

MID-ATLANTIC RENEWABLE ENERGY COALITION

RESPONSES TO THE DISCUSSION POINTS PROVIDED BY PUCO STAFF IN ADVANCE OF THE APRIL 23, 2013 WORKSHOP ON THE ALTERNATIVE ENERGY PORTFOLIO STANDARD RULES

The following are the responses of the Mid-Atlantic Renewable Energy Coalition (MAREC) to staff's questions/subject areas. In general, except as required by SB 315, MAREC believes that there should only be a minimal amount of amendments to the rules currently in place. For the most part, MAREC strongly believes that the legislative authority currently in effect and the rules already adopted by the Commission on the Alternative Energy Portfolio Standard (AEPS) have provided a good framework for renewable energy development in Ohio. As a result of the AEPS, two major wind farms have been developed and are in operation in the state. A number of other wind projects are being developed and have gone through the certification process. Any revisions to the rules should be carefully prepared, so as not to do anything to disrupt the progress and conditions for development that AEPS has fostered.

MAREC has reproduced the staff's questions/subject areas below, which have been italicized. The MAREC responses are listed in bold.

Do you have any concerns with revising the automatic Renewable Energy Resource Generating Facility (REN) Certification process to 30 days (down from the current 60-day process)? Do you have any other suggested modifications to the REN certification process?

MAREC does not have any concerns with revising the automatic Renewable Energy Resource Generating Facility (REN) process down to 30 days. If questions arise during the process that require additional time, then the rules already provide for the Commission to suspend an application for up to ninety days. MAREC believes that this allows for a more reasonable time frame for the REN process, but continues to include safeguards if additional information is needed by the Commission to make a determination on the application.

Staff welcomes feedback on potential modifications concerning the reporting requirement in Ohio Administrative Code (OAC) 4901:1-40-03(C) and the annual compliance report filing requirement in 4901:1-40-05

MAREC believes that the reporting requirement of OAC 4901:1-40-03(C) and 4901:1-40-05 are appropriate and do not need to be revised. The compliance review process also addressed in OAC 4901:1-40-05 is also a reasonable mechanism to evaluate compliance with the AEPS.

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Staff is interested in hearing from stakeholders if the two attribute tracking systems (GATS and M-RETS) currently recognized by the Commission are adequate, or if additional existing systems should also be recognized? All facilities certified to date are using GATS, and all companies have used GATS to demonstrate compliance. Is there perceived value in continuing to recognize M-RETS?

Now that the Ohio is completely within the PJM footprint and that all facilities certified to date use GATS, there seems to be little or no value to recognize M-RETS. It is consistent and more efficient to only recognize GATS in the AEPS rules.

In the context of confidentiality vs. program transparency, staff is interested in learning your thoughts on promoting improved program transparency while also remaining sensitive to concerns regarding the disclosure of confidential information. What data do you think need protected, and is there a time after which that information is no longer sensitive? What items currently not disclosed should be made publicly available?

MAREC supports improved program transparency. However, the utmost care should be taken not to disclose sensitive business information, such as pricing and cost data.

SB 315 requires the PUCO to include average annual renewable energy credit (REC) costs in its reports to the Ohio General Assembly. To compile this data, including a requirement that companies include cost data on GATS when transferring RECs/solar RECs to their reserve sub-account for compliance demonstration may be a potential option. Such information would not be available in public reports, but staff could access it through its regulatory account. Staff believes this could be an efficient process by which to collect the cost data annually while simultaneously maintaining confidentiality. Staff is interested in your thoughts on this potential approach. If you are not supportive of this approach, please provide alternative methods for collecting this cost data (i.e., modify rule so the cost data is included as a component of annual compliance filings). Staff understands that M-RETS does not currently collect cost data, so any company using M-RETS to demonstrate its compliance (i.e., retire RECs/S-RECs) would presumably need an alternative methodology.

