

945 - E - 1764

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF FINAL RULEMAKINGFORMAL CASE NO. 945, IN THE MATTER OF THE INVESTIGATION INTO
ELECTRIC SERVICES MARKET COMPETITION AND REGULATORY
PRACTICES

1. The Public Service Commission of the District of Columbia ("Commission") pursuant to its authority under D.C. Official Code § 34-1439(c) (2007 Supp.), hereby gives notices of its adoption of Chapter 29 of Title 15 District of Columbia Municipal Regulations ("DCMR"). Chapter 29 establishes the Commission's rules governing the implementation of and compliance with the "Renewable Energy Portfolio Standard Act of 2004" ("RPS Act").¹

2. A Notice of Proposed Rulemaking ("NOPR") was published in the *D.C. Register* on November 2, 2007.² On December 3, 2007, Pepco Energy Services ("PES") and the Office of the People's Counsel ("OPC") filed comments on the NOPR.³ No reply comments were filed. On January 10, 2008, Order No. 14697 was issued addressing the comments and adopting the final regulations. In Order No. 14697, the Commission made clarifying changes to the regulations that did not change the intent, meaning, application, or exceed the scope of the rules published in the NOPR. The final rules will become effective upon the publication of this Notice of Final Rulemaking ("NOFR") in the *D.C. Register*.

CHAPTER 29 RENEWABLE ENERGY PORTFOLIO STANDARD

Section	
2900	APPLICABILITY
2901	RPS COMPLIANCE REQUIREMENTS
2902	GENERATOR CERTIFICATION
2903	CREATION AND TRACKING OF RENEWABLE ENERGY CREDITS
2904	RECOVERY OF FEES AND COSTS
2905	WAIVER
2906-2998	[RESERVED]
2999	DEFINITIONS

¹ The Renewable Energy Portfolio Standard Act of 2004 is codified at D.C. Official Code § 34-1429 *et. seq.*

² 54 *D.C. Register* at 10646 - 10658 (November 2, 2007).

³ *F.C. No. 945, Pepco Energy Services Comments ("PES Comments")*, filed December 3, 2007; *Comments of the Office of the People's Counsel on the Adoption of the Interim Rules Governing Implementation and Compliance with the Renewable Energy Portfolio Standards [sic] Act ("OPC Comments")*, filed December 3, 2007.

2900 APPLICABILITY

2900.1 This Chapter establishes the Public Service Commission's ("Commission") Rules and Regulations governing the Renewable Energy Portfolio Standard ("RPS") applicable to an Electricity Supplier as provided in D.C. Official Code §§ 34-1431 - 34-1439.

2901 RPS COMPLIANCE REQUIREMENTS

2901.1 An Electricity Supplier shall meet the Renewable Energy Portfolio Standard requirement by obtaining Renewable Energy Credits ("REC") that equal the annual percentage requirement for electricity sold at retail or by paying the specified compliance fee. An Electricity Supplier shall not apply any surplus Renewable Energy Credits derived from voluntary purchases of energy from qualified renewable sources toward its mandatory compliance requirements.

2901.2 Each District of Columbia Electricity Supplier must establish a Generation Attribute Tracking System ("GATS") account for the load it serves within the District of Columbia. Suppliers shall maintain that account in good standing.

2901.3 Electricity Suppliers may acquire and accumulate Renewable Energy Credits as of January 1, 2006, in accordance with D.C. Official Code § 34-1433(c).

2901.4 Compliance with the Renewable Energy Portfolio Standard is on a calendar year basis beginning with calendar year 2007. Pursuant to D.C. Official Code § 34-1432(b), if the standard becomes applicable to electricity sold to a customer after the start of a calendar year, the standard shall not apply to electricity sold to the customer during that portion of the year before the standard became applicable.

2901.5 Each Electricity Supplier must prepare and submit an annual Compliance Report to the Commission containing the following information:

- (a) The quantity of its annual District of Columbia retail electricity sales;
- (b) The quantity of any exempt retail electricity sales to a customer with a Renewable On-Site Generator;
- (c) A calculation of the annual quantity of required Tier One, Tier Two, and Solar Energy Renewable Energy Credits;

