



## NEW MEXICO RENEWABLE PORTFOLIO STANDARD SUMMARY

**A. SUMMARY:** Originally adopted in December 2002 (Public Regulation Commission (PRC) Case No. 3619) and amended in March 2004 (SB 43), and again in March 2007 (SB 418), New Mexico's renewable portfolio standard (RPS) begins in 2005 with public utilities required to derive 5 percent of total retail sales from renewable energy, and increases gradually to 20 percent by 2020. Beginning in 2011, each public utility's renewable energy mix must be "fully diversified"; with at least 20 percent coming from wind resources, 20 percent from solar resources, 10 percent from other resources, and 1.5 percent from distributed generation resources (increasing to 3 percent by 2015). In addition to increasing and diversifying the targets, SB 418 also established a 10 percent by 2020 requirement for rural electric cooperatives. Compliance with the RPS is achieved through the acquisition and retirement of renewable energy certificates administered by the Western Renewable Energy Generation Information System (WREGIS). The PRC has established a "reasonable cost threshold" (2 percent of customers aggregated electric charges for public utilities and 1 percent for rural cooperatives), above which public utilities are exempt from the annual requirements. The PRC maintains normal regulatory oversight and enforcement over public utilities, and has legislative authority to enforce RPS compliance; but thus far has not developed rules for doing so.

### **B. AUTHORIZING LEGISLATION/REGULATION**

#### **1. Part of Broader Energy Package? No.**

**2. Legislative/Regulatory Intent:** From SB 43: "The generation of electricity through the use of renewable energy presents opportunities to promote energy self-sufficiency, preserve the state's natural resources and pursue an improved environment in New Mexico; the use of renewable energy by public utilities subject to commission oversight in accordance with the Renewable Energy Act can bring significant economic benefits to New Mexico."

#### **3. Applicable Legislation/Regulation:**

3/04 – [SB 43](#) "Renewable Energy Act"

3/07 – [SB 418](#) "Renewable Portfolio Standard"

8/07 – PRC revised rule based on SB 418 ([17.9.572 NMAC](#))

**4. Date Enacted:** SB 43 – March 4, 2004 (SB 418 – March 5, 2007)

**5. Date Effective:** SB 43 – January 14, 2005 (SB 418 – July 1, 2007)

**C. RULEMAKING**

**1. Rulemaking authority:** New Mexico Public Regulation Commission

**2. Rulemaking Completed to Date**

12/02 – PRC issues final RPS rule, Case No. 3619 ([17.9.573 NMAC](#))

12/04 - PRC issues revised rule based on SB 43 ([17.9.572 NMAC](#))

08/07 - PRC issues revised rule based on SB 418 ([17.9.572 NMAC](#))

**D. TARGETS AND TIMETABLES**

**1. Overview:** As of 2006, 5 percent of the electricity each public utility in New Mexico sells to New Mexico consumers must be generated from specified renewable resources. The percentage then increases to 20 percent of total retail sales by 2020, and remains fixed at 20 percent thereafter. In addition, beginning in 2011, public utilities must achieve a “fully diversified renewable energy portfolio” by ensuring that at least 20 percent of the requirement be met with wind resources, 20 percent with solar resources, 10 percent with other resources, and 1.5 percent with distributed generation resources. The distributed generation requirement increases to 3 percent in 2015. Rural electric cooperatives have to meet a 5 percent by 2015 RPS, increasing 1 percent per year to 10 percent by 2020, and are not subjected to the diversity requirements.

**2. Schedule:**

| Year                 | Public Utilities<br>(percent of total retail sales) | Set-aside Requirements for Public Utilities   | Rural Electric Cooperatives<br>(percent of total retail sales) |
|----------------------|---|---|--|
| 2006                 | 5%  |   |  |
| 2011                 | 10%   | 20% - Wind Resources<br>20% - Solar Resources<br>10% - Other Resources<br>1.5% - Dist. Generation |  |
| 2015                 | 15%   | 20% - Wind Resources<br>20% - Solar Resources<br>10% - Other Resources<br>3% - Dist. Generation   | 5 %  |
| 2020, and thereafter | 20%   | 20% - Wind Resources<br>20% - Solar Resources<br>10% - Other Resources<br>3% - Dist. Generation   | 10 %   |

**3. Treatment of Existing Capacity:** Renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted toward

compliance with the annual requirements. For rural electric cooperatives, renewable energy resources in their electric energy supply portfolio on January 1, 2008 shall be counted as eligible in meeting the annual requirements.

For both public utilities and rural electric cooperatives, hydropower generation must come from new (brought into service after July 1, 2007) facilities only.

