

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Implementation of Solar
Energy Standards Pursuant to 2013
Amendments to Minnesota Statutes, Section
216B.1691

ISSUE DATE: April 25, 2014

DOCKET NO. E-999/CI-13-542

ORDER CLARIFYING SOLAR
ENERGY STANDARD
REQUIREMENTS AND SETTING
ANNUAL REPORTING
REQUIREMENTS

PROCEDURAL HISTORY

During the 2013 legislative session, Minn. Stat. § 216B.1691, the statute establishing Minnesota's Renewable Energy Standard (RES), was amended to add a solar energy standard (SES).¹ In addition to the obligations already imposed by the RES, by 2020 public utilities will be required to generate or procure electricity from solar energy sufficient to serve 1.5% of the utility's Minnesota retail electric sales.

On November 20, 2013, the Commission issued an order in this docket setting initial steps to be taken to implement the provisions of the SES.²

On December 30, 2013, the Commission issued a notice soliciting comments on additional provisions of the SES, including the content requirements of utilities' annual reports demonstrating compliance with the SES.

By January 31, 2014, the Environmental Law and Policy Center, Fresh Energy, and the Izaak Walton League of America (Fresh Energy); Geronimo Energy, LLC; Invenergy Solar Development, LLC; Minnesota Solar Energy Industries Association; Southern Minnesota Municipal Power Agency (SMMPA); Minnesota Power; Xcel Energy; Otter Tail Power; and the Minnesota Department of Commerce (the Department) had filed comments. By February 10, 2014, Otter Tail Power and Fresh Energy had filed reply comments.

¹ Minn. Stat. § 216B.1691, subd. 2f.

² Order Establishing NAICS Codes As Initial Screen to Determine Exclusion From Solar Energy Standard and Setting Further Requirements, this docket (November 20, 2013).

On April 10, 2014, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

I. Notice of Comments

The main issues on which the Commission sought comment in the December 30, 2013 notice are set forth below:

- Should the Commission issue any clarification on solar renewable energy certificate (S-REC) shelf life?
- What information should be provided in the utilities' annual reports on the solar energy standard?
- Should the Commission authorize an additional tracking system to track compliance with the solar energy standard?
- Are there other clarifications to be made about the solar energy standard as it should be read within the RES statute?

II. Summary of Commission Action

In this order, the Commission sets the shelf life of a solar renewable energy credit associated with a solar photovoltaic device installed and generating electricity after August 1, 2013 but before 2020 at four years, to commence in 2020. All S-RECS created after January 2020 will have a shelf life of four years.

The Commission also finds that the existing REC tracking system, the Midwest Renewable Tracking System (M-RETS), should be used to monitor SES compliance, sets annual SES filing requirements in a separate docket to meet the reporting requirements of Minn. Stat. § 216B.1691, subd. 2f (g), and clarifies certain provisions of the solar energy standard.

III. Shelf Life for Solar Renewable Energy Credits

A. Background and Issue Presented

In 2007, the Commission established a four-year expiration period, or shelf life, for renewable energy credits, meaning that RECs could be retired for RES compliance in the year of generation plus four years.³ In its December 18, 2007 Order, the Commission explained that a REC's shelf life determines how long the REC is available to be bought, sold, or used to meet the Minnesota renewable energy standards, once the credit is created, or energy associated with it generated.⁴

³ *In the Matter of a Commission Investigation into a Multi-State Tracking and Trading System for Renewable Energy Credits*, Order Establishing Initial Protocols for Trading Renewable Energy Credits, Docket No. E-999/CI-04-1616, (December 18, 2007) (hereinafter December 18, 2007 Order).

⁴ *Id.* at 6.

The 2013 legislation, which amended the RES statute by adding the solar energy standard, addressed the shelf life of S-RECs as set forth below:

Subd 2f (f) Notwithstanding any law to the contrary, a solar renewable energy credit associated with a solar photovoltaic device installed and generating electricity in Minnesota after the effective date of this act but before 2020 may be used to meet the solar energy standard established under this subdivision.

