

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #1

Do Not Mark In This Box

FILED

2013 NOV 14 PM 3:44

OFFICE WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Public Service Commission TITLE NUMBER: 150

RULE TYPE: Legislative CITE AUTHORITY: W. Va. Code §24-2F-1 et seq.

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 34

TITLE OF RULE BEING AMENDED: Rules Governing Alternative and Renewable Energy Portfolio Standard

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: January 30, 2014 TIME: 9:30 a.m.

LOCATION OF PUBLIC HEARING: Howard M. Cunningham Hearing Room

PSC Headquarters

201 Brooks Street

Charleston, WV 25301

COMMENTS LIMITED TO: ORAL WRITTEN BOTH

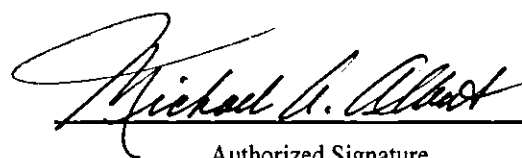
DATE WRITTEN COMMENT PERIOD ENDS: Initial December 16, 2013; Reply January 16, 2014 TIME: 4 p.m.

WRITTEN COMMENTS MAY BE MAILED TO:

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL


Authorized Signature

APPENDIX B
FISCAL NOTE FOR RULES

Rule Title: **150 C.S.R. 34, Rules Governing Alternative and Renewable Energy Portfolio Standard**

Type of Rule: Exempt Legislative Interpretive Procedural Emergency

Agency: Public Service Commission of West Virginia

Address: 201 Brooks Street
Charleston, West Virginia 25301

Phone Number: Richard E. Hitt, 304-340-0450 Email: rhitt@psc.state.wv.us

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There will be no significant implementation cost relating to this rulemaking for the State of West Virginia. The Commission does not anticipate additional costs to be incurred as a result of this rulemaking.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			N/A
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues			N/A

Rule Title: **150 C.S.R. 34, Rules Governing Alternative and Renewable Energy Portfolio Standard**

Rule Title: **150 C.S.R. 34, Rules Governing Alternative and Renewable Energy Portfolio Standard**

3. **Explanation of above estimates (including long-range effect):**
Please include any increase or decrease in fees in your estimated total revenues.

Not applicable.

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The effect of this rulemaking is to allow an alternate method to report generation data for facilities with a total rated system capacity of 10 kW and to provide standardized forms for three types of application filings.

Date: 11/14/13

Signature of Agency Head or Authorized Representative

Michael R. Albert

Summary of the Rule

One of the goals of the Alternative and Renewable Energy Portfolio Act, W. Va. Code § 24-2F-1 et seq., is to facilitate the development of a robust and diverse portfolio of electric-generating capacity in the State. W. Va. Code § 24-2F-5 establishes increasing annual minimum targets for retail sales by electric utilities of electricity generated from alternative and renewable energy resources.

To meet the alternative and renewable energy portfolio standard, each electric utility in the state is required to own an amount of credits at least equal to the annual target. Those credits can be bought or sold in the credit market that will be established, effective 2015, under the Act.

The Commission must certify an electric generating facility as a qualified energy resource for that facility to be entitled to generate credits. To date, several applications for certification have been filed by customer-generators who install solar systems at their residences. These applications are commonly filed by the homeowners themselves, without the assistance of an attorney. The Portfolio Standard Rules do not now require the use of a particular form, and the applications have varied in the clarity of the request and the amount of information provided.

Also, Commission Portfolio Standard Rule 5.3 requires generation data to be reported with a revenue-quality meter that meets the applicable American National Standards Institute (ANSI) C-12 standard, or its equivalent, and several of the customer-generators who applied for certification did not construct their solar systems with ANSI C-12 meters.

In General Order Number 184.32, the Commission is proposing two revisions to the Portfolio Standard Rules. One, three standardized application forms are added. Two, the Commission is proposing to allow an alternate method of reporting generation data for facilities with a total rated system capacity of 10 kW or less.

Statement of Circumstances

On November 5, 2010, the Commission promulgated its Portfolio Standard Rules, pursuant to the Alternative and Renewable Energy Portfolio Act, W. Va. Code § 24-2F-1 et seq. One of the goals of the Act is to facilitate the development of a robust and diverse portfolio of electric-generating capacity in the State. Under the Act, the Commission must certify an electric generating facility as a qualified energy resource for that facility to be entitled to generate Alternative and Renewable Energy Resource credits.

To date, several applications for certification have been filed by customer-generators who install solar systems at their residences. These applications are commonly filed by the homeowners themselves, without the assistance of an attorney. The Portfolio Standard Rules do not require the use of a particular form, and the applications have varied in the clarity of the request and the amount of information provided.

Additionally, several customer-generators have asked the Commission to not require small facilities to report their generation data with a revenue-quality meter that meets the applicable American National Standards Institute C-12 standard (ANSI C-12 meter), or its equivalent.

In General Order Number 184.32, the Commission is proposing two revisions to the Portfolio Standard Rules. One, three standardized application forms are added. Two, the Commission is proposing to allow an alternate method of reporting generation data for facilities with a total rated system capacity of 10 kW or less.

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 14th day of November, 2013.

GENERAL ORDER NO. 184.31

In the matter of a proceeding to seek preliminary comments from interested parties regarding revisions to the Commission Rules Governing Alternative and Renewable Energy Portfolio Standard, 150 C.S.R. Series 34.

GENERAL ORDER NO. 184.32

In the matter of proposed amendments to the Commission Rules Governing Alternative and Renewable Energy Portfolio Standard, 150 C.S.R. Series 34.

COMMISSION ORDER

The Commission promulgates proposed amendments to the Commission Rules Governing Alternative and Renewable Energy Portfolio Standard (Portfolio Standard Rules), 150 C.S.R. Series 34, relating to the revenue quality meter requirement and the format of an application for certification as a qualified energy resource. The Commission closes the proceeding in which it received preliminary comments about the revisions.

BACKGROUND

In General Order Number 184.31, the Commission invited comments regarding two possible revisions to the Portfolio Standard Rules. First, the Portfolio Standard Rules do not require the use of a particular form, and to date the applications for certification as a qualified energy resource have varied in the clarity of the request and the amount of information provided.

Second, Portfolio Standard Rule 5.3 requires generation data to be reported with a revenue-quality meter that meets the applicable American National Standards Institute C-12 standard (ANSI C-12 meter), or its equivalent, and several small solar generating facilities were not constructed with ANSI C-12 meters.

