

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Beverly Jones Heydinger
David C. Boyd
Nancy Lange
J. Dennis O'Brien
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of Commission Consideration and Determination on Compliance with Renewable Energy Obligations and Renewable Energy Standards

ISSUE DATE: May 28, 2013

DOCKET NO. E-999/M-12-958
E-999/CI-03-869

In the Matter of Detailing Criteria and Standards for Measuring an Electric Utility's Good Faith Efforts in Meeting the Renewable Energy Objectives Under Minn. Stat. § 216B.1691

E-999/PR-11-189
E-999/PR-12-334

In the Matter of a Renewable Energy Certificate Retirement Report for Compliance Year 2010

ORDER FINDING UTILITIES IN COMPLIANCE WITH MINN. STAT. § 216B.1691 AND MODIFYING BIENNIAL REPORTING PROCEDURES

In the Matter of a Renewable Energy Certificate Retirement Report for Compliance Year 2011

PROCEDURAL HISTORY

I. The Renewable Energy Standards

Under Minn. Stat. § 216B.1691, all Minnesota investor-owned electric utilities, generation and transmission cooperatives, municipal power agencies, and power districts (hereinafter, "utilities") must generate or procure specific percentages of their total retail sales using eligible renewable technologies by specific year-end deadlines. These requirements, called the Renewable Energy Standards, are different for nuclear and non-nuclear utilities and are set forth below:¹

Non-Nuclear Utilities

Nuclear Utility

2012 12%
2016 17%
2020 20%
2025 25%

2010 15%
2012 18%
2016 25%
2020 30%

¹ The state has only one nuclear utility, Xcel Energy.

The statute directs and authorizes the Commission to oversee utilities' compliance with the Renewable Energy Standards. It requires utilities to report on compliance efforts at least every two years and directs the Commission to regularly investigate each utility's compliance. It authorizes the Commission to enter orders requiring specific performance by non-complying utilities and to assess financial penalties if those orders are not obeyed.

The statute also directs the Commission to establish a program and protocols for trading renewable energy credits and to require all utilities to participate.² The Commission has implemented this directive by requiring utilities to use the Midwest Renewable Energy Tracking System (M-RETS) to record and track – in the form of renewable energy credits issued by M-RETS – all renewable generation and purchased power supplies they propose to count toward compliance with the Renewable Energy Standards.³

Finally, the statute grants the Commission the authority to modify or delay any utility obligation under the Renewable Energy Standards if it is in the public interest to do so.⁴

II. This Proceeding

Implementing the Renewable Energy Standards – and the Renewable Energy Objectives, which preceded them – has been a complex, iterative process. The Commission has issued a series of orders on implementation issues, detailing the information utilities must provide in their biennial compliance filings and the criteria and standards it will use to determine compliance with the statute. Each time, the Commission has first requested comments from utilities and other stakeholders to help develop the issues as fully as possible.

On September 12, 2012, the Commission again issued a notice requesting comments on implementation issues, asking specifically whether any aspect of the biennial reporting process – including filing deadlines and content requirements for the biennial reports – should be streamlined or modified. The notice set a comment deadline of October 22, to coincide with the date by which the Commission was requesting that utilities file their biennial compliance filings.

III. Biennial Compliance Filings; Comments on Compliance Process

All utilities subject to the Renewable Energy Standards duly filed their biennial compliance reports. Those utilities are listed below.

- Basin Electric Power Cooperative
- Central Minnesota Municipal Power Agency
- Dairyland Power Cooperative
- East River Electric Power Cooperative, Inc.

² Minn. Stat. § 216B.1691, subd. 4.

³ See orders dated October 9, 2007, December 18, 2007, December 3, 2008, and February 3, 2010, in *In the Matter of a Commission Investigation into a Multi-State Tracking and Trading System for Renewable Energy Credits*, Docket No. E-999/CI-04-1616.

⁴ Minn. Stat. § 216B.1691, subd. 2b.

- Great River Energy
- Heartland Consumers Power District
- Interstate Power and Light Company
- L & O Power Cooperative
- Minnesota Municipal Power Agency
- Minnesota Power
- Minnkota Power Cooperative, Inc.
- Missouri River Energy Services
- Northern States Power Company d/b/a Xcel Energy
- Northwestern Wisconsin Electric Company
- Otter Tail Power Company
- Southern Minnesota Municipal Power Agency

The following utilities and stakeholders filed comments in response to the Commission’s request for comments on the biennial compliance reporting process:

- Dairyland Power Cooperative
- East River Electric Power Cooperative, Inc.
- Interstate Power and Light Company
- Minnesota Chamber of Commerce and the Minnesota Large Industrial Group, filing jointly as “Joint Business Intervenors”
- Minnesota Department of Commerce
- Minnesota Municipal Power Agency
- Minnesota Power
- Missouri River Energy Services
- Northern States Power Company d/b/a Xcel Energy
- Southern Minnesota Municipal Power Agency

On May 9, 2013, the utilities’ biennial compliance reports and stakeholders’ comments on the biennial reporting process came before the Commission.

