



MONTANA RENEWABLE ENERGY STANDARD SUMMARY

A. SUMMARY: Montana enacted a renewable energy standard (RES) in April 2005 as stand alone legislation (SB 415). The RES requires that five percent of electricity sales come from renewable energy in 2008 and 2009, increasing to 10 percent in years 2010-2014, and then to 15 percent in 2015 and thereafter. The legislation also requires that 50 megawatts (MW) of capacity come from community-owned renewable energy projects by 2010, increasing to 75 MW by 2015. The RES applies to public utilities and competitive electricity suppliers, but municipal utilities and rural electric cooperatives with more than 5,000 customers must develop and implement their own RES plan. Compliance with the RES is tracked and verified by a renewable energy credit (REC) trading program, administered by both the Western Renewable Energy Generation Information System (WREGIS), and the Midwest Renewable Energy Tracking System (MRETS). The RES also includes a cost cap that is set at or below the avoided costs for other electricity supplies in a competitive bidding process under the same contract terms, which could affect the amount of renewable energy development ultimately supported.

B. AUTHORIZING LEGISLATION/REGULATION

1. Part of Broader Energy Package? No.

2. Legislative/Regulatory Intent: The legislature finds that: “(1) Montana is blessed with an abundance of diverse renewable energy resources; (2) renewable energy production promotes sustainable rural economic development by creating new jobs and stimulating business and economic activity in local communities across Montana; (3) increased use of renewable energy will enhance Montana's energy self-sufficiency and independence; and (4) fuel diversity, economic, and environmental benefits from renewable energy production accrue to the public at large, and therefore all consumers and utilities should support expanded development of these resources to meet the state's electricity demand and stabilize electricity prices.”

3. Applicable Legislation/Regulation:

4/05 – [SB 415](#), Montana Renewable Power Production and Rural Economic Development Act

4/07 – [HB 681](#), Revising Provisions of the Montana Renewable Power Production and Rural Economic Development Act

Montana RES encoded as [MCA 69-3-2001 et seq.](#)

4. Date Enacted: April 28, 2005

5. Date Effective: April 28, 2005

C. RULEMAKING

1. **Rulemaking Authority:** Montana Public Service Commission (PSC)

2. **Rulemaking Completed to Date:**

3/06 – PSC Docket No. L-06.2.1-RUL, [Notice Requesting Comments](#) on Draft Renewable Energy Standard Rules

3/06 – PSC Docket No. L-06.2.1-RUL, [Notice of Public Hearing](#) on Proposed Amendment and Adoption

5/06 – PSC Docket No. L-06.2.1-RUL, [Notice of Adoption and Amendment](#) Implementing RES Rules

12/07 - PSC Docket No. L-06.2.1-RUL, [Notice of Adoption and Amendment](#) Revising RES Rules

Montana RES rules encoded as [Mont. Admin. R. 38.5.8301](#)

D. TARGETS AND TIMETABLES

1. **Overview:** The legislation requires that in 2008 and 2009, five percent of the electricity each public utility in Montana sells to consumers in Montana (*based on the previous year's electric power sales*) be generated from specified renewable resources. The percentage increases to 10 percent in years 2010 through 2014, and then to 15 percent in 2015, and remain fixed at 15 percent thereafter. There is a set-aside requirement that public utilities must purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity in 2010 through 2014. This requirement increases to 75 MW in 2015, and each year thereafter. The community-based capacity requirement shall be proportionally allocated to obligated utilities based on the percentage of retail electricity sales.

2. **Schedule:**

Year	Percent Renewable Energy Generation	Community-based project requirement
2008-2009	5 %	
2010-2014	10 %	50 MW
2015 and thereafter	15 %	75 MW

3. Treatment of Existing Capacity: Renewable energy facilities that commence commercial operation after January 1, 2005 shall be counted in determining compliance with the annual requirements.

4. Sunset Clause: None

E. DEFINITION AND CERTIFICATION OF ELIGIBLE RESOURCES AND TECHNOLOGIES

1. Eligible Resources:

- Wind
- Solar
- Geothermal
- Landfill or farm-based methane gas
- Gas produced during the treatment of wastewater
- Low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic
- Water power, in the case of a hydroelectric project that does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less
- Hydrogen derived from any eligible renewable energy resources for use in fuel cells
- In facilities that co-fire renewable energy with non-renewable fuels, only the fraction of electric generation coming from renewable resources will be RES eligible

2. Special Incentives: To promote in-state economic development and local ownership, public utilities must purchase the RECs and electricity output from at least 50 MW of nameplate capacity from community renewable energy projects by 2010, increasing to 75 MW in 2015. A community renewable energy project is defined as “an eligible renewable resource that is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 5 megawatts in total calculated nameplate capacity.” Local owners is defined in the legislation as “Montana residents or entities composed of Montana residents; Montana small businesses; Montana nonprofit organizations; Montana-based tribal councils; Montana political subdivisions or local governments; Montana-based cooperatives other than cooperative utilities;” or any combination of the above.