In the preparatory proceeding, the Commission received numerous comments from July through September, including from several homeowners. Although many of

the comments were filed after the deadline set by the Commission, we have considered each filing.

Initial comments

On July 22, 2013, PJM Environmental Information Services stated that its web-based Renewable Energy Certification Process (RECP) enables online certification applications and RECP can accommodate the requirements of different states. Using RECP, the Commission can review applications, request more information and notify applicants of the Commission decision.

Among other features, RECP has a password-protected online portal for applicants and auto-alerts to help applicants complete the application. Various reports, including a list of all of the certified generators registered via RECP can be prepared and PJM EIS offered to demonstrate RECP and discuss potential modifications for West Virginia.

On August 6, 2013, Monongahela Power Company and The Potomac Edison Company filed comments, stating that the application process works. They did not propose any rule revisions at this time, but suggested that requests for waivers of the ANSI C-12 standard be reviewed on a case-by-case basis in a process that includes an opportunity for the utility to comment. They also encouraged the Commission to accept electronic filings.

On August 6, 2013, Commission Staff recommended that Portfolio Standard Rule 5.3 be revised so that a revenue-grade meter is not necessary if minimum PJM Generation Attribute Tracking System (GATS) requirements are met and the facility's photovoltaic generation is 25 kilowatts (kW) or smaller. Staff provided language to amend the rule.

Staff proposed forms to standardize applications to qualify as an electric generating facility, a greenhouse gas emission reduction or offset project, and an energy efficiency or demand-side energy initiative project. Staff also recommended that the Commission develop a protocol to receive electronic application filings.

On August 6, 2013, Appalachian Power Company and Wheeling Power Company filed comments, supporting the requirement for generation data to be reported with an ANSI C-12 meter or its equivalent because the amount of Renewable Energy Credits generated has financial value, which should be calculated using revenue-quality metering. They asserted that the cost to install an ANSI C-12 meter was minimal as part of the overall cost of a distributed generation system.

APCo and Wheeling Power noted that other jurisdictions allow generation to be reported by inverter meters or PVWatts calculators, and in West Virginia the Commission has allowed some facilities with systems of 10 kW or less to provide generation data of a quality similar to that provided by an ANSI C-12 meter. Under

GATS Operating Rule 6.3.3.d, generating systems that change from production estimates to other methods of reporting generation are not eligible to change back, and systems that begin their generation reporting with readings from a meter or the system inverter may not switch to production estimates. While APCo and Wheeling prefer ANSI C-12 meters regardless of the size of a generating facility, if the Commission allows any alternate type of reporting, it should only be available to systems of 10 kW or less.

APCo and Wheeling Power experienced no difficulty when they applied to certify two qualified energy resources under Portfolio Standard Rule 4.4. They are not opposed to streamlining the certification process.

Comments were also filed by a photovoltaic system installer and several small-system generators, mostly homeowners, who each encouraged the Commission to streamline the application process:

August 7, 2013	Bill Howley
August 8, 2013	Mountain View Solar, also known as MTVSolar
August 14, 2013	Steven Runfola
	John Snyder
August 15, 2013	Nathaniel Hitt
August 16, 2013	Jeff Feldman
	Wolfgang Baudler
August 20, 2013	Amanda J. Gardner
August 22, 2013	Helen and John Burns
August 28, 2013	Harry Tyree
	Colin Williams
	Charles Pettit
	Joseph Snyder
August 29, 2013	Herbert Kreinik
	Anita Schumacher
	The Mountain Institute
	Malcolm Ward
	Teresa Shattuck
	Daniel G. Foulds
	William W. Pepper
August 31, 2013	Lance McCoy
September 1, 2013	Gary Truitt
September 3, 2013	David Hammer
September 4, 2013	Harry W. Kline
September 9, 2013	Eileen Dooley and Denis Woods
September 26, 2013	Robert Murto

The majority of them asked the Commission to allow a customer-generator facility of up to 10 kW to use readings taken from the system inverter or a revenue-quality meter that

meets the ANSI C-12 standard or its equivalent. They would require a customer-generator with a system larger than 10 kW to use an ANSI C-12 meter.

Mr. Howley provided language for the Commission to consider in revising the Portfolio Standard Rules.

Reply comments

On September 5, 2013, Commission Staff modified its position and recommended that an ANSI C-12 meter be used to report generation for a facility greater than 10 kW, instead of 25 kW as Staff initially proposed. Staff also made formatting changes to its proposed application forms.

DISCUSSION

Staff and the majority of the commenters urge the Commission not to require small facilities – up to 10 kW – to report generation data using revenue-grade meters. The utilities prefer all generation data to be reported with ANSI C-12 meters, but do not oppose an alternate method that is only available to small systems. We note that several other jurisdictions do not require revenue-grade meters for small systems, and no one has reported that those alternate reporting systems for small systems are proving to be problematic in other jurisdictions. Upon these facts and circumstances, the Commission will propose an amendment to Portfolio Standard Rule 5.3 to provide small systems with an alternate method to report generation.

Mr. Howley and Staff proposed different approaches for small systems to report the amount of electricity they generate. Mr. Howley suggested that small systems could report data taken from either an ANSI C-12 meter or a meter integrated into the system inverter. Staff recommended that the Commission accept any reporting method that complies with the GATS Operating Rules.

Upon review, we note that the GATS Operating Rules allow several reporting methods, including production estimates, so long as the reporting method is approved by the state. Under the Staff approach, our revised rule would refer generators to the GATS operating requirements, which, in turn, refer to methods approved in West Virginia.

We will not allow generation data to be reported using production estimates. Rather than referring to the GATS Operating Rules, we prefer to state directly what is required and, therefore, promulgate a change as suggested by Mr. Howley. We propose an amendment to Portfolio Standard Rule 5.3 that would allow readings taken from the system inverter or a revenue-quality meter that meets the ANSI C-12 standard or its equivalent to report generation from systems of 10 kW or less.

Staff proposed that the Commission require generators to complete application forms provided by the Commission. Staff prepared three separate forms for applications

to qualify as an electric generating facility, a greenhouse gas emission reduction or offset project, and an energy efficiency or demand-side energy initiative project.

We believe that standardized forms will help generators to provide all of the information that the Commission needs to review an application. The Commission will revise the Portfolio Standard Rules to add the forms that Staff has drafted.

A copy of the Commission-proposed amendments to the Rules Governing Alternative and Renewable Energy Portfolio Standard, 150 C.S.R. Series 34, appears in Appendix B to this Order.

