

MDNR Comments on Commission RES rule (version 4)

March 23, 2009

The Missouri Department of Natural Resources' Energy Center (MDNR-EC) advocates the development of Missouri's renewable resources. The Renewable Energy Standard (RES) should be implemented in a manner that promotes the development of Missouri's renewable resources and promotes increased employment and economic recovery in our state.

MDNR-EC offers several comments focused on the eligibility and certification of RECs and the sources and technologies used to generate the energy that is the basis of the RECs.

MDNR01: Geographic sourcing requirements

MDNR-EC intends to propose the following requirement for certification of RECs. This specific language of the requirement will be included in the department's rule but a reference to the requirement should be included in the Commission rule:

Certification shall be limited to RECs based on (a) electricity that was generated in the state of Missouri; (b) electricity that was generated within the geographic footprint of the RTO in which the utility participates; or (c) electricity that was generated in an RTO that is adjacent to the utility's RTO and from which the electricity was wheeled into the RTO in which the utility participates.

MDNR-EC's considerations in proposing this requirement include the following:

- The proposal to establish a geographic sourcing requirement is consistent with the nearly universal practice of states with an RPS. A 2008 survey by Lawrence Berkeley National Laboratory found that nearly all states with an RPS policy had set geographic sourcing restrictions. "A variety of approaches have been used to limit the geographic eligibility of renewable energy projects, and to establish electricity delivery requirements." Colorado was the only state that had set no limitations on geographic source, and Colorado Public Utilities Commission recently proposed to amend the state's RPS rule to set such limitations.¹
- In MDNR-EC's view, a regionally-based requirement establishes an appropriate balance of several policy objectives. It supports renewable development in Missouri and promotes increased employment and economic recovery in the state. It helps control the cost of compliance by providing access to lower cost renewable resources available elsewhere in the region. It encourages renewable development in states from which renewable energy may be delivered to Missouri. Finally, as the State / Federal RPS Collaborative point out in their Best Practices statement, "regional development of renewable resources can create shared benefits and reduce RPS compliance costs."²

¹ LNBL, Renewable Portfolio Standards in the United States, April 2008, Table 3; Colorado Public Utilities Commission, Docket 00R-424E

² Recommended Principles and Best Practices for State Renewable Portfolio Standards, Draft, October 20, 2008, p 5

- Because RTOs play a central role in power dispatch and transmission, they are an appropriate choice for defining regional geographic sourcing requirements. The choice of RTOs emphasizes deliverability and promotes access of Missourians to renewable resources over the long run.
- The specific policy that is proposed is a refinement of the Center for Resource Solutions (CRS) geographic sourcing requirement and received positive comment from CRS staff.

MDNR02 Statutory certification requirements in RSMo 393.1025(5) and RSMo 393.1030(4).

The statute sets forth two responsibilities for certification by the department

- RSMo 393.1025(5) refers to "other sources of energy not including nuclear that become available after November 4, 2008, and are certified as renewable by rule by the department."
- RSMo 393.1030(4) states that "The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks."

These requirements will be fully incorporated into a rule to be developed by the department but they also need to be acknowledged and reflected in the Commission rule to assure that implementation of the statutory certification requirements is meaningful. MDNR-EC proposes that these requirements be acknowledged and reflected in section 4 CSR 240-20.xxx(2) or (3) of the Commission rule. In MDNR-EC's view, the current draft of the Commission rule attempts to do this but it is not clear that the current draft successfully acknowledges and reflects both of these requirements.

The most relevant provision in the current Commission draft is 4 CSR 24-020.XXX(3) which reads as follows:

"Renewable Energy Credits. RECs, SRECs, and SORECs will be utilized to satisfy the RES requirements of this rule. RECs must be created by eligible renewable energy technologies as defined in this rule and certified by the department."

MDNR-EC proposes that this be revised as follows:

"Renewable Energy Credits. RECs, SRECs, and SORECs will be utilized to satisfy the RES requirements of this rule. RECs must be certified as set forth in 10 CSR 140-8 and created by renewable energy technologies that are eligible as defined in this rule or that are certified as eligible by the department."