The issue is whether the Commission should clarify the shelf life of an S-REC that meets the requirements under subd. 2f (f).

B. Positions of the Parties

Two commenters suggested that the statutory language contained in subd. 2f (f) means that S-RECs never expire, relying both on the language of the statute as well as policy considerations.

Other commentors disagreed that the statutory language contained in subd. 2f (f) should be interpreted to mean that solar RECs never expire. Geronimo Energy and Fresh Energy recommended that S-RECs generated after August 1, 2013 through December 31, 2015 should be retired for compliance in the year 2020. Geronimo Energy further recommended that for S-RECs generated in 2016 and beyond, the Commission's current four-year shelf life applicable to RECs should apply.

Xcel filed comments recommending that the Commission's current four-year shelf life should apply. Xcel did not, however, interpret subd. 2f (f) to mean that all S-RECs associated with energy generated after August 1, 2013 may be counted toward compliance in 2020 in a cumulative manner. Instead, Xcel took the position that subd. 2f (f) provides direction about the eligibility of solar energy to count toward compliance with the SES in 2020, by specifically identifying which facilities can provide eligible energy.

The Department recommended that the four-year shelf life for all S-RECs coming on line between the effective date of the statute and January 2020 commence in 2020. The Department also recommended that all S-RECs created after January 2020 have a shelf life of four years.

C. Commission Action

After consideration of the written and oral comments of the parties, the Commission adopts a four-year shelf life for all solar RECs coming on line between the effective date of the statute and January 2020, to commence in 2020. In other words, an S-REC's shelf life will be established as if generation had occurred in 2020, plus the four subsequent years. All S-RECs created after January 2020 will have a shelf life of four years.

While two parties recommended that the Commission set no limit on the time period in which utilities can utilize S-RECs, the Commission does not believe that to be a reasonable or appropriate course. As noted by the Department, the goal of subd. 2f (f) is to ensure that utilities are not penalized for acquiring solar energy early, by having solar RECs acquired during the ramp-up period become ineligible for retirement in 2020 because they have exceeded the established shelf

life of four years. Instead, the Commission considers the four-year shelf life adopted for all RECs, commencing in 2020, a good place to begin implementation of the solar energy standard.

The SES statute provides some six years' (from August 1, 2013 to January 1, 2020) lead time for utilities to develop solar projects or otherwise acquire the solar energy necessary to meet the 1.5% SES requirement. Accordingly, the Commission finds it appropriate that S-RECs with a vintage falling between the effective date of the statute and January 2020 will not have the time prior to January 2020 count against their four-year shelf life.

In conclusion, the Commission finds that an S-REC associated with a solar photovoltaic device installed and generating electricity in Minnesota after August 1, 2013 but before 2020 has a four-year shelf life commencing January 2020. All S-RECs created after January 2020 will also have a shelf life of four years.

Finally, with respect to two related but subordinate issues raised by parties commenting in this docket, the Commission sees no reasonable or practical basis on which to differentiate the shelf life of S-RECs generated elsewhere within the Midwest Renewable Tracking System (M-RETS) from those generated within Minnesota. And, the requirement to meet the 1.5% SES requirement for 2020 and retire sufficient S-RECs to do so continues each year after the 2020 initial date into the future, unless and until changed by the legislature or Commission order.

IV. SES Annual Reports

The notice soliciting comments also posed the question as to what information should be included in the SES annual reports, used to track compliance with the SES, required under Minn. Stat. § 216B.1691, subd. 2f (g). The parties made numerous recommendations as to the substance and content of the data to be included in the SES annual report, as well as to the timing of such reports and the process to be followed.⁵ Having considered the initial recommendations of the parties, the Commission will require the content of the solar energy standard annual reports to be filed with the Commission to be the information set forth in Commission Ordering Point 4, *infra*.

As recognized by the parties, the information to be submitted may need to be revised and adapted over time, as Minnesota experiences solar market growth and gains more experience in tracking utility performance toward the 2020 solar standard. Further process on the SES annual reports will be developed in response to any party comments on the reports.