FINDINGS OF FACT

1. Staff and the majority of the commenters urge the Commission not to require small facilities – with a total system rated capacity of 10 kW or less – to report generation data using revenue-grade meters.

2. Meters integrated into the system inverter, such as the Enphase M215 microinverter, the Fronius IG Plus central inverter and the Xantrex inverter and charge controller, provide electric generation data of a quality similar to that intended by the requirement in Portfolio Standard Rule 5.3 to report generation data using a revenue-quality meter that meets ANSI C-12 standards or the equivalent. Hoffa & Shewmake, Case No. 11-1635-E-P, Comm'n Order at 9 (Dec. 7, 2012).

3. Staff prepared forms for applications to qualify as an electric generating facility, a greenhouse gas emission reduction or offset project, and an energy efficiency or demand-side energy initiative project.

CONCLUSIONS OF LAW

1. The Commission should propose amendments to Portfolio Standard Rule 5.3 to provide systems with a total system rated capacity of 10 kW or less with an alternate method to report generation.

2. The Commission should propose amendments to add standardized forms to the Portfolio Standard Rules for applications to qualify as an electric generating facility, a greenhouse gas emission reduction or offset project, and an energy efficiency or demand-side energy initiative project.

ORDER

IT IS THEREFORE ORDERED that General Order Number 184.31 is dismissed and, upon entry of this Order, shall be removed from the Commission's docket of open cases.

IT IS FURTHER ORDERED that General Order Number 184.32 is opened and the following schedule is adopted to receive written comments on the proposed amendments to the Portfolio Standard Rules:

Initial Comments	4 p.m. Thursday, December 16, 2013
Reply Comments	4 p.m. Tuesday, January 16, 2014

IT IS FURTHER ORDERED that the Commission will conduct a hearing beginning at 9:30 a.m. January 30, 2014, in the Howard M. Cunningham Hearing Room at Commission headquarters, 201 Brooks Street, Charleston, W. Va.

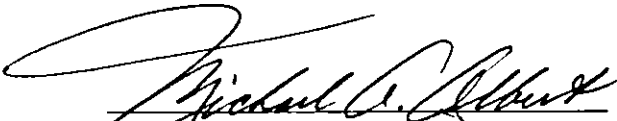
IT IS FURTHER ORDERED that all comments on the proposed amendments must contain this case number, General Order Number 184.32, and be addressed to Ingrid Ferrell, Executive Secretary, Public Service Commission of West Virginia, P.O. Box 812, Charleston, W. Va. 25323.


IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause publication, one time, of the Notice appearing in Appendix A in a newspaper, duly qualified by the Secretary of State, published and of general circulation in each of the following cities: Beckley, Bluefield, Charleston, Clarksburg, Elkins, Fairmont, Huntington, Keyser, Lewisburg, Logan, Martinsburg, Morgantown, Moundsville, Parkersburg, Point Pleasant, Weirton, Welch, Wheeling and Williamson. The Executive Secretary shall file the affidavits of publication as soon as they are received.

IT IS FURTHER ORDERED that the Commission's Executive Secretary shall cause of a copy of the Notice in Appendix A to be served by electronic mail, if possible, upon those who participated in the proceeding in which the Portfolio Standard Rules were adopted, General Order Number 184.25. The Executive Secretary shall cause a copy of the Notice to be served by U.S. mail if service cannot be achieved by electronic mail.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission shall cause a copy of the Notice in Appendix A to be served by electronic mail on all electric utilities operating in West Virginia.

IT IS FURTHER ORDERED that the Executive Secretary of the Commission shall also cause a copy of this Order to be served upon Commission Staff and the Commission Consumer Advocate Division.


Michael A. Albert, Chairman


Jon W. McKinney, Commissioner


Ryan B. Palmer, Commissioner

CLW/sk
go184.31ca.doc

**PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON**

At a session of the PUBLIC SERVICE COMMISSION OF WEST VIRGINIA in the City of Charleston on the 14th day of November, 2013.

GENERAL ORDER NO. 184.32

In the matter of proposed amendments to the Commission
Rules Governing Alternative and Renewable Energy Portfolio
Standard, 150 C.S.R. Series 34.

**NOTICE OF OPPORTUNITY TO COMMENT
AND HEARING REGARDING PROPOSED AMENDMENTS
TO PORTFOLIO STANDARD RULES**

On November 5, 2010, the Commission promulgated its Rules Governing Alternative and Renewable Energy Portfolio Standard (Portfolio Standard Rules), 150 C.S.R. Series 34. The Commission is proposing amendments to allow generating facilities of 10 kW or less to report generation data using readings taken from the system inverter or a revenue-quality meter that meets the ANSI C-12 standard or its equivalent. The Commission is also proposing to add standardized forms to the Portfolio Standard Rules for applications to qualify as an electric generating facility, a greenhouse gas emission reduction or offset project, and an energy efficiency or demand-side energy initiative project.

Interested parties are invited to file written comments on the proposed revisions as follows:

Initial Comments	4 p.m. Thursday, December 16, 2013
Reply Comments	4 p.m. Tuesday, January 16, 2014

The Commission will conduct a hearing on the proposed amendments at 9:30 a.m. January 30, 2014, in the Howard M. Cunningham Hearing Room at Commission headquarters, 201 Brooks Street, Charleston, W. Va.

Written comments should be addressed to the Commission's Executive Secretary, Ingrid Ferrell, P. O. Box 812, Charleston, WV 25323. So that your comments may be properly filed, they must contain the General Order Number listed above.

PUBLIC SERVICE COMMISSION OF WEST VIRGINIA

TITLE 150
LEGISLATIVE RULES
PUBLIC SERVICE COMMISSION

SERIES 34
RULES GOVERNING ALTERNATIVE AND
RENEWABLE ENERGY PORTFOLIO STANDARD

FILED
2013 NOV 14 PM 3:44
OFFICE WEST VIRGINIA
SECRETARY OF STATE

§150-34-1. General.

1.1. Scope. -- These rules govern the alternative and renewable energy Portfolio Standard applicable to electric utilities.

1.2. Authority. -- W. Va. Code §24-2F-1 et seq.

1.3. Filing Date. -- _____, 2014.

1.4. Effective Date. -- _____, 2014.

1.5. Application of Rules.

1.5.a. If hardship results from the application of any rule contained herein or if unusual difficulty is involved in immediately complying with any rule, or upon other good cause shown, application may be made to the Commission for a temporary or permanent exemption or waiver from its provisions. No application for modification or exemption will be considered by the Commission unless the application includes a full and complete justification for such action. Furthermore, to the extent the rule is based on a specific statutory requirement, the Commission is unable to waive such a rule based upon specific statutory requirement.