MAREC believes that the approach outlined by staff to compile cost data required by SB 315 is a reasonable approach, so long as the data is maintained in a manner that protects confidential data provided by the companies.

SB 315, specifically Ohio Revised Code (ORC) 4928.01(A)(38)(b), includes certain facilities at state institutions of higher education as renewable energy resources. Staff solicits suggestions as to the output from such facilities that should be recognized as "renewable" for purposes of REC creation – all electricity, only electricity stemming from the use of recovered heat, steam production, etc.? If

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recognizing steam production, what mathematical conversion factor should be employed to convert the steam to MWHs for purposes of REC creation?

ORC 4928.01(A)(38)(b) provides that the following facilities are included under the definition of a waste energy recovery facility:

“A facility at a state institution of higher education as defined in section 3345.011 of the Revised Code that recovers waste heat from electricity-producing engines or combustion turbines and that simultaneously uses the recovered heat to produce steam, provided that the facility was placed into service between January 1, 2002, and December 31, 2004.”

It appears from this language that the intent was to only utilize only the recovered waste heat to produce steam, which should be recognized as “renewable.” However, there may be other indices of the legislative intent that can help determine how the output that should be recognized.

SB 315, specifically ORC 4928.01(A)(34)(h) and (i) includes several additional categories within the definition of advanced energy resources. Staff welcomes comments on the placed in-service date, if any, that should be applied to any facilities seeking qualification under (h) or (i), particularly in light of the placed in-service language in ORC 4928.64(A)(1).

MAREC believes that placed in-service dates as specified in ORC 4928.64(A)(1) are not applicable to the additional categories of advanced energy resources created by SB 315. By the very language of the description of these new categories in ORC 4928.01(A)(34)(h) and (i), these categories appear to apply to new or recently upgraded facilities. Consequently, the earliest placed in-service dates for these new categories should be the effective date of SB 315.

There continue to be differing interpretations as to the statutory language in ORC 4928.64(A)(1) that discusses mercantile alternative resources and their need to integrate. Staff is interested in suggested rule revisions on this topic that would clarify the implementation of this section of the statute.

MAREC believes that the current language in the Commission’s rule adequately addresses this issue.

The rules currently permit companies to file an application requesting a reduced baseline to reflect new economic growth. Staff welcomes any comments on this current rule – OAC 4901:1-40-03(B)(3) – particularly as it relates to what constitutes “economic growth” and for what duration it should be considered “new.” Any rule modification would need to remain consistent with ORC 4928.64(B).

MAREC believes that the current rules adequately address the issue, which would essentially require an electric utility or electric services company to apply for a reduced baseline on a case by case basis. In any event, MAREC believes that a change in the rule must continue to require the electric utility or

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electric services company to bear the burden of proof for any change to a new baseline and in any proceeding there must be sufficient proof provided that supports that the new economic growth is a material reduction in economic growth, thus warranting a reduced baseline.

Staff welcomes discussion on amending OAC 4901:1-40-03(B)(2)(b) to explicitly require the use of actual sales data. The use of projected sales, as detailed in this chapter, was intended to facilitate a company's compliance planning in that it could quantify its compliance requirements earlier in the year. However, a number of companies have sought waiver for this requirement, instead preferring to use actual sales data. Would it make more sense to revise the rule rather than continuing to grant waivers?

MAREC does not have a problem with an electric services company having no retail electric sales in the state during the preceding three years to be required to use actual sales data. However, the lack of actual sales data should not be the basis of a waiver for non-compliance with the AEPS.

Staff is interested in feedback concerning the definition of "double-counting" in OAC 4901:1-40-01. Specifically, Staff is interested in your thoughts on the perceived need for language to emphasize that certain marketing claims may result in the "consumption" of RECs, in which case those RECs could not subsequently be sold and relied upon by the Buyer for compliance purposes.

Appropriate language clarifying the definition of "double counting" should be helpful to both the buyer and the seller.