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Clerk's Office
N.C. Utilities Commission

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-100, SUB 113
DOCKET NO. E-100, SUB 121

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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| DOCKET NO. E-100, SUB 113 |) | |
| |) | |
| In the Matter of |) | |
| Rulemaking Proceeding to Implement |) | |
| Session Law 2007-397 |) | |
| |) | |
| And |) | COMMENTS OF |
| |) | THE PUBLIC STAFF |
| DOCKET NO. E-100, SUB 121 |) | |
| |) | |
| In the Matter of |) | |
| Implementing a Tracking System for |) | |
| Renewable Energy Certificates Pursuant |) | |
| to Session Law 2007-397 |) | |

NOW COMES THE PUBLIC STAFF – North Carolina Utilities Commission, by and through its Executive Director, Robert P. Gruber, and pursuant to the Commission's Orders of August 3, 2010, August 11, 2010, and September 20, 2010, respectfully submits its initial comments on the Commission's proposed revised Rules R8-64 through 69, and the NC-RETS Interim Operating Procedures issued July 1, 2010.

In its August 3, 2010, Order, the Commission invited comments on its preliminary decisions regarding the parties' proposed changes to Rules R8-64 through R8-69 and its proposed additional amendments to those rules as set forth in the Order. The Commission also invited comments on the NC-RETS Interim Operating Procedures adopted by Order issued July 1, 2010, in Docket No. E-100, Sub 121. The Commission specifically requested comments regarding any conflicts or inconsistencies between the NC-RETS Interim Procedures and the revised Rules. The Public Staff has reviewed the August 3rd Order, the proposed modifications to Rules R8-64 through R-69 attached as Appendix A, and the NC-RETS Operating Procedures and offers the following comments. These comments address only those issues as to which the Public Staff proposes further modification or clarification or wishes to offer observations not expressed in its previous comments.

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Comments on Amendments to Rules R8-64 and R8-65

Issue 2: CPCN And Report Of Proposed Construction Filings To Include The Owner's Plan For RECs

The Commission amended Rule R8-64(b)(1) to require a qualifying facility (QF) applicant for a CPCN and, by reference in Rule R8-65(a), an owner of a facility that is exempt from certification and files a report of proposed construction, to provide with its application or report its general plan for the disposition of RECs or other environmental attributes if the plan changes materially after the report of proposed construction is filed. Rule R8-64(d)(3) provides that "all certificate holders must advise both the Commission and the utility involved of . . . any significant changes in the information set forth in subsection (b)(1) of this Rule" There is no comparable provision in Rule R8-65, however, and the Public Staff believes that the owner of an exempt facility should also be required to update the plan or otherwise inform the Commission of any material changes to its plan for disposition of RECs or other environmental attributes. Accordingly, the Public Staff recommends that Rule R8-65(a)(1) be amended as follows:

- (a) All persons exempt from certification under G.S. 62-110.1(g) shall file with the Commission a report of the proposed construction of an electric generating facility before construction of the facility. The report of proposed construction shall include the information prescribed in subsection (b)(1) of Rule R8-64 and shall be signed and verified by the owner of the electric generating facility or by an individual duly authorized to act on behalf of the owner for the purpose of the filing. Both before and after construction is completed the owner of the electric generating facility shall update or otherwise inform the Commission of any material changes to its general plan for the disposition of renewable energy certificates or other environment attributes.

Comments on Amendments to Rule R8-66

Issue 7: Proposal To Exempt Small Generators And Those Participating In Utility Programs From Registering With The Commission.

This proposal, made by the North Carolina Sustainable Energy Association (NCSEA), was rejected by the Commission "at this time" for lack of comments explaining the rationale behind the proposal. The Commission did, however, indicate that it would continue to solicit input from the parties in this proceeding and from the NC-RETS Stakeholder Group as to how the rules might be changed to accommodate small generators or those participating in utility programs.

The issue of whether small generators participating in utility programs should be subject to certain requirements of Rule R8-66 is currently pending before the Commission in connection with the request of Progress Energy Carolinas, Inc. (PEC), in

Docket No. E-2, Sub 979, for approval of its Residential SunSense Solar Rebate Rider. In that docket, PEC has requested waivers of provisions of Rule R8-66 with regard to the registration and reporting requirements for participants receiving service under the Rider. The Public Staff supports appropriate waivers or rule changes to address circumstances of this nature.

Issue 12: Owners Of Renewable Energy Facilities To Include Information Regarding Metering And REC Tracking System With Registration.

The Public Staff agrees with the amendment of Rule R8-66(b)(1) to include the requirements that the renewable energy facility provide the name of the entity that reads its energy production meter for REC issuance (subdivision (ix)) and that the facility identify the REC tracking system in which it participates or which it anticipates will be used for the purpose of REC issuance (subdivision (x)). The Public Staff also notes the importance of requiring the facility to advise the Commission once it has chosen, and begun actual participation in, a REC tracking system (other than NC-RETS), and to update the Commission any time the status of its tracking system participation changes. The Public Staff recommends that a new subsection (i) be added to impose this requirement as follows:

(i) The owner of a facility that is not participating in a REC tracking system at the time of registration shall notify the Commission once it has begun participating in a REC tracking system (other than NC-RETS) and shall update the Commission any time its status changes.

Issue 13: Application Form For Registering Renewable Energy Facilities

The Public Staff is in agreement with the registration form adopted by the Commission but has one small change to suggest. The Public Staff believes that the section of the form dealing with the requirement of a locational map should receive greater emphasis, however, perhaps using bold facing and underlining. It is the Public Staff's experience that failure to provide a locational map is a common omission and delays the registration process.

Issue 15: Whether Renewable Energy Facility Owners Must Provide Federal Form EIA-923

The Commission, upon the recommendation of several parties, amended Rule R8-66(b)(1) to specify the information required of new registrants under the rule rather than reference federal Form EIA-923. The Public Staff agrees with this change but recommends that Rule R8-66(b)(1) be further amended to include an additional requirement as follows:

(xi) The method used to determine the BTUs generated if the facility creates thermal RECs.

Issue 23: Revocation Of Registration Of Renewable Energy Facility

It is not clear from the discussion of this issue and the proposed amendment to Rule R8-66(f) that failure to recertify will automatically result in revocation of a renewable energy facility's registration. If that is the Commission's intent, the concerns expressed in the Public Staff's earlier comments are allayed. If it is not, then the Public Staff remains concerned about the lack of a centralized means of tracking facilities that fail to recertify and are in danger of revocation but for which revocation has not yet occurred.


Other Comments and Recommendations

The Public Staff is not aware of any conflicts or inconsistencies between the NC-RETS Interim Operating Procedures and revised Rules R8-64 through R8-69. Accordingly, the Public Staff has no further comments or recommendations to offer in response to the Commission's Order.

Therefore, the Public Staff requests the Commission to take the foregoing into consideration in its decision making in this matter.

Respectfully submitted this the 4th day of October, 2010.

PUBLIC STAFF
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Executive Director



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CERTIFICATE OF SERVICE

I certify that I have served a copy of the foregoing COMMENTS on all parties of record in this proceeding, or their attorneys of record, in according with NCUC Rule R-37, by United States mail, first class or better; by hand delivery; or by means of facsimile or electronic delivery upon agreement of the receiving party.

This the 4th day of October, 2010.


Antoinette R. Wike