§150-34-2. Definitions.

2.1. The Act. -- The Alternative and Renewable Energy Portfolio Act codified in Article 2F of Chapter 24 of the West Virginia Code, as it may be amended in the future.

2.2. Advanced Coal Technology. -- A technology that is used in a new or existing energy generating facility to reduce airborne carbon dioxide emissions associated with the combustion or use of coal and includes, but is not limited to, carbon dioxide capture and sequestration technology, supercritical technology, advanced supercritical technology as that technology is determined by the Public Service Commission, ultrasupercritical technology and pressurized fluidized bed technology and any other resource, method, project or technology certified by the Commission as advanced coal technology. For new energy generating facilities, in determining whether a particular technology constitutes

“advanced coal technology,” the Commission will include in its determination the baseline for determining reductions in airborne carbon dioxide emissions which shall be the most efficient coal-fired energy generating facility, measured in pounds of carbon dioxide emissions per megawatt hour of net generation, owned by a West Virginia utility in operation before July 1, 2009, as certified by a responsible utility officer.

2.3. Alternative and Renewable Energy Portfolio Standard or Portfolio Standard. -- A requirement in any given year that requires an electric utility to own credits in an amount equal to a certain percentage of electric energy sold in the preceding calendar year by the electric utility to retail customers in this state.

2.4. Alternative Energy Resources. -- Any of the following resources, methods or technologies for the production or generation of electricity:

2.4.a. Advanced coal technology;

2.4.b. Coal bed methane;

2.4.c. Natural gas;

2.4.d. Fuel produced by a coal gasification or liquefaction facility;

2.4.e. Synthetic gas;

2.4.f. Integrated gasification combined cycle technologies;

2.4.g. Waste coal;

2.4.h. Tire-derived fuel;

2.4.i. Pumped storage hydroelectric projects;

2.4.j. Any other resource, method, project or technology certified as an alternative energy resource by the Public Service Commission.

2.5. Alternative and Renewable Energy Resource Credit or Credit. -- A tradable instrument that is used to establish, verify and monitor the generation of electricity from alternative and renewable energy resource facilities, energy efficiency or demand-side energy initiative projects, or greenhouse gas emission reduction or offset projects.

2.6. Alternative Energy Resource Facility. -- A facility or equipment that generates electricity from alternative energy resources.

2.7. Behind-the-meter Generator or BTM Generator. -- An alternative or renewable on-site generator within this state that is located behind a retail customer meter such that

no utility-owned transmission or distribution facilities are used to deliver the energy from the generating unit to the on-site generator's load.

2.8. Certified Alternative and Renewable Energy Resource Credit or Certified Credit. -- A credit that the Public Service Commission certifies has met the definition of an alternative and renewable energy resource credit.

2.9. Certified Alternative or Renewable Energy Resource Facility. -- A generation facility or units that the Public Service Commission certifies as an alternative or renewable energy resource facility.

2.10. Commission or Public Service Commission. -- The Public Service Commission of West Virginia as continued pursuant to W. Va. Code §24-1-3.

2.11. Compliance Year. -- The calendar year.

2.12. Customer-generator. -- An electric retail customer who owns or leases, and operates an alternative or renewable energy resource facility ("generation project") within this state that meets the following criteria: the generation project is located on the same tract of land as its metering point(s) or if the generation facility is located on contiguous tract(s), the generation project is located within two miles of the customer's metering point(s); the tract or contiguous tracts are owned, leased, or operated by the customer as a private residence or used by a commercial or industrial customer in the normal course of business; the generation project has a nameplate capacity of not greater than 25 kilowatts if installed at a residential service location, not greater than 500 kilowatts if installed at a commercial service location, or not greater than 2 megawatts if installed at an industrial service location; provided that the maximum nameplate capacity for a Customer-generator served by rural electric cooperatives, municipally-owned electric utilities or utilities serving less than thirty-thousand residential customers shall be 50 kilowatts unless such a utility consents to interconnection with a Customer-generator with a maximum nameplate capacity greater than 50 kilowatts and the generation project is designed and installed to operate in parallel with the electric utility distribution system without adversely affecting the operation of equipment and service of the electric utility and its customers and without presenting safety hazards to the electric utility and customers.

2.13. Electric Utility. -- Any electric distribution company or electric generation supplier that sells electricity to retail customers in this state.

2.14. Energy Efficiency or Demand-side Energy Initiative Project. -- A project in this state that promotes customer energy efficiency or the management of customer consumption of electricity through the implementation of one or more of the following:

2.14.a. Energy efficiency technologies, equipment, management practices or other strategies utilized by residential, commercial, industrial, institutional or government customers that reduce electricity consumption by those customers;

2.14.b. Load management or demand response technologies, equipment, management practices, interruptible or curtailable tariffs, energy storage devices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand;

2.14.c. Industrial by-product technologies consisting of the use of a by-product from an industrial process, including, but not limited to, the reuse of energy from exhaust gases or other manufacturing by-products that can be used in the direct production of electricity at the customer's facility;

2.14.d. Customer-sited generation, demand-response, energy efficiency or peak demand reduction capabilities, whether new or existing, that the customer commits for integration into the electric utility's demand-response, energy efficiency or peak demand reduction programs; or

2.14.e. Infrastructure and modernization projects that help promote energy efficiency, reduce energy losses or shift load from periods of higher demand to periods of lower demand, including the modernization of metering and communications (also known as "smart grid"), distribution automation, energy storage, excluding pumped storage hydroelectric projects as defined in 2.4.i., distributed energy resources and investments to promote the electrification of transportation.

2.15. Greenhouse Gas Emission Reduction or Offset Project. -- A project to reduce or offset greenhouse gas emissions from sources in this state other than the electric utility's own generating and energy delivery operations. Greenhouse gas emission reduction or offset projects include, but are not limited to:

2.15.a. Methane capture and destruction from landfills, coal mines or farms, except that when the methane is also used to produce electricity the project cannot also qualify as an alternative energy resource under Rule 2.4, or a renewable energy resource under Rule 2.22;

2.15.b. Forestation, afforestation or reforestation;

2.15.c. Nitrous oxide or carbon dioxide sequestration through reduced fertilizer use or no-till farming.