3. Exclusions: None specified

4. Treatment of Self Generation: Though not specified, appears to be eligible at least under the local ownership set-aside requirement.

5. Rules governing Location of Generating Facilities: Renewable resources eligible to

meet the RES must come from a facility either located within Montana or delivering electricity from another state into Montana.

- 6. Eligibility of Green Pricing Programs:** RECs sold through a voluntary green pricing program may not be applied against a public utility's obligation to meet the RES.

F. COVERED UTILITIES

- 1. Covered utilities:** The program applies to all public utilities regulated by the PSC, as well as competitive electric suppliers selling electricity to small customers (monthly demand less than 5,000 kilowatts). Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the annual requirements. This exemption is terminated upon modification after April 25, 2007, of the prices, terms, or conditions in a written contract.

Municipal and cooperative utilities are not required to meet the RES requirements. However, each municipal and cooperative utility that has 5,000 or more customers is responsible for implementing and enforcing a RES that recognizes the intent of the legislature to encourage new renewable energy production and rural economic development, while taking into consideration the effect of the standard on rates, reliability, and financial resources.

- 2. Share of state sales/capacity/delivered power covered:** ~ 58 percent of 2004 state electricity sales.
- 3. Apportionment of obligation among utilities:** Each public utility must incorporate the specified percentages of renewable energy into its annual sales. The community-based capacity requirement shall be proportionally allocated to obligated utilities based on the percentage of retail electricity sales.
- 4. Any exemptions by customer or other category?** None

G. COST PROVISIONS

- 1. Cost Cap for Retailers:** The legislative text states that: “(1) A public utility that has restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the eligible renewable resource has demonstrated through a competitive bidding process that the total cost of electricity from that eligible resource, including the associated cost of ancillary services necessary to manage the transmission grid and firm the resource, is less than or equal to bids for the equivalent quantity of power over the equivalent contract term from other electricity suppliers. (2) A public utility that has not restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the cost per kilowatt hour of the generation from the renewable resource does not exceed by more than 15% the cost of power from any other alternate generating resource

available to the public utility.”

In addition, PSC rules establish the procedure for which a public utility shall seek exemption via the cost cap. It states that: “If a public utility determines in its ongoing long-term planning process pursuant to ARM 38.5.8201 through 38.5.8227 or 38.5.2001 through 38.5.2012 that the cost of complying with the renewable resource standards will likely exceed the cost caps in 69-8-1007, MCA, the public utility must submit an application to the commission no later than 180 days prior to the beginning of the compliance year. The application must thoroughly document the public utility’s efforts to procure the required renewable energy credits, the calculated cost of compliance, work papers showing the most current calculation of the cost caps, an explanation of the methodology that underlies the calculation of the cost caps, and the amount by which the cost cap would be exceeded if the public utility were to comply with the renewable resource standards. Following notice of the application and an opportunity for a public hearing, the commission will issue an order authorizing or denying full or partial forbearance from the renewable resource standard for that compliance year.”

2. **Cost Cap for Consumers:** None specified
3. **Cost Recovery Mechanisms:** All contracts signed by a public utility to meet the RES are eligible for advanced approval by the PSC. Upon advanced approval by the PSC, these contracts are eligible for cost recovery from ratepayers, except that nothing in the RES limits the PSC's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.
4. **Supply Contract Requirements:** According to statute, a public utility shall “(a) conduct renewable energy solicitations under which it offers to purchase RECs, either with or without the associated electricity, under contracts of at least 10 years in duration; and (b) considers the importance of geographically diverse rural economic development when procuring renewable energy credits. A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the RES.” In addition, contracts for projects located in Montana require all contractors to give preference to the employment of Montana residents, if the Montana residents have substantially equal qualifications to those of nonresidents, and the contracts must also require contractors to pay the standard prevailing rate of wages for heavy construction.

All contracts signed by a public utility to meet the RES are eligible for advanced approval under procedures established by the PSC in rulemaking. Among other requirements, the public utility must demonstrate “that the price(s), term, and quantity associated with the power purchase agreement are reasonable and in the public interest.”

