

Minnesota Public Utilities Commission

Staff Briefing Papers

**Meeting Date: October 9, 2014.....*Agenda Item #5

Company: All Electric Utilities Subject to Minn. Stat. §216B.1691

Docket No. **E999/CI-04-1616**

In the Matter of a Commission Investigation into a Multi-State Tracking and Trading System for Renewable Energy Credits

Issue: What determinations should the Commission make with respect to the Midwest Renewable Energy Tracking System's decision to allow the importing of Michigan Renewable Energy Credits?

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Relevant Documents

Commission, *Notice* May 28, 2014
Department of Commerce, *Comments* June 30, 2014
Xcel Energy, *Comments*..... June 30, 2014
Otter Tail Power Company, *Comments* June 30, 2014
Southern Minnesota Municipal Power Agency, *Comments* June 30, 2014
M-RETS, *Comments* July 14, 2014
Xcel Energy, *Reply Comments* July 18, 2014

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Statement of the issue

What determinations should the Commission make with respect to the Midwest Renewable Energy Tracking System's decision to allow the importing of Michigan Renewable Energy Credits¹?

Background

In its December 3, 2008 order², the Commission designated the Midwest Renewable Energy Tracking System (M-RETS) as the only tracking system eligible for utilities to retire Renewable Energy Credits (RECs) to demonstrate compliance with Minnesota's renewable energy standard. As with most tracking systems, facilities within the geographic footprint of that tracking system are registered there.

More recently, M-RETS has made efforts to work with other tracking systems to allow the import and export of RECs.

At its June 2014 board meeting, M-RETS circulated a proposal to allow the import of RECs and Incentive Renewable Energy Credits (IRECs) from the Michigan's REC tracking system, commonly referred to as MIRECS. After discussion, the board decided to delay a vote to further refine the language in M-RETS operating procedures, but did not disagree with the concept of allowing RECs and IRECs to be imported from MIRECS.

At its August 2014 board meeting, the M-RETS board formally approved the changes to its Operating Procedures allowing RECs and IRECs to be imported into M-RETS.

Notice of Comment Period

On May 28, 2014, Staff issued a Notice of Comment Period regarding the eligibility of Michigan RECs to be retired to meet Minnesota's RES. Based upon a quick reading of Michigan's RPS statute, it appeared to staff that:

- Wind and solar have the same eligibility in Michigan as they do in Minnesota;
- Biomass and hydro have different eligibility standards for Michigan than Minnesota.

In addition, staff was aware that the Michigan tracking system generates "Incentive RECs," which are essentially extra RECs generated when a favored action takes place, such as the creation of jobs. These Incentive RECs would be at odds with the M-RETS definition of a REC, which only allows 1 MWh to equal 1 REC. In addition, Incentive RECs are given in Michigan

¹ These briefing papers refer to RECs interchangeable as renewable energy "credits" or "certificates."

² Docket E999/CI-03-869 and E999/CI-04-1616, THIRD ORDER DETAILING CRITERIA AND STANDARDS FOR DETERMINING COMPLIANCE UNDER MINN. STAT. §216B.1691 AND SETTING PROCEDURES FOR RETIRING RENEWABLE ENERGY CREDITS.

for technologies such as solar (i.e., two RECs for each MWh of solar), whereas Minnesota state law requires its tracking system to “treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was created or the technology *with which the energy was generated.*”³

While it is not uncommon for states to enact different eligibility requirements for their RPS’s, in this case Michigan’s tracking system was created only for the Michigan RPS, while M-RETS was established to accommodate the RPS’s of several Midwestern states and Manitoba. Thus, it seemed important to explore whether there were any aspects of Michigan’s tracking system that affected the eligibility of Michigan RECs should they be imported into M-RETS and used for compliance with Minnesota’s RES.

Party Comments

Solar and Wind RECs

The Department, SMMPA, Xcel, and OTP all filed comments in response to the Notice. On the topic of solar and wind RECs, all commenters were in agreement that they generally would be eligible to meet the Minnesota RES.

With respect to the Incentive RECs, however, the Department recommended further evaluation:

The Department does not oppose importing RECs from the MIRECs system for Minnesota RES compliance provided they reflect only RECs, and not incentive RECs (IRECs) or ACECs [Advanced Cleaner Energy Systems].⁴ The Department is unclear whether IRECs or ACES are separately identified and tracked in MIRECs. In particular, if IRECs are aggregated with the RECs generated by a renewable generation facility (i.e. are not separable) the Department would oppose their use for Minnesota RES compliance....therefore, the Department recommends that the Commission clarify whether IRECs and ACES are tracked separately on the MIRECs system, and if so, allow imported Michigan RECs to be used for Minnesota RES compliance.⁵

Xcel specifically agreed with the Department in reply comments.