2.16. Generation Attribute Tracking System or GATS. -- The environmental and emissions attributes tracking system for electric generation that is owned and operated by PJM-Environmental Information Services, Inc. (PJM-EIS).

2.17. Net Metering. -- The means of measuring the difference between electricity supplied by an electric utility and electricity generated from an alternative or renewable energy resource facility owned or operated by an electric retail customer when any portion of the electricity generated from the alternative or renewable energy resource facility is used to offset part or all of the electric retail customer's requirements for electricity.

2.18. Net Generation. -- The amount of gross generation less the electrical energy consumed at the generating facility for facility service or auxiliaries or transformation to transmission levels at the facility busbar.

2.19. PJM or PJM Interconnection. -- The regional transmission organization (RTO) that coordinates the movement of wholesale electricity in the PJM region, or its successors at law, and manages the transmission systems in this state.

2.20. PJM Region. -- The area within which the movement of wholesale electricity is coordinated by PJM interconnection. The PJM region is as described in the Amended and Restated Operating Agreement of PJM, including future supplements and amendments.

2.21. Reclaimed Surface Mine. -- A surface mine, as that term is defined in W. Va. Code §22-3-3, that is reclaimed or is being reclaimed in accordance with state or federal law.

2.22. Renewable Energy Resource. -- Any of the following resources, methods, projects or technologies for the production or generation of electricity:

2.22.a. Solar photovoltaic or other solar electric energy;

2.22.b. Solar thermal energy;

2.22.c. Wind power;

2.22.d. Run of river hydropower -- A hydropower facility that, during normal operating conditions, does not utilize storage and that has outflow from the project that approximates the inflow of the project. The flow regime below a run of the river hydropower project will essentially be the river's natural regime, except in special circumstances such as might follow reinstallation of flashboards, project shutdowns, or as required pursuant to flood control and navigation control requirements of the U.S. Army Corps of Engineers or the terms and conditions of the facility's Federal Energy Regulatory Commission license to promote the environment, recreation, or fish habitat. Under those circumstances, a change in storage contents is necessary, and outflow is reduced below inflow for a period. Another circumstance is the flow transition after an idle station is brought online, causing initial flows downstream to exceed inflow.

2.22.e. Geothermal energy, which means a technology by which electricity is produced by extracting hot water or steam from geothermal reserves in the earth's crust to power steam turbines that drive generators to produce electricity.

2.22.f. Biomass energy, which means a technology by which electricity is produced from a nonhazardous organic material that is available on a renewable or recurring basis, including pulp mill sludge.

2.22.g. Biologically derived fuel including methane gas, ethanol, or biodiesel fuel.

2.22.h. Fuel cell technology, which means any electrochemical device that converts chemical energy in a hydrogen-rich fuel directly into electricity, heat and water without combustion.

2.22.i. Recycled energy, which means useful thermal, mechanical or electrical energy produced from: (i) exhaust heat from any commercial or industrial process; (ii) waste gas, waste fuel or other forms of energy that would otherwise be flared, incinerated, disposed of or vented; and (iii) electricity or equivalent mechanical energy extracted from a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat.

2.22.j. Any other resource, method, project or technology certified by the Commission as a renewable energy resource.

2.23. Renewable Energy Resource Facility. -- A facility or equipment that generates electricity from renewable energy resources.

2.24. Retail Customer. -- A customer that receives retail electricity in West Virginia.

2.25. Waste Coal. -- A technology by which electricity is produced by the combustion of the by-product, waste or residue created from processing coal (such as gob).

§150-34-3. Electric Utility Obligations.

3.1. Each electric utility doing business in West Virginia shall meet the alternative and renewable energy portfolio standard set forth in this rule. In order to meet these standards, an electric utility each year shall own an amount of certified credits equal to a certain percentage of electricity, as set forth in this rule, sold by the electric utility in the preceding year to retail customers in West Virginia.

§150-34-4. Qualified Energy Resources Application and Certification.

4.1. In order to be a qualified energy resource, an electricity generator or project seeking entitlement to credits must be certified as such by the Commission. If the

Commission determines an energy resource qualifies to generate credits under W. Va. Code §24-2F-4, the Commission will issue a certification number for the qualified energy resource to be recorded in the registry system referenced in Rule 6.1.

4.2. The following types of facilities may apply to be a qualified energy resource:

4.2.a. A facility that generates electricity from an alternative energy resource as defined in Rule 2.4.

4.2.a.1. A facility will not be qualified if it operates outside the PJM Region.

4.2.a.2. Customer-sited generation, demand-response, whether new or existing, that the customer commits for integration into the electric utility's demand-response, energy efficiency or peak demand reduction programs will not be qualified if it has previously been certified as an energy efficiency or demand-side energy initiative project.

4.2.b. A facility not yet in operation seeking predetermination as a specific type of "advanced coal technology" shall file a petition with the Commission.

4.2.c. A facility that generates electricity from a renewable energy resource as defined in Rule 2.22.

4.2.c.1. A facility will not be qualified if it operates outside the PJM Region.

4.2.c.2. Customer-sited generation, demand-response, whether new or existing, that the customer commits for integration into the electric utility's demand-response, energy efficiency or peak demand reduction programs will not be qualified if it has previously been certified as an energy efficiency or demand-side energy initiative project.

4.2.d. A greenhouse gas emission reduction or offset project will be qualified after demonstrating that the emission reductions or offsets occur within the state and have been certified by one of the greenhouse gas programs approved by the Commission.

4.2.d.1. A greenhouse gas emission reduction or offset project will not be qualified if it has been undertaken pursuant to an obligation under any other West Virginia state law, policy or regulation.

