

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET N.W., 2ND FLOOR, WEST TOWER
WASHINGTON, D.C. 20005

ORDER

January 26, 2006

FORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY PRACTICES.
ORDER NO. 13860

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") hereby accepts the recommendations set forth in the Report of the Renewable Energy Portfolio Standard ("RPS") Working Group ("Report") submitted on December 22, 2005.

II. BACKGROUND

2. On November 10, 2005, the Commission issued Order No. 13804 directing the RPS Working Group to submit a list of comparable state certificates that would meet the District of Columbia's standards under the Renewable Energy Portfolio Standard Act of 2004 ("RPS Act").¹ On December 22, 2005, in furtherance of the Commission's directive, the RPS Working Group submitted its Report on comparable state certificates and related issues.²

III. DISCUSSION

A. PJM and Adjacent State Certification

Working Group Report

3. The RPS Working Group Report contains a matrix comparing the District's standard with respect to Renewable Energy Credits ("RECs") to the REC standards of PJM states and states adjacent³ to PJM with RPS programs. As such, the states considered by the RPS

¹ See Order No. 13804 at p. 13; see also *Renewable Energy Portfolio Standard Act of 2004*, Pub. L. No. 15-340 (2005).

² For purposes of the December 22 Working Group Report, the participating members of the RPS Working Group are as follows: Potomac Electric Power Company ("PEPCO"), the Office of the People's Counsel ("OPC"), the District of Columbia Energy Office ("DCEO"), Solar Energy Industries Association ("SEIA"), PEPCO Energy Services, Inc. ("PES"), District of Columbia Water and Sewer Authority ("WASA"), and Washington Gas Energy Services, Inc. ("WGES").

³ The Report states that the broad definition of adjacent state was used, not because the Working Group agreed on the definition but because the Commission had not yet ruled on the issue. RPS Working Group Report at 2. On December 28, 2005, the Commission issued Order No. 13840 in which the Commission held that

Working Group were Maryland, Virginia, West Virginia, Pennsylvania, Delaware, New Jersey, North Carolina, Kentucky, Tennessee, Ohio, Indiana, Illinois, New York, Michigan, Missouri, South Carolina, Wisconsin, Alabama, Arkansas, Georgia and Iowa.⁴ Of those considered, the following states have a RPS policy in place: Maryland, Pennsylvania, Delaware, New Jersey, New York, Illinois, Iowa, and Wisconsin.⁵ The RPS Working Group explains, however, that Illinois is a resolution-only state, with no regulation in place, and Iowa is a set-aside state, with vague regulations.⁶ As such, neither Illinois nor Iowa were included among the states with RPS requirements for the purposes of the RPS Working Group's comparison. Thus, the Working Group considered six states to be reviewed for comparable certification standards: Delaware, Maryland, New Jersey, New York, Pennsylvania and Wisconsin.⁷

4. The matrix in the RPS Working Group Report is offered as a tool to determine whether or not a resource, qualified under the RPS standards of another state, would automatically qualify for eligibility as a District renewable resource.⁸ The RPS Working Group Report used definitions taken directly from state RPS regulations or legislation, purportedly for all similar resources eligible under the District's RPS, to build the automatic eligibility matrix.⁹

5. The RPS Working Group matrix is divided into Tier I and Tier II resources, and eligibility is delineated by the term, "eligible," "not eligible," or "not applicable."¹⁰ Table 1 below presents the automatic eligibility results for Tier I resources in PJM and the adjacent states. In Table 1, the term "eligible" means that the resource definition in the state is equivalent to or more restrictive than the District. For example, a wind generator certified in Pennsylvania would automatically comply as an RPS eligible resource in the District. However, due to the variability among state definitions of biomass and fuel cells, the RPS Working Group determined that generators in those categories wishing to be certified in the District would be required to submit an application for certification, and would not be automatically eligible for certification. Such instances are designated as "not eligible" in Table 1.¹¹ It is important to note that the term "not eligible" as used in the table below refers to a resource that fails to automatically qualify for District certification – it does not indicate that the resource ultimately should be denied certification in the District.

the following states were deemed adjacent to PJM as of November 2005: Alabama, Arkansas, Georgia, Iowa, Mississippi, Missouri, New York, South Carolina, and Wisconsin.