FINDINGS AND CONCLUSIONS

I. Biennial Compliance Filings

All sixteen utilities subject to the Minnesota Renewable Energy Standards have filed the biennial reports required under Minn. Stat. § 216B.1691, subd. 3 (a). These reports included all information required under the Renewable Energy Standard statute and Commission orders implementing the statute.

These reports demonstrate that all utilities have met the seven percent Renewable Energy Objective set forth at Minn. Stat. § 216B.1691, subd. 2, and that all utilities appear to have reasonable plans in place to meet the Renewable Energy Standards applicable for the 2012-2014 reporting period. The utilities are therefore found to be in compliance with their Renewable Energy Standard obligations.

The finding on utilities' plans for future compliance is a general finding that the plans reasonably demonstrate planned compliance; it does not imply that generation from specific projects qualifies for credit under the Renewable Energy Standards. Individual projects must still qualify as eligible energy technologies through normal regulatory review.

II. Biennial Compliance Reporting Process

A. Parties' Recommendations

Eight utilities, the Joint Business Intervenors, and the Department of Commerce filed comments in response to the request for comments on streamlining or otherwise modifying the biennial compliance reporting process.

The utility commenters recommended reviewing all reporting requirements for obsolescence and redundancy, developing a uniform set of questions for all utilities, and filing biennial compliance reports on the same date as their annual reports on retirements of renewable energy credits.

The Joint Business Intervenors filed comments urging the Commission to require utilities to include in their biennial compliance reports detailed analyses of the costs of meeting the Renewable Energy Standard, as measured by specific computer models and cost methodologies. These intervenors filed the same comments in docket E-999/CI-11-852, *In the Matter of Utility Renewable Energy Cost Impact Reports Required by Minnesota Statutes Section 216B.1691, Subd. 2e*.

The Department – which is required by statute to compile the information in the utilities' biennial compliance filings, report to the Legislature on utilities' progress in increasing renewable energy supplies, and make recommendations for regulatory or legislative action⁵ – filed comments recommending streamlining and consolidating filing requirements and moving filing dates to better match utilities' annual and biennial reporting obligations. In brief, the agency recommended the following:

- Eliminating – as superseded by the Midwest Renewable Energy Tracking System – the compliance filing requirements set in the first order in these dockets, *First Order Detailing Criteria and Standards for Determining Compliance with Minn. Stat. § 216B.1691 and Requiring Customer Notification by Certain Cooperative, Municipal, and Investor-Owned Distribution Utilities*, dated June 1, 2004 in docket E-999/CI-03-869.
- Eliminating, rephrasing, and supplementing assorted compliance filing requirements from the second set of filing requirements set in these dockets, *Order Setting Filing Requirements and Clarifying Procedures*, dated November 12, 2008 in docket E-999/CI-03-869.

Retaining – as essential to tracking renewable energy supplies through the Midwest Renewable Energy Tracking System – the compliance filing requirements from the third set of filing requirements set in these dockets, *Third Order Detailing Criteria and Standards for Determining Compliance with Minn. Stat. § 216B.1691 and Setting Procedures for Retiring Renewable Energy Credits*, dated December 3, 2008 in dockets E-999/CI-03-869 and E-999/CI-04-1616.

⁵ Minn. Stat. § 216B.1691, subd. 3.

The Department's recommendations were unopposed. They did not conflict with those of any other party, and they incorporated most of the utilities' recommendations.

B. Commission Action

The Commission concurs with the Department and the utilities that the biennial compliance reporting requirements can and should be streamlined.

First, the Commission's and the Department's experience in monitoring utilities' compliance with the Renewable Energy Objectives and Standards over the past several years has helped clarify which statutory obligations require detailed compliance information and documentation and which do not.

Second, the reporting, verification, accounting, and tracking functions of the Midwest Renewable Energy Tracking System (M-RETS), which all Minnesota utilities are required by statute to use, have rendered many of the original biennial filing requirements superfluous. Tracking renewable energy supplies through their associated M-RETS renewable energy credits is generally as accurate as, and more efficient than, tracking those supplies through the narrative explanations required of utilities in the past. And the Commission and the Department have the authority to require any additional explanation, analysis, or documentation that might be necessary or helpful.

The Commission will therefore adopt, with minor modifications, the Department's recommendations to streamline, consolidate, and otherwise modify the biennial compliance reporting requirements. The new biennial compliance reporting requirements are set forth in the ordering paragraphs below.

Those requirements continue to authorize Northwestern Wisconsin Electric Company to file, as its biennial compliance report, the renewable energy compliance information it provides to the Wisconsin Public Service Commission, since the company has fewer than 100 Minnesota customers and is subject to Wisconsin's renewable energy requirements. See ordering paragraph 5.B., which duplicates the company-specific authorization first granted in the November 12, 2008 *Order Setting Filing Requirements and Clarifying Procedures* in docket E-999/CI-03-869.

Finally, the Commission will not at this time adopt the filing requirements on cost calculations recommended by the Joint Business Intervenors. The timing of the recommendation did not permit its analysis by other stakeholders, nor is it clear that this case is the most effective vehicle for development of these issues.