**4. Sunset Clause:** None

**E. DEFINITION AND CERTIFICATION OF ELIGIBLE RESOURCES AND TECHNOLOGIES**

- 1. Eligible Resources:** Renewable energy means electric energy (1) generated by use of low- or zero-emissions generation technology with substantial long-term production potential; and (2) generated by use of renewable energy resources that may include:
  - (a) solar, wind, and geothermal resources;
  - (b) hydropower facilities brought into service after July 1, 2007;
  - (c) fuel cells that are not fossil fueled; and
  - (d) biomass resources, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass.
- 2. Special Incentives:** To promote a “fully diversified renewable energy portfolio”, public utilities must (beginning in 2011) ensure that at least 20 percent of the requirement is met with wind resources, 20 percent with solar resources, 10 percent with other resources, and 1.5 percent with distributed generation resources. The distributed generation requirement increases to 3 percent in 2015.

In addition, by June 1, 2008, the PRC shall initiate rules that would establish appropriate performance-based financial or other incentives to encourage public utilities to acquire renewable energy supplies exceeding the annual requirements.

- 3. Exclusions:** The requirements specifically exclude electricity generated by fossil or nuclear fuels.
- 4. Treatment of Self Generation:** Renewable energy generation from end-use customers is eligible to receive renewable energy certificates (RECs).
- 5. Rules governing Location of Generating Facilities:** Renewable energy generation must be contracted for delivery in New Mexico, or consumed or generated by an end-use customer of the public utility or rural cooperative in New Mexico, unless the PRC determines that there is an active regional market for trading renewable energy and RECs in any region in which the public utility or rural cooperative is located. Until such time, any public utility or rural cooperative may seek approval from the PRC to meet some or all of its annual requirements using individual RECs that represent energy generated by a renewable energy resource within a regional renewable energy

market or trading system in any region where the public utility or rural cooperative is located.

- 6. Eligibility of Green Pricing Programs:** Each public utility shall offer a voluntary renewable energy tariff, for those customers who want the option to purchase renewable energy, regardless of cost, based on availability. Generation sold under green pricing programs is in addition to the RPS requirements.

#### **E. COVERED UTILITIES**

- 1. Covered utilities:** The program applies to all retail suppliers under the control of the PRC, and rural electric cooperatives. The Texas-New Mexico Power Company is exempt from the RPS requirements until their all-requirements contract expires or is renegotiated. Municipal electric providers are exempt.
- 2. Share of state sales/capacity/delivered power covered:** ~ 88 percent of total 2006 electric sales
- 3. Apportionment of obligation among utilities:** Each retail electric supplier must incorporate the specified percentages of renewable energy into its annual sales.
- 4. Any exemptions by customer or other category?** None

#### **F. COST PROVISIONS**

- 1. Cost Cap for Retailers:** Public utilities and rural electric cooperatives should not be required to acquire energy generated from renewable energy resources that result in costs above a reasonable cost threshold determined by the PRC. On December 3, 2004, the PRC established a reasonable cost threshold for public utilities (Case No. 04-00253-UT). It is set at an overall customer rate increase of no more than one percent in 2006, and no more than an additional 0.2 percent per year until capped at two percent for each year beginning in 2011 and beyond. There is also a cap on the price of resources by type: \$0.049 per kWh for wind and hydro resources; \$0.06254 per kWh for biomass and geothermal resources; and \$0.15 per kWh for solar projects sized at 10 kilowatts and under, and \$0.10 per kWh for solar projects over 10 kilowatts in size.

As changing circumstances warrant, and after notice and hearing, the PRC may prospectively modify the reasonable cost threshold applicable to new contracts, but not the threshold applicable to existing contracts which have been previously approved by the PRC as part of a procurement plan to meet a public utility's annual requirements.

For a rural electric cooperative, SB 418 sets the reasonable cost threshold at one percent of its gross receipts from business transacted in New Mexico for the preceding calendar year.

**Cost Cap for Consumers:** Industrial consumers requiring large loads of electricity surpassing 10 million kilowatt-hours are protected from receiving charges over \$49,000 in 2006 and rising \$10,000 per year (\$99,000) until 2011. After January 1, 2012, the PRC may adjust the \$99,000 limit for inflation. In addition, for public utilities, the reasonable cost threshold is set at an overall customer rate increase of no more than one percent in 2006, and no more than an additional 0.2 percent per year until capped at two percent for each year beginning in 2011 and thereafter.

2. **Cost Recovery Mechanisms:** A public utility shall recover the reasonable costs of complying with the RPS through the rate making process. A public utility shall also recover its reasonable interconnection and transmission costs to deliver renewable energy to retail New Mexico customers. Costs that are consistent with PRC-approved procurement plans or transitional procurement plans are deemed to be reasonable. A public utility that is permitted to defer the recovery of renewable energy costs pursuant to PRC order may, through the ratemaking process, recover from customers that are not subject to the rate impact limitations of Subsection C of 17.9.572.10 NMAC the cumulative sum of those deferred amounts, plus a carrying charge on those amounts. For customers that are subject to the rate impact limitations of Subsection C of 17.9.572.10 NMAC, a public utility may, through the ratemaking process, recover from those customers the cumulative sum of those Subsection C of 17.9.572.10 NMAC limited deferred amounts, plus carrying charges on those amounts.
3. **Supply Contract Requirements:** None specified
4. **Special Funds:** Under SB 418, rural electric cooperatives have the option to establish a renewable energy and conservation fund. The fund may be supported by collecting a fee from customers of no more than one percent of a customer's bill (capped at \$75,000 for a single customer). Those rural electric cooperatives that establish a fund are also eligible to receive matching funds from the state equal to 50 percent of the amount collected each year.