⁴ See RPS Working Group Report at 2.

⁵ See RPS Working Group Report at 2.

⁶ See RPS Working Group Report at 2.

⁷ See RPS Working Group Report at 2. The RPS Working Group notes that RPS regulations are not yet final in Delaware and Pennsylvania, but concludes that "the definitions will be consistent with the District's legislation and are therefore unlikely to change significantly enough to alter automatic eligibility in the matrix."

⁸ See RPS Working Group Report at 2.

⁹ See Attachment A, RPS Working Group Report. Attachment B of the Report includes links to relevant state RPS regulations or legislation.

¹⁰ See RPS Working Group Report at 3.

¹¹ Not eligible means "not automatically eligible."

Table 1
Tier I Certificate Eligibility Matrix¹²

<i>Source</i>	<i>Delaware</i>	<i>Maryland</i>	<i>New Jersey</i>	<i>New York</i>	<i>Pennsylvania</i>	<i>Wisconsin</i>
Solar	Eligible	Eligible	Eligible	Eligible	Eligible	Eligible
Wind	Eligible	Eligible	Eligible	Eligible	Eligible	Eligible
Qualifying Biomass	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible
Applicable Methane	Eligible	Eligible	Eligible	Eligible	Eligible	
Geothermal	Eligible	Eligible	Eligible		Eligible	Eligible
Ocean	Eligible	Eligible	Not Eligible	Eligible		Eligible
Applicable Fuel Cell	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible	Not Eligible

Source: RPS Working Group Report at p. 7.

6. The RPS Working Group performed a similar review of comparable state certificates for Tier II resources, the results of which are shown in Table 2 below. The terms "eligible" and "not eligible" are used in the same manner as above in Table 1. However, the RPS Working Group notes that for Tier II resources, the matrix is meant to be used to determine automatic eligibility only after a generator has been determined to meet the District RPS date of operation restrictions.¹³ The Working Group states that energy from a Tier II renewable source is eligible in the District if it is generated at a system or facility that existed and was operational as of January 1, 2004.¹⁴

¹² A blank cell indicates that the resource in question is not included or not applicable under the respective state's RPS.

¹³ See RPS Working Group Report at 3.

¹⁴ See RPS Working Group Report at 3.

Table 2

Tier II Certificate Eligibility Matrix¹⁵

<i>Source</i>	<i>Delaware</i>	<i>Maryland</i>	<i>New Jersey</i>	<i>New York</i>	<i>Pennsylvania</i>	<i>Wisconsin</i>
Hydro	Eligible	Eligible	Eligible	Eligible	Not Eligible	Eligible
MSW		Eligible	Eligible	Eligible	Eligible	

Source: RPS Working Group Report at p. 7.

7. As shown in Table 2, energy from a Pennsylvania hydro source is not automatically eligible in the District.¹⁶ This designation is resultant from the fact that unlike the District, Pennsylvania qualifies energy from pumped-storage hydro facilities.¹⁷

B. District Certification Number

8. The RPS Working Group states that the adoption of transparent criteria for state and resource reciprocal eligibility would enable the Commission Staff and/or PJM to issue District-specific certification numbers to eligible resources, without any additional effort on the part of generators.¹⁸ The RPS Working Group further recommends that resources that are clearly eligible and noted in the matrix be deemed eligible for RPS compliance purposes whether or not such facilities bear a DC-specific certification number.¹⁹

C. Frequency of Review

9. The RPS Working Group recommends that the Commission review and update the automatic certification matrix annually, by December 15th. An annual review, rather than a more frequent review, is intended to reduce the administrative burden on the Commission.²⁰ The RPS Working Group further argues that an annual update would facilitate the maximum number of participants in the District market by ensuring that new states and new resources are included for automatic eligibility on a regular basis.²¹

¹⁵ A blank cell indicates that the resource in question is not included under the respective state's RPS is not applicable.