ORDER

1. Dairyland Power Cooperative, Interstate Power and Light, Missouri River Energy Services, East River Electric Power Cooperative Inc, Heartland Consumers Power District, Central Minnesota Municipal Power Agency, Otter Tail Power Company, Southern Minnesota Municipal Power Agency, Xcel Energy, Basin Electric Power Cooperative, L& O Power Cooperative, Great River Energy, Northwestern Wisconsin Electric, Minnkota Power Cooperative, Minnesota Power, and Minnesota Municipal Power Agency have complied with

- the requirement of Minn. Stat. §216B.1691 subd. 3(a) by reporting on their plans, activities, and progress with regard to REO-RES.
2. The 16 utilities enumerated above and subject to Minn. Stat. § 216B.1691 have complied with the 2010 and 2011 objectives of seven percent.
 3. The 16 utilities subject to Minn. Stat. §216B.1691 have submitted what appear to be reasonable plans to meet the renewable energy standards for 2012-2014. This finding does not imply that particular generation projects are counted under the REO- RES statute, but is a general finding that the plans filed by the companies demonstrate planned compliance, subject to confirmation of individual project eligibility through normal regulatory processes.
 4. The Commission adopts the Department’s February 25, 2013 recommendation to streamline reporting requirements, modified to require utilities to report
 - A. the year through which the utility can maintain compliance with its current renewable portfolio, and
 - B. a chart showing projected compliance for the current year plus three (3) upcoming years, with projected Minnesota sales in MWh, the Renewable Energy Standard (RES) percentages for those years, projected RES needs, projected RES-eligible resources in MWh (or RECs), and projected surplus or deficit in MWh, and
 - C. any unbundled renewable energy credit (REC) sales or purchases for the two preceding calendar years, including the number of RECs sold or purchased and the price paid for the RECs.
 5. The biennial compliance reporting requirements are set forth below:
 - A. The Commission clarifies that each utility subject to Minn. Stat. §216B.1691 must file its own individual biennial compliance report.
 - B. Northwestern Wisconsin Electric Company shall comply with the reporting requirements of Minn. Stat. §216B.1691. Northwestern Wisconsin Electric Company shall file the information it has supplied to the Minnesota Office of Energy Security under the time lines set forth herein and shall file its biennial compliance filing under the time lines set forth herein. At its discretion, the company may file the renewable energy compliance information it has provided to the Wisconsin Public Service Commission as the biennial compliance report required under this order.
 - C. Beginning with the next biennial reporting cycle, utilities shall file their biennial compliance reports at the same time they file their biennial reports with the Minnesota Office of Energy Security, but in no case later than June 1 in even numbered years. These reports shall be filed as miscellaneous tariff filings under the Commission’s rules of practice and procedure.
 - D. Biennial compliance reports shall be clearly labeled, and preferably labeled “REO-RES Compliance Report.”
 - E. Biennial compliance reports shall contain at least all of the information set forth below:

1. total Minnesota retail sales in megawatt hours for each year relevant to compliance;
2. an accounting of what portion, if any, of the renewable energy identified in part F has been allocated to meet the renewable energy requirements of other states or the requirements of green pricing programs;
3. sections addressing the four categories of information required by statute:
 - i. the status of the utility’s renewable energy mix relative to the objective and standards;
 - ii. efforts taken to meet the objective and standards;
 - iii. any obstacles encountered or anticipated in meeting the objective or standards; and
 - iv. potential solutions to the obstacles.

F. Any other State Renewable Standards or Objectives to which the utility is subject;

G. Any renewable generation facilities expected to become operational during the upcoming year, the type of facility, and the capacity and capacity factor of each facility;

H. Through what year the utility is in compliance with the Minnesota RES given its current renewable portfolio;

I. A table – similar to the one set forth below, which is labeled Table 8f at page 5 of the biennial compliance report submitted in this docket by Missouri River Energy Services – showing projected compliance for the current year plus the next three years showing the utility’s projected Minnesota sales in MWh, the RES percentages for those four years, the projected RES needs in MWh for those years, projected RES-eligible resources in MWh, and projected surplus or deficit in MWh;

Table 8f					
Year	Projected MN sales (MWh)	RES	Projected RES Needs (MWh)	Projected *Resources (MWh)	Projected Surplus/Deficit (MWh)
2012	1,274,887	12.00%	152,986	414,857	261,871
2013	1,390,611	12.00%	166,873	416,874	250,000
2014	1,417,035	12.00%	170,044	404,667	234,622
2015	1,443,081	12.00%	173,170	388,991	215,821

*Current year generation from Worthington, Marshall, Odin, Rugby and Hancock Wind projects plus eligible inventoried REC’s from previous years

- J. Any unbundled REC sales or purchases for the two preceding calendar years, including the number of RECs sold or purchased and the price paid for the RECs;
 - K. Demonstrated reasonable efforts to adequately protect against undesirable economic impacts on ratepayers, including, but not necessarily limited to keeping the customers' bills and the utility's rates as low as practicable, given regulatory and other constraints.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



This document can be made available in alternative formats (i.e., large print or audio) by calling 651.296.0406 (voice). Persons with hearing loss or speech disabilities may call us through Minnesota Relay at 1.800.627.3529 or by dialing 711.