5. **Special Funds:** Under the Universal System Benefits Program, Montana levies a system benefits charge dedicated to supporting energy efficiency, renewable-energy resources, low-income energy assistance, and renewable-energy research and development. The allocation and distribution of the funds is completed by the utilities, according to implementation plans approved by the PSC.

Furthermore, any monies collected through the RES non-compliance penalty mechanism are to be deposited the Montana universal low-income energy assistance fund.

H. COMPLIANCE AND ENFORCEMENT

1. **Certification, tracking, and trading mechanism[s]:** Compliance with the RES is achieved through tradable RECs. The issue, tracking, trading, and retirement of RECs is administered by two separate regional systems. For public utilities operating within the geographic boundaries of the Western Electricity Coordinating Council, all RECs used to comply with the RES must be tracked and verified through WREGIS. For public utilities operating within the geographic boundaries of Midwest Reliability Organization, all RECs used to comply with the RES must be tracked and verified through MRETS. Each public utility may comply with the annual requirements by using electricity from an eligible renewable resource in which the associated RECs have not been sold separately; RECs created by an eligible renewable resource purchased separately from the associated electricity; or a combination of both.

A REC is a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the PSC and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

Ownership of RECs is not specified in the statute or regulations. However, it does appear that RECs belong to the renewable energy facility.

A public utility may not resell RECs and count those sold credits against the public utility's obligation to meet the annual RES requirements.

2. **Flexibility Mechanisms:** The RES legislation allows for credit banking. If a public utility exceeds the RES in any compliance year, the public utility may carry forward the amount by exceeded in either or both of the two subsequent compliance years. The carry forward may not be double-counted.

In addition, each public utility has a 3-month true up period following the end of each compliance year to purchase RECs for that compliance year.

3. **Penalties, Procedures, Powers, and Sanctions:** The PSC has the authority to enforce the RES, and its draft rules the PSC requires the public utilities to thoroughly document RES compliance, and consider the requirements as an integral part of the

planning and procurement process. If a public utility is unable to meet the RES in any compliance year, that public utility shall pay an administrative penalty, assessed by the PSC, of \$10 for each megawatt hour of RECs that the public utility failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the Montana universal low-income energy assistance fund.

4. **Treatment of emission allowance or reduction credits:** According to the RES legislation, a REC is “proof of 1 megawatt hour of electricity generated by an eligible renewable resource and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.”
5. **Escape Clauses:** Per the legislative text and the PSC rules, the PSC may provide a waiver from full RES compliance to a public utility that petitions the PSC and demonstrates that it has “undertaken all reasonable steps to procure RECs sufficient to comply with the applicable portfolio standards and could not achieve full compliance due to one or more of the following: (a) the unavailability of sufficient RECs; (b) a determination that integrating additional eligible renewable resources into the electrical grid would jeopardize the reliability of the electrical system despite reasonable efforts to mitigate reliability concerns; (c) full compliance would cause the public utility to exceed the cost caps...; and (d) other documented reasons beyond the public utility’s control.”

I. ADMINISTRATION

1. **Administering Entities, Duties, Powers, and Contact Information:** The Public Service Commission oversees implementation and compliance with the renewable energy standard. APX, Inc. is responsible for administering MRETS credit trading system, and the WREGIS Administrator is responsible for administering the WREGIS credit trading system.

Montana Public Service Commission
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APX Inc.
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WREGIS Administrator

615 Arapeen Drive, Suite 208
Salt Lake City, UT 84108
Phone: (888) 225-4213
Web site: <http://www.wregis.org>

J. REPORTING REQUIREMENTS and PROGRAM STATUS

- 1. Reporting Requirements for Retailers:** The legislation requires a public utility to submit annual reports, demonstrating compliance with the RES for each compliance year. The reports must be filed by March 1 of the year following the compliance year. In its draft RES regulations, the PSC states that a public utility must thoroughly document compliance through the utility's default supply resource procurement plan or integrated least cost resource plan.

In addition, public utilities are required to submit renewable energy procurement plans to the PSC on or before: 1/1/07 for the 2008-2009 requirements; 6/1/08 for the 2010-2014 requirements, and 6/1/13 for the 2015 requirement. The draft RES rules state that "public utilities must consider the requirements of this rule an integral part of the planning and procurement processes."

- 2. Reporting Requirements for Administering Entities:** None specified
- 3. Cost Information:** The first compliance year of the RES is not until 2008, so no actual cost data is available.