¹⁶ See RPS Working Group Report at 4.

¹⁷ See RPS Working Group Report at 4.

¹⁸ See RPS Working Group Report at 4-5.

¹⁹ See RPS Working Group Report at 5.

²⁰ More frequent updates would necessitate that the Commission constantly track RPS activity in other states.

²¹ See RPS Working Group Report at 6.

Commission Decision

10. In Order No. 13766, the Commission held that a simple process should be developed to certify renewable generators to serve as a RPS resource in the District.²² Order No. 13766 further held that with respect to renewable generators located in other states, the Commission would consider accepting another state's certification, provided that the resource complies with the District's RPS requirements.²³ The Commission expressly stated that renewable generators located and certified in other states would need to be examined by the Commission to assure compliance with the RPS Act.²⁴ In Order No. 13804, the Commission approved a series of forms and rules developed by the RPS Working Group to implement the RPS Act,²⁵ including forms for the certification of renewable resources. In adopting those forms, the Commission reiterated its goal of implementing a streamlined process for the certification of facilities.²⁶

11. The Commission finds the approach taken by the RPS Working Group to compile the Tier I and Tier II automatic eligibility matrices appropriate as it promotes a streamlined and simple process for the certification of RPS resources located outside of the District. The use of the matrix is appropriate in that it establishes automatic eligibility only where the definition used in other jurisdictions mirrors, or is more restrictive than, the definition of the resource used in the District's Act. The Commission further finds that an annual review of the eligibility matrices would appropriately balance the need to ensure the veracity of the eligibility information with the administrative burden associated with more frequent reviews. In the event that a state passes a new renewable portfolio standard, all applicable resources would still be eligible for certification, but automatic eligibility would be delayed until such time as the Commission issues an updated eligibility matrix. To that end, the Commission directs the RPS Working Group to submit annual updates to the matrices, by December 1st of each calendar year. This will enable the Commission to adopt the revised matrices by December 15th, as recommended by the Working Group. Furthermore, the Commission encourages generators to review the list of eligible facilities posted on the Commission website to confirm which facilities have been certified.

12. The RPS Working Group's submission of the aforementioned matrices obviates the need for generators whose resources meet eligibility requirements that are similar to or exceed those in the District, to submit a full scale application with supporting data to the District for certification. Instead, those generators need only provide the Streamlined Application for District of Columbia Certification as a Renewable Energy Standards Generating Facility, which is included in Appendix A. The Streamlined Application differs from the full scale application required of all generators seeking certification in the District because it does not require applicants to submit supporting data in the Required Documentation Section of the

²² See Order No. 13766 at p. 23.

²³ See Order No. 13766 at p. 23.

²⁴ See Order No. 13766 at p. 23.

²⁵ See Order No. 13804 rel. November 10, 2005.

²⁶ See Order No. 13804 at p. 6.

Application.²⁷ Instead, Applicants using the Streamlined Application need to submit their certification number from another state. Upon receipt of the Streamlined Application and verification of the resources by Staff, the Commission will assign the generator a unique District Certification Number, submit the information to PJM GATS, and post all relevant certification information on the Commission's web site for use by District suppliers. The Streamlined Applications will be evaluated, and a final determination regarding certification will be issued within 15 business days of the receipt of the Application. All generators that do not qualify for automatic eligibility remain eligible to submit an application for certification using the form and process approved in Order No. 13804.²⁸

13. In determining the appropriate application to use in the streamlined process, the Commission has determined that a modification to the full scale application is required. In Order No. 13804, the Commission approved an application for certification that included the following Question No. 6:

Where is Generated Electricity (or energy) Consumed?