4.2.e. An energy efficiency or demand-side energy initiative project will be qualified after demonstrating that it is located within the geographic boundaries of this state and it reduces the consumption of electricity by retail customers through the implementation of technologies, programs, and strategies as defined in Rule 2.14 and subject to the following rules:

4.2.e.1. An energy efficiency or demand-side energy initiative project will not be qualified if it has been undertaken pursuant to an obligation under any other West Virginia state law, policy or regulation;

4.2.e.2. An energy efficiency or demand-side energy initiative project will not be qualified if it has previously been certified as an alternative or renewable energy resource;

4.2.e.3. An energy efficiency or demand-side energy initiative project will be qualified only if equipment, physical, or program changes are made that reduce electricity consumption by the customer. Projects that solely involve changes, such as signage, newsletters, or other policies designed to encourage behavioral change, will not be qualified;

4.2.e.4. An energy efficiency or demand-side energy initiative project will be qualified if the costs of the implementation, acquisition, or installation of the project have been paid for or are directly reimbursed, in whole or in part, by the electric utility. The contract controlling the project shall be just and reasonable and must clearly provide an agreement of the parties that the electric utility shall own all credits generated by the project; and

4.2.e.5. An energy efficiency or demand-side energy initiative project will be qualified if the amount of electricity conserved by the project is verifiable in accordance with industry accepted evaluation, measurement, and verification protocols that are approved by the Commission. An electric utility shall propose an evaluation, measurement, and verification plan for each project by which the Commission may evaluate the effectiveness of the project. All assumptions contained in the proposed evaluation, measurement, and verification plan should be identified, explained and supported by documentation where possible. Utilities may propose incorporating tracking and evaluation measures using existing data streams currently in use provided that they permit the Commission to evaluate the program using the reported data.

4.3. The Commission shall have the discretion to approve or prescribe evaluation, measurement, and verification protocols and to update its list of approved greenhouse gas programs or emission reduction or offset project protocols.

4.4. Any electricity generator seeking certification of facilities or any electric utility seeking certification of an energy efficiency or demand-side energy initiative project, or greenhouse gas emission reduction or offset project as a qualified energy resource shall submit to the Commission a verified application substantially in the form of Form No. 1, 2 or 3 attached to these rules, stating, at a minimum:

4.4.a. For any facility or project to be a qualified energy resource, in addition to requirements under Rules 4.4.b. and 4.4.c.:

4.4.a.1. Current Certificate of Authority issued by the Secretary of State for a foreign corporation; and

4.4.a.2. A current Certificate of Good Standing for the applicant issued by the state in which the business was formed.

4.4.b. If seeking qualification as an electric generating facility:

4.4.b.1. The name and address of the facility for which the application is made;

4.4.b.2. The name of the owner(s) of the facility and the owner's contact information;

4.4.b.3. The name and contact information of the operator of the facility;

4.4.b.4. The name and contact information of a designated representative authorized by the electricity generator to act on its behalf;

4.4.b.5. Documentation of authority to sign on behalf of owners of the electricity generating facility;

4.4.b.6. The location of the facility, including an indication of whether the facility is sited upon a reclaimed surface mine;

4.4.b.7. The fuel type(s) and capacity information;

4.4.b.8. A description of the facility, including whether the facility is a customer generator or BTM generator;

4.4.b.9. Identification and description of the metering system that provides the "revenue-quality meter output" as that term is defined in the GATS operating rules;

4.4.b.10. Whether the electricity generation facility is within the PJM Region;

4.4.b.11. Whether the facility is certified by another state as an eligible generation resource to meet the portfolio standard of that state;

4.4.b.12. Whether the facility is being used for a voluntary retail customer program by an electric utility in West Virginia;

4.4.b.13. The Office of Regulatory Information Systems Plant location ("ORISP") Code for the facility;

4.4.b.14. A copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860, if the rated capacity is greater than 1.0 MW.

4.4.c. If seeking qualification as a greenhouse gas emission reduction or offset project:

4.4.c.1. The name and address of the electric utility which is making the application;

4.4.c.2. The name of the owner(s) of the electric utility and the owner's contact information;

4.4.c.3. The name and contact information of a designated representative authorized by the electric utility to act on its behalf;

4.4.c.4. Documentation of authority to sign on behalf of owners of the electric utility;

4.4.c.5. A report or statement indicating the estimated quantity of tons (1 ton equals 2,000 pounds) of carbon dioxide equivalent to be converted into credits;

4.4.c.6. Proof of registration of the project with a greenhouse gas program approved by the Commission;

4.4.c.7. The location and a description of the project;

4.4.c.8. Attestation by the electric utility that the reductions or offsets will not be retired in the offset registry of an approved greenhouse gas program pursuant to any other program, law, policy, regulation, or voluntary retail customer program;

4.4.c.9. Attestation by the electric utility of ownership of the emission reductions or offsets attained from the project developer.

4.4.d. If seeking qualification as an energy efficiency or demand-side energy initiative project:

4.4.d.1. The name and address of the electric utility which is making the application;

4.4.d.2. The name of the owner(s) of the electric utility and the owner's contact information;

4.4.d.3. The name and contact information of a designated representative authorized by the electric utility to act on its behalf;

4.4.d.4. Documentation of authority to sign on behalf of owners of the electric utility;

4.4.d.5. The location and a description of the project;

4.4.d.6. Attestation from the retail customer that the costs of the acquisition or installation of the energy efficiency or demand-side energy initiative project have been paid for, or are directly reimbursed, in whole or in part, by the electric utility;

4.4.d.7. Acknowledgment from the retail customer that the project may generate credits of financial value which will be awarded to the utility and used for portfolio standard compliance purposes, banked for future compliance with the portfolio standard, or traded or sold to another entity; and

4.4.d.8. Instead of customer attestation or acknowledgment, as required by Rules 4.4.d.6-7, alternate submission requirements will be allowed by the Commission for state-wide energy efficiency or demand-side energy initiative projects. Such alternative submission requirements may include, but are not limited to, documentation of project costs paid and that the utility has informed the customers that the utility will retain credits associated with the state-wide initiative projects.

4.4.d.9. The proposed evaluation, measurement and verification plan for the project, including a schedule for submitting information to the Commission required in Rule 5.5.a.

4.5. The Commission may verify information submitted as part of the application process for certification as a qualified energy resource by performing a review or site visit to the qualified energy resource. The qualified energy resource shall provide the Commission access to the qualified energy resource or furnish documentation to substantiate information submitted as part of the qualification application process. If physical access to the qualified energy resource is not provided or documentation requested by the Commission is not provided within thirty (30) days of a request by the Commission, the qualified energy resource may be decertified by the Commission. Before being decertified, a qualified energy resource will be given thirty (30) days written notice and an opportunity to show cause why it should not be decertified.

4.6. The owner or the owner's designated representative of an alternative or renewable energy resource must notify the Commission of any changes in the operating characteristics of a qualified energy resource at least thirty (30) days prior to the effective date of a planned change and within thirty (30) days of an unplanned change. Substantive changes include, but are not limited to, changes in fuel type, fuel mix, generator type or the rate of net carbon dioxide emissions. Failure to timely notify the Commission of such changes may result in the decertification of the qualified energy resource from the date of the change until a new certification is issued by the Commission. The Commission may decertify any credits awarded to an energy resource

following such changes if the energy resource is decertified and not recertified. Whenever such changes have taken place, if the facility wishes to continue to be certified at its previous or at a revised level, a revised application should be submitted, at the time of notifying the Commission of the change, for Commission review according to the provisions of this rule.

