



NCSEA

North Carolina Sustainable Energy Association

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February, 19 2010

VIA HAND DELIVERY

Ms. Renne C. Vance
Chief Clerk
The NC Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699-4325

RE: Docket No. E-100, Sub 121

Dear Ms. Vance:

Enclosed please find the original and thirty (30) copies of the North Carolina Sustainable Energy Association's comments in the above captioned docket. All parties of record have been served.

Thank you for your attention to this matter.

Very truly yours,


Kurt Olson

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N.C. Utilities Commission
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BEFORE THE STATE OF NORTH CAROLINA UTILITIES COMMISSION
RALEIGH, NC

DOCKET E-100, SUB 121
DOCKET E-100, SUB 113

FILED
FEB 19 2010
Clerk's Office
N.C. Utilities Commission

In the Matter of)	COMMENTS ON ORDER
Implementing a Tracking System for)	PROPOSING RULES AND
Renewable Energy Certificates Pursuant to)	REQUESTING COMMENTS
Session Law 2007-397)	BY THE NORTH CAROLINA
and)	SUSTAINABLE ENERGY
In the Matter of Rulemaking Proceeding to)	ASSOCIATION
Implement Session Law 2007-397)	

In accordance with the North Carolina Utility Commission's ("Commission's") January 27, 2010, Order in NCUC Docket No. E100, Sub 121, the North Carolina Sustainable Energy Association ("NCSEA") submits the following comments on the (a) proposed rules regarding participation in the new North Carolina RECs tracking system ("NC-RETS"), (b) costs of entering data into the tracking system, and (c) issues of transparency for the growth of the North Carolina renewables market as enabled by the tracking system.

BACKGROUND

Pursuant to NC Gen. Stat. §§ 62-30 and 62-31 and NCUC Rules 1-4(2) and 1-5, NCSEA petitioned the Commission in July 2008, to open a docket and commence all necessary formal proceedings to investigate, identify and evaluate the elements of an appropriate Renewable Energy Certificates Tracking System. At the same time, NCSEA submitted what it concluded were the appropriate elements and criteria of a tracking system designed to functionally facilitate compliance with a Renewable Energy Portfolio Standard ("REPS"). In response to NCSEA's filing, the Commission opened a new

tracking system docket on September 4, 2008, and established a process to gather input for *Implementing a Tracking System for RECs Pursuant to Session Law 2007-397*. See Docket E-100, Sub 121. Thereafter, the Commission facilitated stakeholder meetings to obtain stakeholder input into system requirements and on October 19, 2009 the Commission issued a Request for Proposals for the North Carolina Renewable Energy Tracking System (“NC-RETS”) with a December 15, 2009 deadline for vendor responses. The Commission’s staff proposed evaluative criteria, designated vendor selection committees and conducted a series of meetings. The workgroup effort culminated in vendor and pricing schedule recommendations to the Commission. The Commission selected a vendor on or about February 1, 2010.

COMMENTS

At the outset, NCSEA wishes to note that it generally agrees with the proposed rule and recognizes the hard work involved in setting up the NC-RETS and drafting these proposed rules. Moreover, NCSEA very much appreciates this opportunity to comment on the proposed rules. NCSEA’s comments are few and are suggestions designed to complement this good work.

1. The proposed rules use terms that are new and undefined. For example, the proposed rules refer to a “multi-fuel facility,” “qualified fuel” and a “qualifying portion” of a multi-fuel facility’s energy output. The term “balancing area operator” also is used without being defined as is the phrase “REPS compliance data.” Indeed, the scope of the phrase “REPS compliance data” would seem to be an unusually important part of the propose rule, yet it is not defined.¹

¹ To be sure, definitions of terms and phrases may be self-evident and a definition of “REPS compliance data,” for example, may be self-fulfilling in that a person supplying data must supply all of the data

It is undoubtedly the case that most parties using or accessing the NC-RETS will know what the terms and phrases used therein are intended to mean. Persons new to the sector or regulations, however, are unlikely to have the same depth of knowledge and understanding as an investor-owned utility or operator of a new renewable energy facility. Accordingly, NCSEA recommends that the Commission refrain from using new, undefined terms to the extent possible and instead use terms that have gained a defined meaning either by usage or by an actual definition in Chapter 8 of the Commission's rules and regulations.

2. Proposed Section (h)(4) is ambiguous as it is unclear whether the "renewable energy facilities" or "new renewable energy facilities" being referred to are those owned by the electric power supplier ("EPS"), independent entities or both. Given our understanding of rule's scope and intent, it seems clear that what is meant is both facilities owned by the EPS and facilities independent of the ESP. NCSEA submits that this should be made clear. Also, it is unclear what is meant by "routinely reads" the meters and NCSEA submits that this qualifier should be deleted so that if the ESP reads the meters, it should report the data. Of course, if there is some nuance that NCSEA is not aware of that makes using the word "routinely" relevant and important, then NCSEA would withdraw this comment.

3. Proposed Subsection (h)(10)c should be a stand-alone subsection since it does not specifically relate to payments by "all participants" (an undefined term) to the "REC

requested in the tracking system and thus that data becomes the "REPS compliance data." Nevertheless, it may be necessary to make that clear. This could be done, for example, by defining (even parenthetically) that "REPS compliance data are all data needed to completely and accurately respond to the information requested by NC-RETS system."

tracking system administrator” (another undefined term). NCSEA suggests the following language:

“(11) All Commission-approved costs of developing and operating the REC tracking system shall be allocated among all electric power suppliers based upon their relative megawatt-hours of electricity sales in North Carolina in the previous calendar year. *Each electric power supplier shall pay its share of such costs to the REC tracking system administrator on or before [date] of the following year.*”

4. The ten-year retention period in Rule R8-67(h)(8) seems onerous as it relates to “all energy production and fuel data provided to the tracking system, including underlying calculations and estimates”. However, given the exceptionally long REC banking period allowed by the rules, the ten-year retention period is most likely required for audit purposes.

5. NCSEA submits that the rules do not address three critical areas. (a) First, the rules do not address the stakeholder process that will need to remain active as the system is rolled out and beyond. The rules also do not address how inevitable system changes will be managed.

(b). Second, the rules fail to address administrative, operating and capital costs an interconnecting utility at the distribution level will incur or the same costs that the balancing area operator will incur at the transmission level. Under the proposed rules, these entities will be required to collect meter data and transfer that data into the tracking system. Clearly, the more sophisticated the equipment used for these purposes the less chance for error and the rules should address a minimum level of the equipment required. NCSEA proposes the requirements under proposed Rule R8-67(h) be considered an upgrade of metered data automation and therefore treated as a capital cost.

(c). Finally, the proposed rules do not address the public information aspects of the REC tracking system. As NC-RETS comes to fruition, the Commission and Public Staff will benefit from the bountiful information it provides about the status of REPS compliance and North Carolina renewable energy resources. However, with no contemplation of revealing the size of the residual market for RECs, latent demand for renewable energy will not exist, depriving the ratepayers of the lowest cost of renewable energy and the citizenry of job and tax revenue.

Respectfully submitted this the 19th day of February, 2010.

A handwritten signature in cursive script, reading "Kurt J. Olson", is written over a horizontal line.

Kurt J. Olson, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that all persons on the docket service list have been served true and accurate copies of the foregoing pleading or document and any attached exhibits by hand delivery, first class mail deposited in the U.S. mail, postage pre-paid, or by email transmission with the party's consent.

This the 19th day of February, 2010

A handwritten signature in cursive script, reading "Kurt J. Olson", written over a horizontal line.

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