- (d) The quantity of Tier One, Tier Two, and Solar Energy Renewable Energy Credits purchased and evidence of those purchases;
- (e) The quantity of Tier One, Tier Two, and Solar Energy Credits transferred to the Electricity Supplier by a Renewable On-Site Generator;
- (f) A calculation of any compliance fees owed by the Energy Supplier;
- (g) Certification of the accuracy and veracity of the report;
- (h) All documentation supporting the data appearing in the annual compliance report;
- (i) A list of all Renewable Energy Credits used to comply with the Renewable Energy Portfolio Standard;
- (j) A summary report of Renewable Energy Credits retired during the reporting period; and
- (k) The total price paid for Tier One, Tier Two, and Solar Energy Renewable Energy Credits. The total price paid may be submitted confidentially so long as the words "Protected-Materials - Contains Competitive Business Information" or words of similar import are clearly printed on the top of each page. Suppliers that purchase RECs solely via bundled products are exempt from including the total price paid for Tier One, Tier Two and Solar Energy Renewable Energy Credits in their annual compliance reports.

2901.6 Each Electricity Supplier's annual compliance report shall be submitted to the Commission by May 1 of the calendar year following the year of compliance. The Commission shall complete its review of each Electricity Supplier's Compliance Report within 75 business days after submission. After notification of a decision of non-compliance by the Commission, a supplier shall submit the appropriate payment (or its response contesting the notification) within thirty (30) days.

2901.7 Any Electricity Supplier that fails to file the annual compliance report as required by this Chapter and D.C. Official Code § 34-1434(a) may be subject to Commission action to compel submission of the required report. Such action may include the issuance of an Order to Show Cause by the Commission.

2901.8 Any Electricity Supplier that fails to meet its Renewable Energy Portfolio Standard requirements must submit the required annual Compliance Fee to the District of Columbia Renewable Energy Development Fund administered by the District of Columbia Department of the Environment's Energy Office ("DDOE" or "Energy Office") by May 1 of the calendar year following the year of compliance.

2901.9 The Compliance Fee shall be:

- (a) \$25 for each Renewable Energy Credit shortfall for Tier One resources;
- (b) \$10 for each Renewable Energy Credit shortfall for Tier Two resources; and
- (c) \$300 for each Renewable Energy Credit shortfall for Solar Energy resources.

2902 GENERATOR CERTIFICATION

2902.1 Renewable electricity generators, including behind-the-meter ("BTM") generators, must be certified as a qualified resource by the Commission.

2902.2 Renewable electricity generators, including BTM generators, may be certified as a Tier One or Tier Two resource. In order to be certified, applicants must:

- (a) Complete the Commission's "Application for Certification as an Eligible District of Columbia Renewable Energy Standards Generating Facility" ("Regular Application") or
- (b) Complete the Commission's "Streamlined Application for Certification as an Eligible District of Columbia Renewable Energy Standards Generating Facility" ("Streamlined Application") in cases where the applicant has already been certified as a renewable energy resource by another PJM state and the Commission determines certification to be comparable to the Renewable Energy Portfolio Standards requirements in the District of Columbia. The applicant should refer to the Tier I and Tier II eligibility matrices available on the Commission's website to determine if the Streamlined Application can be submitted.

2902.3 The following states are deemed to be within the PJM Interconnection Region as of October 2007: Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

2902.4 The Renewable Energy Portfolio Standard ("RPS") Working Group shall identify any new renewable energy resource that has been certified by another PJM state that is eligible for participation in the District of Columbia's RPS. This information shall be included in the filing of the annual update to the Tier I and Tier II eligibility matrices to be submitted by February 1 of each calendar year.

2902.5 An applicant submitting a Regular Application or a Streamlined Application for certification as a renewable resource shall state, at a minimum:

- (a) The name of the Renewable Energy Facility for which the application is made and its address;
- (b) The name of the owner of the facility and the owner's contact information;
- (c) The name of the operator of the facility and the operator's contact information;
- (d) The name of a contact person and the person's contact information;
- (e) The location of the resource;
- (f) The renewable fuel type(s) and capacity information;
- (g) The commercial operation start date;
- (h) Whether the facility is a "behind-the-meter" generator;
- (i) Whether the power from the generation unit(s) has the potential to be delivered and consumed in the PJM Interconnection Region;
- (j) Whether the facility is certified by another state as an eligible generation resource to the meet the portfolio standards of that state; and
- (k) The Office of Regulatory Information Systems Plant Location ("ORISPL") Code for the facility.

2902.6 In addition to the information required in § 2902.5, an applicant submitting a Regular Application must also attach:

- (a) A current Certificate of Good Standing for the applicant issued by the state in which the business was formed;