MDNR-EC 's considerations in proposing this revision include the following:

- It is not clear to MDNR-EC whether the statement in the draft rule was meant to refer to the certification of eligible sources referenced in RSMo 393.1025(5) or the certification process referenced in RSMo 393.1030(4). The proposed formulation refers unambiguously to both.
- A reference to the department rule (10 CSR 140-8) has been provided here as a placeholder. MDNR-EC will provide the actual reference at a later date. The Commission rule should refer to it by rule number rather than attempt to summarize it.

MDNR03: 4 CSR 240-20.XXX (1)H.10, Addition of eligible sources to those specifically named in the statute

As stated above, RSMo 393.1025(5) empowers the department to certify as eligible "other sources of energy that become available after November 4, 2008."

The department is reviewing RSMo 393.1025(5) and will propose a department rule that implements this provision. The department will provide opportunities for public review of its proposed rule.

To assure consistency between the Commission rule and the department's current thinking on its rule, MDNR-EC proposes the following language for 4 CSR 240-20.XXX (1)H.10. This is identical to the statutory language except that "technology" has been substituted for "source" and a reference to the relevant section of the department rule has been added.

10. other technologies not including nuclear that become available after November 4, 2008, and are certified as renewable by the department as provided in 10 CSR 140-8(4).

MDNR04: Eligible hydroelectric sources

RSMo 393.1025(5) defines eligible hydroelectric sources as follows: "hydropower (not including pumped storage) that does not require a new diversion or impoundment of water and that has a nameplate rating of ten megawatts or less."

MDNR-EC offers its recommendations on interpretation of this language with respect to two specific issues:

- (1) The statutory 10 MW upper limit on nameplate rating should apply to generating units not to aggregate capacity of the hydroelectric facility. As a consequence, power generated from the generating units of most run-of-river hydroelectric facilities should be eligible renewable resources, barring other undue adverse air, land or water impacts. This is true for existing run-of-river facilities such as AmerenUE's Keokuk facility and new run-of-river facilities proposed for the Mississippi and Missouri Rivers.
- (2) An increase in hydroelectric generation that results from incremental efficiency improvements at an existing hydroelectric generating unit should be considered an

eligible renewable resource if the increase in the generating unit's nameplate capacity is less than 10 MW. The amount of eligible energy for a given period of time should be based on total generation from the units during that time period multiplied by the percent increase in nameplate capacity that resulted from the efficiency improvement.

- (3) However, in all the cases listed above, RECs based on the electricity generated at these hydroelectric facilities must be certified to count toward fulfillment of RES requirements. The certification process is required by RSMo 393.1030(4) to take into account the environmental impact of the hydroelectric facility.

A focus on the issues addressed in these proposals is appropriate because a number of run-of-river projects, both congenital utility-scale installations and installations based on an array of numerous small turbines, have been proposed for installation in the Mississippi and Missouri Rivers. None of these is close to operation but it is prudent to have policies in place to deal with them.

MDNR-EC's considerations in proposing these recommendations include the following:

- Standard definitions of nameplate capacity refer to the maximum output of a generating unit, not a facility.
- In MDNR-EC's view, utility efforts to improve the efficiency of generation facilities should be encouraged and rewarded. The proposed policy on incremental additions does so.
- The proposed policy on incremental additions is consistent with RPS policies of most other states. According to a summary of state RPS treatment of incremental additions to hydroelectric facilities, the general practice has been to grant eligibility to incremental additions.³
- The proposal appropriately emphasizes environmental impact of a facility rather than its size. There is no prima facie reason to assume that a hydroelectric facility with aggregate nameplate capacity greater than 10MW is environmentally harmful. The Low Impact Hydroelectric Institute has certified hydroelectric facilities up to several hundred megawatts in capacity as low impact facilities. Similarly, there is no prima facie reason to assume that a hydroelectric facility with aggregate nameplate capacity less than 10MW capacity is environmentally beneficent.

³ Report for Clean Energy States Alliance and the Northeast/Mid-Atlantic RPS Collaborative, Ed Holt and Associates, Increasing Coordination and Uniformity Among State Renewable Portfolio Standards, October 2008, Section 2.1.3.