4.7. If a qualified energy efficiency or demand-side energy initiative project or greenhouse gas emission reduction or offset project has been modified, removed, destroyed, disabled, or abandoned since the date of application for approval by the Commission, the electric utility must notify the Commission at least thirty (30) days prior to the effective date of a planned change and within thirty (30) days of an unplanned change. Removed, destroyed, disabled, or abandoned projects are decertified. The Commission may decertify any credits awarded to the project following such changes if the energy resource is decertified and not recertified. For modified projects, if the project wishes to continue to be certified at its previous or at a revised level, a revised application should be submitted, at the time of notifying the Commission of the change, for Commission review according to the provisions of this rule.

4.8. A qualified energy resource or project may be decertified by the Commission if it is determined to no longer be an eligible qualified energy resource or project due to fraud or a material change in the nature of the resource or project. Before being decertified, a qualified energy resource or project will be given thirty (30) days written notice and an opportunity to show cause why it should not be decertified. If the Commission decertifies an energy resource or project, it will determine the eligibility of previously generated credits for use with the Portfolio Standard in Rule 7.

§150-34-5. Certified Alternative and Renewable Energy Resource Credits.

5.1. Awarded credits shall be created and tracked through the registry system referenced in Rule 6.1.

5.2. A qualified energy resource certified under Rule 4.2.a or 4.2.c shall be awarded certified alternative and renewable energy resource credits as summarized in Table 150-34A at the end of this rule and as described below:

5.2.a. One credit for each megawatt hour of electricity generated or purchased from an alternative or renewable energy resource facility located within the geographical boundaries of this state or located outside of the geographical boundaries of this state but within the PJM Region;

5.2.a.1. Only electricity generated after the alternative or renewable energy resource is certified under Rule 4.2.a or 4.2.c is eligible for a credit; and

5.2.a.2. Any facility that is capable of producing electricity from more than one type of alternative or renewable energy resource, either simultaneously or as

alternatives, shall be awarded credits in proportion to the electricity generation attributable to each alternative or renewable energy resource as provided for in the operating rules of GATS.

5.2.b. For the purpose of determining compliance with the Portfolio Standard requirements, the Commission will allow two times the credit awarded under Rule 5.2.a.1 for each megawatt hour of electricity generated from a renewable energy resource facility located within the geographical boundaries of this state or located in the PJM Region.

5.2.c. For the purpose of determining compliance with the Portfolio Standard requirements, the Commission will allow three times the credit awarded under Rule 5.2.a.1 for each megawatt hour of electricity generated from a renewable energy resource facility located within the geographical boundaries of this state if the renewable energy resource facility is sited upon a reclaimed surface mine.

5.3. A customer-generator or BTM generator must file an Alternative or Renewable Meter Generation Report with the Commission that corresponds with recordation of any energy production through the registry system. A customer-generator or BTM generator with a total rated system capacity of 10 kilowatts or less must use meter readings taken from a meter that is integrated into the system inverter or a revenue-quality meter that meets the applicable American National Standards Institute (ANSI) C-12 standard or its equivalent. A customer-generator or BTM generator with a total rated system capacity of more than 10 kilowatts must use a revenue-quality meter that meets the applicable ANSI C-12 standard or its equivalent.

5.3.a. Credits created by a customer-generator or BTM generator must be recorded in GATS, as provided for in the operating rules of GATS, at least once each calendar year in order to be eligible for compliance.

5.3.b. An authorized representative of the customer-generator or BTM generator shall file the Alternative or Renewable Meter Generation Report required under Rule 5.3.a., which shall be on a form provided by the Commission and shall contain, at a minimum, the following information:

5.3.b.1. A certification that the credits attributable to the customer-generation or BTM generation have not expired or been retired, transferred, or redeemed; and

5.3.b.2. A report or statement indicating the quantity of electricity generated as determined by a revenue-quality meter.

5.4. An electric utility may be awarded one credit for each ton (1 ton equals 2,000 pounds) of carbon dioxide equivalent reduced or offset as a result of a greenhouse gas emission reduction or offset project after the project is certified under Rule 4.2.d. Credits will be awarded to the electric utility upon retiring tons of carbon dioxide equivalent reduced or offset in the offset registry in which the reductions or offsets were registered

for the express purpose of creating credits under this rule. Credits will be verified in the annual progress report filed under Rule 8.4

5.5. An electric utility may be awarded one credit for each megawatt hour of electricity conserved per year for the life of the project as a result of an energy efficiency or demand-side energy initiative project certified under Rule 4.2.e.

5.5.a. Credits may be awarded to utilities by presenting to the Commission the following information or documentation in accordance with the submission schedule submitted with the application under Rule 4.4.d.8., unless an alternative schedule has been subsequently requested by the Commission or proposed by the utility and approved by the Commission:

5.5.a.1. A statement indicating the megawatt hours of electricity savings being claimed;

5.5.a.2. A detailed explanation of how the methods used to determine the claimed electricity savings are in accordance with the approved evaluation, measurement, and verification plan. To the extent possible, project electricity savings should be verified by meter readings and submitted to the Commission;

5.5.a.3. Attestation from the retail customer confirming the electric utility has met all contract obligations related to the energy efficiency or demand-side energy initiative project, including, but not limited to, proper implementation and operation of the project;

5.5.a.4. Attestation from the electric utility that the project has not been modified, removed, destroyed, disabled, or abandoned since the date of application for approval by the Commission; and

5.5.a.5. Any other information or documentation deemed relevant by the Commission.

5.5.b. Based on the information submitted by utilities pursuant to this rule, the Commission shall determine the amount of electricity savings attributable to each project and shall award credits for the approved electricity savings accordingly.

5.6. An electric utility may meet the alternative and renewable energy Portfolio Standard requirements set forth in this rule by purchasing additional credits awarded pursuant to Rule 5.2. An electric utility purchasing power may meet the Portfolio Standard requirements set forth in this rule, provided that the credit awarded pursuant to Rule 5.2 is included in, or bundled with, the purchase of the power. Credits may also be purchased independently, or unbundled from, purchased power.

5.6.a. An electric utility may buy or sell credits or bank credits and use them to meet the Portfolio Standard requirement in a subsequent year;

5.6.b. Each credit transaction shall be reported by the selling entity to the Commission as provided for in Rule 8.4.