Within Geographic Area of PJM Interconnection, LLC

Outside of PJM Interconnection, LLC Geographic Area

Upon further evaluation, the Commission has determined that Question No. 6 goes to the issue of compliance with the RPS Act rather than the issue of certification as a qualified generator under the RPS Act. As the Commission has established a separate process for determining compliance with the RPS Act, which appropriately applies to all load serving entities rather than generators, we find that Question No. 6 is unnecessary for certifying a generator in the District. We therefore delete Question No. 6, and approve the revised full scale application contained in Appendix B.

²⁷ As discussed below, by this Order the Commission also revises the formal application approved in Order No. 13804.

²⁸ See Order No. 13804 at p. 6.

THEREFORE, IT IS ORDERED THAT:

14. The recommendations set forth in the Working Group Report are accepted in accordance with the discussion in this Order.

A TRUE COPY:

BY DIRECTION OF THE COMMISSION:

CHIEF CLERK

A handwritten signature in black ink, appearing to read "D. Wideman", with a long horizontal flourish extending to the right.

**DOROTHY WIDEMAN
COMMISSION SECRETARY**

**STREAMLINED APPLICATION FOR CERTIFICATION AS AN ELIGIBLE
DISTRICT OF COLUMBIA RENEWABLE ENERGY STANDARDS GENERATING
FACILITY**

1. Name of Renewable Energy Facility: _____
Facility Address: _____

2. Name of Owner: _____
Owner's address and contact information _____

Phone: _____
Fax: _____
Email: _____

3. Name of Operator: _____
Operator's address and contact information _____

Phone: _____
Fax: _____
Email: _____

4. Name of Contact Person: _____
Contact Person Title, address and contact information: _____

Phone: _____
Fax: _____
Email: _____

5. Location of Resource:
____ Within Geographic Area of PJM Interconnection, L.L.C.
____ Other (specify) _____

6. Fuel Types (Check all that are Applicable; see Notes for Additional Definitions)

Tier I

- Solar Energy
- Wind
- Qualifying Biomass
- Methane from the anaerobic decomposition of organic materials in a land fill or wastewater treatment plant
- Geothermal
- Ocean, including energy from waves, tides, currents & thermal differences
- Fuel Cells producing electricity from qualifying biomass or methane as described above

Tier II

- Hydroelectric Power other than Pumped Storage
- Waste-to-Energy

7. Rated Capacity: _____ MW (to one decimal place) or KW

If multiple fuel sources are utilized, attach the formula for computing the proportion of output per fuel type by MWh (or kWh) generated.

8. Commercial Operation Start Date: __/__/__

If co-firing with fossil fuels, co-fire start date: __/__/__

If co-firing with fossil fuels, submit the allocation formula that indicates the facility's annual percentage of electricity production from fossil fuels.

9. Is the facility a behind-the-meter (BTM) generator?

- Yes (answer (a) below)
- No

(a) Is net metering used? __ Yes __ No

10. As of the date of this Application, is the facility currently certified by another state as an eligible generation resource to meet the renewable portfolio standards of that state?

___ Yes ___ No

Name of State: _____
State Certification Agency: _____
State Certification Number: _____
Date Issued: _____

Under penalty of perjury, the undersigned hereby affirms that he/she is authorized to and hereby does make this Application for the Applicant and that based upon personal knowledge and information the contents of this Application are true.

Signature

Date

Printed Name and Title

Notes:

1) "Solar energy" means radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion in to thermal, chemical, or electrical energy.

2) "Qualifying biomass" means a solid, nonhazardous, cellulosic waste material that is segregated from other waste materials, and is derived from any of the following forest related resources with the exception of old growth timber, unsegregated solid waste, or post consumer wastepaper:

- (A) Mill residue;
- (B) Precommercial soft wood thinning;
- (C) Slash;
- (D) Brush;
- (E) Yard waste;
- (F) A waste pallet, crate, or dunnage;
- (G) Agricultural sources including tree crops, vineyard materials, grain, legumes, sugar, and other crop by-products or residues; or
- (H) Cofired biomass.