten (10) years immediately following the provision of such data to the tracking system.
- (9) Each electric power supplier that complies with REPS by implementing energy efficiency and/or demand side management programs shall use the REC tracking system to track the forecasted and verified energy savings of those programs. Municipalities and electric membership corporations may elect to have their forecasted and verified energy savings from their energy efficiency and/or demand side management programs reported to the REC tracking system by a third party, and to have their reported savings consolidated with the reported savings of other municipalities or electric membership corporations, as applicable.
- (10) Each participant in the REC tracking system established by the Commission shall pay the REC tracking system administrator for REC tracking system services according to the following fee schedule:
 - a. \$0.01 for each REC exported by a participant other than an electric power supplier to an account residing in a different REC tracking system.
 - b. \$0.01 for each REC retired by a participant other than an electric power supplier for reasons other than compliance with North Carolina's REPS.
 - c. All other Commission-approved costs of developing and operating the REC tracking system shall be allocated among all electric power suppliers in proportion to based-upon their respective share of relative-megawatt-hours of retail electricity sales in North Carolina in the previous calendar year.

- d. All costs paid by an electric power supplier for REC tracking system services shall be deemed to be incremental costs pursuant to G.S. 62-133.8(h)(1).