## **G. COMPLIANCE AND ENFORCEMENT**

1. **Certification, tracking, and trading mechanism[s]:** Each public utility shall annually establish its compliance with the RPS through the filing of RECs with the PRC, including RECs that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a public utility is located. Beginning on January 1, 2008, RECs must be registered with the Western Renewable Energy Generation Information System (WREGIS).

A REC is defined as a certificate or other record that represents all the environmental attributes from one kilowatt-hour of electricity generation from a renewable energy resource. In addition, a REC shall provide a detailed description of source, producer, date of issue and quantity of kilowatt hours represented to enable the PRC to properly track and document RPS procurement. RECs may be traded, sold, or otherwise transferred from their owner to any interested party. Utilities may procure RECs from

a certified source in the event that it has not generated a sufficient percentage of renewable based electricity. RECs that are used once by a public utility to satisfy the RPS and are retired or that are traded, sold or otherwise transferred by the public utility shall not be further used by the public utility.

RECs are owned by the generator of the renewable energy unless (a) the RECs are transferred to the purchaser of the energy through specific agreement with the generator; (b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the RECs are owned by the public utility purchaser of the renewable energy unless retained by the generator through specific agreement with the public utility purchaser of the energy; or (c) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the purchaser of the energy owns the RECs for the contract term.

Public utilities are responsible for demonstrating that a REC used for compliance with the RPS is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party.

RECs used to meet the distributed generation diversity requirement may not also be used to meet a resource-specific diversity requirement.

- 2. Flexibility Mechanisms:** The RPS allows for credit trading and credit banking, and provides credit multipliers for specific resources to allow utilities flexibility in meeting the standard. RECs maintain value for up to four years after date of issuance, and may be used to meet the standard at the utility's discretion. To promote portfolio diversity and to encourage the development of solar power, each kilowatt-hour of electricity generated by solar technology will count as three kilowatt-hours toward compliance with the renewable portfolio standard. Each kilowatt-hour generated from biomass, geothermal, landfill gas and fuel cell sources will count as two kilowatt-hours towards compliance with this rule.

Renewable energy procured or generated by a public utility to meet a federal RPS may be used to satisfy the annual requirements.

- 3. Penalties, Procedures, Powers, and Sanctions:** The PRC is responsible for developing a set of penalties for non-compliance. Thus far, the PRC has not, though it does maintain normal regulatory oversight and enforcement over public utilities.
- 4. Treatment of emission allowance or reduction credits:** Not explicitly specified in the PRC rules, but a REC appears to represent simply the unit of renewable energy generation.
- 5. Escape Clauses:** Retailers cannot be required to purchase eligible electricity at a price above the "reasonable cost threshold", as defined in regulations. However, when a retailer can once again generate or procure renewable energy at or below the reasonable cost threshold, it shall be required to add renewable energy resources to

meet the RPS applicable in the year when the renewable energy resources are being added.

In addition, public utilities shall not be required to provide a fully diversified renewable portfolio when doing so would conflict with the reasonable cost threshold or when full diversification is prevented by technical constraints or limitations. Technical constraints or limitations include, but are not limited to, transmission constraints, limitations on system integration, limited availability of particular renewable resources, and limitations on system reliability, but shall not include constraints or limitations that the public utility is capable of overcoming at reasonable cost or effort. Excusing the failure by a public utility to meet the requirement to provide a fully diversified renewable energy portfolio, each public utility must meet its overall renewable portfolio standard.

## **I. ADMINISTRATION**

### **1. Administering Entities, Duties, Powers, and Contact Information:**

New Mexico Public Regulation Commission  
1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, New Mexico 87504-1269  
Phone: 505-827-6940  
Web site: <http://www.nmprc.state.nm.us/>

## **J. REPORTING REQUIREMENTS and PROGRAM STATUS**

### **1. Reporting Requirements for Retailers:** By September 1, 2007, and July 1 of each year thereafter until 2022, and thereafter as determined necessary by the PRC, each public utility must file with the PRC a report on its procurement and generation of renewable energy during the prior calendar year, and a procurement plan. The PRC shall approve or modify a public utility's procurement or transitional procurement plan within ninety days.

Rural electric cooperatives must file with the PRC a report on its purchases and generation of renewable energy during the preceding calendar year by March 1 of each year. The report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the annual requirements. In addition, a rural electric cooperative must report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year.

### **2. Reporting Requirements for Administering Entities:** The New Mexico Public Regulation Commission is obligated to provide an annual Summary Report. The contact is:

New Mexico Public Regulation Commission  
1120 Paseo de Peralta/P.O. Box 1269  
Santa Fe, New Mexico 87504-1269  
Phone: 505-827-6940

<http://www.nmprc.state.nm.us>

3. **Cost Information:** No comprehensive study on the actual costs of the RPS has been completed.