Finally, the Commission will delegate authority to the Executive Secretary to open a new docket in which the SES annual reports should be filed and to issue a notice specifying their content. Utilities should file the SES annual reports by June 1, 2014, and annually thereafter.

⁵ The Environmental Commentors made certain recommendations regarding data points for small systems (i.e., residential zip codes and locations) that might overlap with issues being considered in the Commission's ongoing privacy docket – Docket No. E, G-999/CI-12-1344. For that reason, the Commission will defer requiring such information in the SES annual reports at this time.

V. Tracking System for the SES

Minn. Stat. § 216B.1691, subd. 4 (d) states that “[t]he commission shall require all electric utilities to participate in a commission-approved credit-tracking system or systems.” The Commission has previously authorized M-RETS for the creation and tracking of renewable energy credits for the RES.⁶ In its request for comments in this docket, the Commission asked whether an additional tracking system should be required for the solar energy standard.

The parties agreed that the Commission should also use M-RETS to track compliance with the solar energy standard. The Commission concurs.

VI. Miscellaneous

Finally, the Commission clarifies that its investigative and enforcement authority under Minn. Stat. § 216B.1691, subd. 7 applies in the event of utility noncompliance with the SES, under the authority conferred in subd. 2f (b), which states that “[t]he solar energy standard established in this subdivision is subject to all the provisions of this section governing a utility’s standard obligation under subdivision 2a.”

ORDER

1. Any solar renewable energy credit associated with a solar photovoltaic device installed and generating electricity in Minnesota after August 1, 2013 but before 2020 shall have a four-year shelf life commencing January 2020.
2. All solar renewable energy credits created after January 2020 shall have a shelf life of four years.
3. Solar renewable energy credits attributable to generation facilities located outside Minnesota shall have a shelf life identical to the shelf life of credits attributable to Minnesota facilities.
4. The Commission hereby delegates authority to the Executive Secretary to issue a notice listing the reporting requirements set forth below for the SES, in a separate docket:
 - A. Annual Minnesota retail sales for the previous calendar year;
 - B. Annual excluded customer sales for the previous calendar year;
 - C. A list of customers requesting exclusion from the requirements of the SES, the North American Industry Classification System (NAICS) code associated with their

⁶ *In the Matter of a Commission Investigation into a Multi-State Tracking and Trading System for Renewable Energy Credits*, Order Approving Midwest Renewable Energy Tracking System (M-RETS) Under Minn. Stat. 216B.1691, subd. 4 (d) and Requiring Utilities to Participate in M-RETS, Docket No. E-999/CI-04-1616, at p. 4 (October 9, 2007).

manufacturing activity, and their annual kWh usage; north American industry

- D. The total Minnesota retail sales for customers excluded from the SES requirement;
 - E. Annual solar generation on the utilities' system for the previous calendar year, including the total number of units registered in M-RETS to that utility and S-RECs generated in the past year from those units;
 - F. Estimated amount of solar generation (expressed as capacity) a utility would be required to obtain in 2020;
 - G. Estimated solar energy requirements to meet the SES in 2020;
 - H. A short summary of ongoing efforts to obtain solar energy, including a brief summary of the anticipated mix of project sizes for SES compliance;
 - I. A summary of progress toward compliance with the ten percent carve out for systems under 20 kW;
 - J. A brief summary of the state(s) in which the solar generation is located or anticipated to be located; and
 - K. Purchases and sales of S-RECs to meet the SES.
5. By June 1 of each year, utilities shall file SES annual reports in the docket established above. The SES annual reports shall also include a breakdown of S-RECs, identifying which credits were associated with each of the following:
- Facilities receiving a Value of Solar rate;
 - Community Solar Gardens;
 - Facilities under a net metering tariff;
 - Utility-owned solar projects;
 - Solar facilities that have entered into a purchased power agreement with the utility; and
 - Facilities receiving an incentive, such as Solar Rewards or Made in Minnesota.
6. All S-RECs must be generated from facilities registered in M-RETS to be eligible for SES compliance.
7. This order shall become effective immediately.

BY ORDER OF THE COMMISSION



Burl W. Haar
Executive Secretary



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