Staff Analysis

Pursuant to the Department’s recommendation, staff contacted the administrator for the MIRECs tracking system. Each IREC is given its own serial number which allows it to be separately

³ Minn. Stat. §216B.1691, subd. 4. Emphasis added.

⁴ Staff note: ACECs are credits representing generation from facilities such as gasification facilities, industrial cogeneration facilities, or coal-fired electric generating facilities if 85% or more of the CO₂ emissions are captured and permanently sequestered.

⁵ Department comments, page 2.

tracked from traditional RECs. If an IREC is imported into M-RETS, a new serial number would be assigned, but the originating serial number would still be accessible and therefore able to be tracked. Staff has also included decision option language making it clear that RECs imported from MIRECs should only be eligible for Minnesota's RES if 1 REC equals 1 MWh. M-RETS also clarified that ACECs are not being imported.

Hydro and Biomass RECs

There was a difference of opinion among the parties on how to address the hydro and biomass RECs issued by the MIRECs system. The Department stated:

With respect to biomass and hydroelectric generation, the Department concludes that variations in state definitions of eligibility for these technologies would require Commission approval prior to RECs being imported in order to assure that a specific facility meets Minnesota's definition of an eligible energy technology under Minn. Stat. §216B.1691. The Department recommends that the Commission require utilities seeking to use imported RECs from biomass or hydroelectric facilities to obtain Commission approval prior to using the RECs for Minnesota RES compliance.

Xcel, however, disagreed in reply comments:

The determination of the eligibility of the Michigan hydroelectric and biomass facilities should be no different than the self-designation currently in place for hydroelectric and biomass facilities in the M-RETS footprint.

It is currently up to the M-RETS account holder to self-designate Minnesota RES eligibility when registering hydroelectric and 100% biomass facilities located in M-RETS by setting the Minnesota eligibility flag within M-RETS to "Yes." For example, under Minn. Stat. §216B.1691 subd. (1)(a) RECs from a hydroelectric facility of 100 megawatts or greater can not be considered for complying with the Minnesota RES. However, RECs from all hydroelectric generation (regardless of capacity) can still be created in M-RETS. It is the responsibility of the M-RETS account holder to set the Minnesota eligibility flag to "Yes" within M-RETS if the facility meets the RES eligibility requirements (for hydro, less than 100 megawatts). The Company similarly believes the M-RETS account holder should also be responsible to self-designate upon the initial import of RECs from solar, wind, hydroelectric, and 100% biomass Michigan facilities, where appropriate, the Minnesota eligibility flag within M-RETS. This would be completed for each generator the first time RECs were imported from MIRECs from that generator.⁶

⁶ Xcel reply comments, page 2.

Staff analysis

In fairness, staff first raised the question of the Michigan biomass and hydro RECs being treated differently upon import into M-RETS. Staff posed this question because it appeared Michigan's RPS statute allowed for different eligibility on hydroelectric and biomass facilities than Minnesota's RES.

However, as Xcel points out, in M-RETS currently there are hydroelectric, biomass, and presumably other RECs that do not qualify for Minnesota's RES. Rather, M-RETS tracks the creation of RECs in general for both state renewable standards and voluntary markets; there are other processes in place to determine the eligibility of a given REC for a particular state's renewable standard.

Xcel is correct that for Minnesota eligibility, registrants "self-designate" eligibility for the Minnesota RES.⁷ That is, the designated entity that registers the facility in M-RETS is responsible for investigating the eligibility of the unit and then indicates so through M-RETS. The understanding has been that upon the retirement of RECs for the Minnesota RES, the Commission, Department, or other stakeholder could investigate the eligibility of the unit.

However, there is more to this process than simply the registrant self-designating eligibility. Once a facility registers in M-RETS, the administrator does review the designation chosen by the registrant and in some cases, verifies eligibility with the relevant state regulatory authority. As Xcel points out, for multi-fuel facilities, there is a more involved process where the M-RETS administrator obtains additional documentation from the registrant and contacts Commission staff for an informal review.⁸ As one can imagine, many of the fuel types such as solar and wind are fairly simple to review and need little to no further examination.

The M-RETS administrator, APX, has informed Commission staff that a similar process would be used in the case of Michigan RECs being imported into M-RETS. Once an import request is made, the administrator would be notified that the transaction needs review; the administrator would review whether Minnesota RES eligibility is being sought, would review the characteristics of the facility, and would either confirm the eligibility sought or, if unclear, would flag it for Commission staff review. APX has informed Commission staff that if preferred, all biomass and/or hydroelectric REC imports from Michigan could be flagged for Commission staff review. At that point, it would be up to the Commission to decide how to proceed; one option is for Commission staff to okay the eligibility if staff believes it is clear, or staff could issue a notice for comment if not clear.

⁷ Some other states do not allow "self" designation, instead requiring the facility to get pre-approval from the relevant state utility commission.

