



North Carolina Sustainable Energy Association

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Clerk's Office
N.C. Utilities Commission

April 15, 2009

Honorable Edward S. Finley, Jr.
Chairman
NC Utilities Commission
4325 Mail Service Center
Raleigh, NC 27699

Re: Docket No. E-100, Sub 121.

Dear Chairman Finley:

We are writing to express our concern with the on-going and seemingly inexplicable delay in Commission Docket No. E-100, Sub 121, the RECs Tracking System. This delay appears to be nearing the point that an acceptable and field tested electronic tracking system will not be in place sufficiently in advance of the first compliance years to be of full value to the market and all interested parties. All things being equal, without the benefits of a fully implemented electronic tracking system, an adequate market for renewable energy certificates ("RECs") is unlikely to be efficient. Moreover, absent a functioning RECs tracking system, entities with compliance obligations under North Carolina's Renewable Energy Portfolio Standard ("REPS") will have a more difficult time developing strategies and achieving compliance. Determining whether compliance has been achieved or whether good faith efforts were made in an attempt to achieve compliance will also be more difficult. Accordingly, given the central

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role of a tracking system in the development of a RECs market, compliance initiatives and overall success of the REPS, we request that the Commission determine the basis for the on-going delay in Docket E-100, Sub. 121, take necessary steps to counteract the delay and actively reinvigorate the process to assure that an acceptable tracking system will be in place in a timely manner.

Discussion. It is not hyperbole to say that a RECs tracking system is critical to the success of North Carolina's REPS. The benefits the General Assembly sought to achieve through the REPS (jobs, energy security, etc.) are in large part contingent upon growth in the use of renewable energy. That growth is dependent upon an efficient renewable energy market in which, among other things, RECs produced from private investment in renewable generation are sold to entities with compliance obligations. A robust renewable energy market will only develop if market information is available. A RECs tracking system facilitates the production and availability of the needed information.

As has been the case in other states with REPS obligations, a vigorous renewable energy market will develop only if adequate information is available to market participants.¹ RECs are a commodity, and like trading in any other commodity, an efficient RECs market will only develop if there exists adequate, timely, and accessible market information. While price is an element that will not be available in the tracking system and transactions (the actual buying and selling of RECs) will occur independently, the information compiled through the RECs tracking system will permit market participants to analyze supply and demand, identify suppliers and buyers and

¹ Alternatively, a renewable energy market will develop where there is a clearly articulated alternative compliance payment program or clearly articulated and significant penalties are assessed for non-compliance.

roughly estimate price. This inferred price of RECs will determine whether potential renewable energy generators decide to enter the market and whether they can get financing if they do.

For example, the utility compliance plans forecast future retail sales. From these forecasts the quantity of RECs needed for compliance can be determined.² The RECs tracking system will provide complementary information on the availability of uncommitted RECs per type and the source of those RECs. Any shortfall will be evident. From this information, utilities will be able to develop a compliance strategy, and identify sources to go to for RECs in addition to utility issued request for proposals. Potential renewable energy generators will be able to estimate how many RECs (per type) the market will support. In short, the data compiled by the RECs tracking system will facilitate transactions, promote investments and assist in overall market development and growth. The market data will provide an informed basis for setting prices.

Currently, it is very unlikely that even the most sophisticated participant in the NC renewable energy market has an accurate idea of even the most basic RECs market information, such as, the number of RECs that will be generated market-wide over any period of time, the source and type of the RECs, how many RECs have been committed through contracts, the likely demand for uncommitted RECs by technology type, and a general sense of price based on this and other information. This information is necessary

² The quantity of RECs needed to satisfy the compliance obligation based on prior years' retail sales will appear in the RECs tracking system starting in 2010 for the solar requirement and 2012 for the REPS general requirement.

for market development, can be supplied by an electronic RECs tracking system and is in the interest of all parties.³

The Commission also has identified the RECs tracking system as the cornerstone for achieving and determining compliance with the REPS Law. *See* Order Establishing Process for Defining REC Tracking System Requirements and Selecting a Provider, Docket No. E-100, Sub 121 at page 1 (“Order”) (a tracking system will be the main means for determining compliance). Entities with compliance requirements under the REPS Law and entities with the responsibility to assure those requirements are met will rely on the RECs tracking system to meet their respective obligations. Electric power suppliers will be able to determine their respective need for RECs (by type) on a timely basis and identify potential sources of those RECs. The Commission and Public Staff will have access to all information generated by the RECs tracking system and be in a position to determine if compliance is achieved or better determine, if an entity fails to achieve compliance, whether a good faith effort was made to achieve compliance.

With the clear linkage between a fully functioning RECs tracking system and the success of the REPS Law understood, the Commission has consistently stated that it would “immediately . . . identify an appropriate REC tracking system for North Carolina.” *Id.*⁴ The process for developing a RECs tracking system, however, apparently has bogged down with no signs of movement forward. The Order initiating the stakeholders’ process was issued on September 4, 2009. It was followed by several

³ A robust RECs market will allow persons from the smallest to the largest renewable energy generators to participate economically in North Carolina’s energy market with the potential to ultimately deliver to the rate payers least cost renewables.

⁴ In addition to the practical reasons for urgency in developing an electronic tracking system, G.S. 62-133.8(i)(7) requires the Commission to “[d]evelop procedures to track and account for renewable energy certificates, including ownership of renewable energy certificates that are from a customer owned renewable energy facility” N.C. Gen. Stat. § 62-133.8(i)(7).

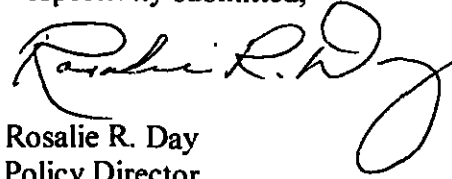
stakeholders' meetings and thereafter, by presentations from potential vendors. The comment period on the criteria for a REC tracking system closed on December 2, 2008, four months ago. Since then, there have been no further developments apparent to the public.

Development of a perfect market is based on several key assumptions, including perfect information, frictionless transactions and sufficient quantities of buyers and sellers, neither of whom can fix the price. If generators cannot know what price to expect, given that they enter the market anyway, and utilities do not predict accurately the RECs they need, at least a RECs tracking system provides information for a spot market. In far less than perfect market conditions, with essentially two buyers who can exercise market power, an established RECs tracking system is necessary to provide supply and demand information and remove regulatory uncertainty.

Conclusion. A well-functioning, comprehensive RECs tracking system is vital if the REPS Law is to be successful in the sense of meeting the General Assembly's stated objectives. The tracking system is the means by which compliance will be determined and essential to the development of the market for renewable energy that the REPS Law is designed to create. With compliance deadlines approaching and decisions required by the electric power suppliers and other active or potential market participants, the apparent delay in the development of a RECs tracking system for North Carolina (E-100, Sub 121) is alarming and, we submit, reaching a critical point. With this in mind, we respectfully request that the Commission determine the basis for the on-going delay and take the necessary steps to reinvigorate the development of a RECs tracking system to assure that an acceptable system will be in place in a timely manner.

Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rosalie R. Day". The signature is fluid and cursive, with a large loop at the end of the last name.

Rosalie R. Day
Policy Director

cc: Parties of Record
Elizabeth Brown
Kurt J. Olson