

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

ISSUE DATE: November 20, 2013

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ORDER ESTABLISHING NAICS
CODES AS INITIAL SCREEN TO
DETERMINE EXCLUSION FROM
SOLAR ENERGY STANDARD AND
SETTING FURTHER REQUIREMENTS

PROCEDURAL HISTORY

I. The Solar Energy Standard

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). In addition to the obligations imposed by the RES, public utilities are required to generate or procure electricity from solar energy sufficient to serve 1.5% of the utility's Minnesota retail electric sales.¹

The statute also specifically exempts the retail sales to certain customer groups from the calculation of "retail sales" subject to the SES, including:

- Iron mining extraction and processing facility, including a scam mining facility;
- Paper mill
- Wood products manufacturer
- Sawmill; and
- Oriented strand board manufacturer.

¹ The 1.5% SES obligation will become effective in 2020.

The retail rates for those customers must not include any costs of satisfying the SES. However, the statute does not define these businesses in detail, specify any customer size criteria, nor specify a process or procedure for verifying customer eligibility for exclusion from the calculation of retail sales subject to the SES. Thus, an initial issue is the determination of an objective measure that can be used consistently across utilities to identify excluded customers.

II. Notice of Comments

On July 25, 2013, the Commission issued a Notice of Request for Filings from Electric Utilities on Customers Excluded from the Solar Energy Standard (Notice) asking utilities to file information on their 2012 retail sales, potentially excluded customers and associated kWh, and resulting estimated SES obligations.² The Notice also identified the following topics as open for comment on the utility filings:

- Whether the utilities have provided reasonable estimates of their SES obligations;
- Whether the Commission should establish criteria to be used by utilities in determining customer exclusions, such as kilowatt (kW) demand, kilowatt hour (kWh) usage, and North American Industry Classification System (NAICS) codes;³ and
- Whether the Commission should establish procedures and/or require utilities to file tariffs relating to customer exclusions that address verification procedures, reporting requirements, customer petitions, or other related issues.

By August 15, 2013, Otter Tail Power, Interstate Power, Minnesota Power, and Xcel Energy had filed the requested information and related comments. By August 30, 2013, the Minnesota Department of Commerce, Division of Energy Resources (the Department), Fresh Energy and the Minnesota Center for Environmental Advocacy, Xcel Energy, the Solar Exempt Group, and the Minnesota Chamber of Commerce had filed comments on the utility filings.

On November 7, 2013, the Commission met to consider the matter.

FINDINGS AND CONCLUSIONS

At the Commission meeting the parties discussed the initial steps to be taken to implement the provisions of the Solar Energy Standard. After discussion, the parties agreed that using the NAICS codes could appropriately be used as the initial screen to determine exclusion from the SES. The Commission concurs, and finds that the NAICS codes should be the initial screen to determine exclusion from the SES.

² Utilities were also asked to provide the same information estimated for 2020, the year the 1.5% SES obligation becomes effective.

³ NAICS is the standard used by federal statistical agencies, including the U.S. Census, for classifying businesses for collecting, analyzing, and publishing statistical data.

Recognizing that there are numerous code categories that appear to correspond to the statutory categories included in the SES, the Commission will also ask that the parties provide additional comments on the specific NAICS categories that should qualify for exclusion. Further, the Commission will delegate to the Executive Secretary the authority to issue further notices and to establish other procedures and timelines necessary to address issues on customer exclusion.

Based on the preliminary customer numbers estimated by the utilities, more than 1,000 customers could potentially be eligible for exclusion from the SES. The determination of whether and by whose authority a customer is to be excluded from the statutory provisions is not articulated in the statute. Accordingly, the Commission will require utility customers who believe they fit the statutory criteria to send specified information to the utility for its determination on whether the customer qualifies for exclusion.

As a first step, the Commission will require each utility to file a proposal for notifying its customers of potential eligibility for exclusion. Each customer must file its request for exclusion from the SES with its utility, which will conduct the first screen for eligibility. Each utility shall then file with the Commission a list of those customers to be excluded from the requirements of the SES, and the basis for such exclusion.

Further, the Commission will require each utility to file a proposed form or template document prepared in consultation with stakeholders for customers to use in applying for exclusion. Finally, each utility shall file with the Commission a list of the customers who have requested exclusion from the SES, and the basis for each request for exclusion, i.e. under which category of the NAICS codes does the customer fall.

It is so ordered.

ORDER

1. The Commission hereby delegates to the Executive Secretary the authority to issue further notices and to establish other procedures and timelines necessary to address issues on customer exclusions from the SES, including the question of costs.
2. The Commission finds that NAICS codes should be the initial screen for determining exclusion from the SES.
3. The Commission requests that parties file additional comments on the specific NAICS categories that qualify for exclusion.
4. The Commission finds that customers must file requests with their utility for exclusion from the SES.
5. Each utility shall file with the Commission a proposal for notifying its customers of potential eligibility for exclusion, together with a proposed form or template developed in consultation with stakeholders, for customers to use in applying for exclusion.

6. Each utility shall file with the Commission a list of customers who have requested exclusion and the basis for each request for exclusion.
7. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary



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