⁸ The Administrator has also previously worked with Commission staff to verify the overall fuel types that are eligible for Minnesota's RES.

If the Commission is not comfortable with the discretion on eligibility being first reviewed by staff, the other option is to adopt the Department's recommendation, which would require all biomass and hydroelectric facilities whose RECs are registered in MIRECS and are imported for the purpose of meeting Minnesota's RES to first obtain Commission approval.

One issue with a pre-approval process is whether there is a risk to this type of Commission finding. It has not been decided what type of information would be needed in a filing, what type of verification the Commission would prefer, or what would happen if the Commission received a flood of filings at once. The Commission may want to ask utilities at the agenda meeting if they have experience with this type of process for other states.⁹

The decision is a judgment call for the Commission and represents the balance between administrative efficiency versus thoroughness and transparency. The Commission may also want to think about the fact that this is the first tracking system import process approved by M-RETS, and others will follow.

Staff does not have an opinion on whether to require formal approval for all biomass and hydro imports except to note that a formal Commission approval process may make more sense for Michigan biomass RECs than hydroelectric RECs. Not only do Michigan and Minnesota have different statutory language on biomass eligibility¹⁰, but the MIRECS tracking system tracks biomass using different categories than those found in M-RETS.¹¹

Deliverability

The Department also filed comments recommending that imported RECs be allowed for Minnesota RES compliance without a demonstration of deliverability. Other commenters agreed with the Department's analysis.

Staff analysis

Staff agrees with the Department's analysis. If RECs are retired for Minnesota RES compliance, then the REC is proof that renewable energy has been generated. The fact that the renewable energy may have been delivered to the grid in Michigan or another state is a matter of where electrons flow.

⁹ Wisconsin, for example, has a pre-approval process where a facility can only be deemed WI RPS eligible in M-RETS if it has an Order from the PSC.

¹⁰ Staff has not done any in-depth comparison of Michigan's and Minnesota's biomass definitions; staff is only noting that the statutory language is different.

¹¹ The MIRECS tracking system only allows facilities to be labeled as "biomass;" M-RETS, on the other hand, has 23 categories for biomass, including agricultural waste, biological waste, and refuse-derived fuel.

This issue was raised because in an earlier order in this docket, the Commission stated it would not require a demonstration of deliverability for RECs created by M-RETS but would revisit the issue when imports began occurring into M-RETS. Therefore, staff recommends the Commission make a decision on this matter. Staff has received calls about this very issue and believes stakeholders would find a decision to be helpful.

Overall Policy and Impact of Importing RECs

Staff believes that while the notice and comments focus mostly on the mechanics of allowing imported RECs, the overall policy of importing RECs is a good one. Tracking systems not only allow for the objective accounting of renewable energy, they create a mechanism where RECs can be bought and sold. This allows utilities to meet renewable standards in the most cost effective way to the benefit of ratepayers. Allowing imports from Michigan enables Minnesota utilities to avail themselves of new options for complying with the renewable standard.¹²

Decision Options

Use of Renewable Energy Credits from Michigan Tracking System

1. Allow RECs imported from Michigan's renewable energy tracking system to be retired for compliance with the Minnesota RES, as long as:
 - a) One REC equals one megawatt hour of renewable energy; and
 - b) The renewable energy facility otherwise meets Minnesota eligibility requirements, (including any requirements in Options 3 through 6 below) . OR;
2. Do not allow RECs imported from Michigan's renewable energy tracking system to be retired for compliance with the Minnesota RES.

Determination of Eligibility for Michigan Biomass and Hydroelectric Renewable Energy Credits

3. Require utilities seeking to use imported RECs from Michigan's tracking system generated from biomass or hydroelectric facilities to ensure that Commission approval has been obtained prior to retiring the RECs for Minnesota RES compliance. OR;
4. Require utilities seeking to use imported RECs from Michigan's tracking system generated from biomass facilities to ensure that Commission approval has been obtained prior to retiring the RECs for Minnesota RES compliance. OR;

¹² MIRECS also has 17 MW of solar registered, mostly from small facilities. Staff does not know at this time whether there is interest in pursuing purchase of any of these solar RECs to meet Minnesota's solar standard.

5. Do not require prior approval, but direct staff to inform the M-RETS administrator to flag any imported biomass or hydroelectric RECs seeking MN RES eligibility for Commission notification. (*Staff note:* staff would then review any notifications received and depending on the specifics of the facility, either provide the determination to the M-RETS administrator or put the matter out for comment by parties.)

Condition of Deliverability for Imported Renewable Energy Credits

6. Allow the use of imported RECs for Minnesota RES compliance without a demonstration of deliverability. OR;
7. Deny the use of imported RECs for Minnesota RES compliance unless deliverability can be demonstrated.

Staff Recommendations

Staff recommends Decision Options 1 and 6. Staff has no recommendation on Decision Options 3-5.