5.6.c. The Commission may impose an administrative transaction fee on a credit transaction in an amount not to exceed the actual direct cost of processing the transaction by the Commission.

5.7. A customer-generator shall own the credits awarded for its generation unless the customer-generator contracts with a third party for the credits awarded, in which case the third party shall own the credits awarded for generation.

5.8. A BTM generator shall own the credits awarded for its generation unless the BTM contracts with a third party for the credits awarded, in which case the third party shall own the credits awarded for generation.

5.9. The Commission may verify information submitted for certification of credits by performing a review or site visit to the electric utility or generating facility. The qualified facility shall provide the Commission access to the facility or furnish documentation to substantiate information submitted as part of the certification process. If physical access to the facility is not provided or documentation requested by the Commission is not provided within thirty (30) days of a request by the Commission, the qualified credits may be decertified by the Commission. Before the credits are decertified, a qualifying electric utility or facility will be given thirty (30) days written notice and an opportunity to demonstrate why the credits should not be decertified.

§150-34-6. Trading Program & Credit Registry.

6.1. The Commission designates the GATS, owned and operated by PJM-Environmental Information Services, Inc. (PJM-EIS), as the credit registry to track awarded credits under Rule 5.

6.1.a. The registry shall track, and electric utilities and certified alternative or renewable energy resources shall be obligated to report to GATS, credit transactions, including the following information for each transaction: (i) the parties to the transaction; (ii) the number of credits sold or transferred; (iii) vintage of the credits; and (iv) the price paid.

6.1.b. The Commission shall, under W. Va. Code §24-2F-4(c)(3), treat as confidential and exempt from public disclosure under Rule 6.1.a., pricing information concerning individual transactions. The Commission shall make available to the public aggregate pricing data on credits in a manner that seeks to maintain confidentiality of pricing data for individual transactions.

6.2. Electric utilities and electricity generators are required to enter into agreements with the credit registry designated under this rule to enable the Commission to verify compliance with this rule. Electric utilities shall comply with the rules, policies, and procedures of the designated credit registry identified in the registry's terms of use, subscriber agreement, or other comparable document.

6.3. To the extent necessary, electric utilities and electricity generators shall provide the Commission with direct access to information in this registry necessary to verify compliance with this rule, or with rights of access established through the agreements with the registry provider.

§150-34-7. Alternative and Renewable Energy Portfolio Standard.

7.1. For the purpose of determining an electric utility's compliance with the Portfolio Standard set forth in Rules 7.3 and 7.4, each credit shall equal one megawatt hour of electricity sold by an electric utility in the preceding year to retail customers in West Virginia as recorded at the customer's meter, except as provided for under Rules 5.2.a-c. Furthermore, an electric utility may not use a credit more than once in order to comply with the Portfolio Standard.

7.2. No more than ten percent of the credits used each year by an electric utility to comply with the Portfolio Standard may be credits acquired from the generation or purchase of electricity generated from natural gas. No more than ten percent of the credits used each year by an electric utility to comply with the Portfolio Standard may be credits acquired from the generation or purchase of electricity generated from supercritical technology, provided however, that this limit does not apply to other advanced coal technologies as determined by the Commission.

7.3. On and after January 1, 2025, an electric utility shall each year own credits in an amount equal to at least twenty-five percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year.

7.4. The following interim Portfolio Standard shall apply:

7.4.a. For the period beginning January 1, 2015, and ending December 31, 2019, an electric utility shall each year own credits in an amount equal to at least ten percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year.

7.4.b. For the period beginning January 1, 2020, and ending December 31, 2024, an electric utility shall each year own credits in an amount equal to at least fifteen percent of the electric energy sold by the electric utility to retail customers in this state in the preceding calendar year.

7.5. Credits shall be retired in the registry and designated as having been used for compliance with the Portfolio Standard of this rule. Credits required to comply with the Portfolio Standard in a calendar year shall be retired in the registry as soon as possible but no later than the date upon which the next annual progress report is due.

7.6. An electric utility that is subject to an alternative energy, advanced energy, renewable energy or similar energy portfolio standard in another state may not use electricity generated to meet that state's portfolio standard to satisfy the requirements of this rule.

7.7. An electric utility shall not apply any voluntary purchases by retail customers of energy from renewable sources or voluntary purchases by retail customers of offset or greenhouse gas emission reductions offsetting retail power use toward its mandatory Portfolio Standard requirements.

7.8. An electric utility may apply any credits owned by the electric utility and that are in excess of the Portfolio Standard in any given year to the requirements for any future year's Portfolio Standard.

7.9. Upon its own initiative or upon the request of an electric utility, the Commission may modify the Portfolio Standard requirements of an electric utility in a given year or years, or recommend to the Legislature that the Portfolio Standard requirements be eliminated if the Commission determines that alternative or renewable energy resources are not reasonably available in the marketplace in sufficient quantities for the electric utility to meet the requirements of this rule.

7.9.a. In making its determination, the Commission shall consider whether the electric utility made good faith efforts to acquire sufficient credits to comply with the requirements of this rule. Such good faith efforts shall include, but are not limited to, banking excess credits, seeking credits through competitive solicitations and seeking to acquire credits through long-term contracts. The Commission shall assess the availability of credits on the open market, including the availability of qualified resources both in West Virginia and within the PJM region. The Commission may also require that the electric utility solicit credits before a request for modification may be granted.

7.9.b. If an electric utility requests a modification of its Portfolio Standard requirements, the Commission shall make a determination as to the request within sixty days.

7.9.c. Commission modification of an electric utility's Portfolio Standard requirements shall apply only to the Portfolio Standard in the year or years modified by the Commission. Commission modification may not automatically reduce an electric utility's Portfolio Standard requirements in future years.

7.9.d. If the Commission modifies an electric utility's Portfolio Standard requirements, the Commission may also require the electric utility to acquire additional credits in subsequent years equivalent to the requirements reduced by the Commission.

§150-34-8. Compliance Plan and Annual Report.

8.1. On or before January 1, 2011, each electric utility subject to the provisions of this rule shall prepare an alternative and renewable energy portfolio standard compliance plan and shall file an application with the Commission, in filing formats to be determined by the Commission, seeking approval of such plan.

8.2. A portfolio standard compliance plan shall include:

8.2.a. Statistics and information concerning the electric utility's sales to retail customers in West Virginia as recorded at the customer's meter during the preceding ten calendar years;

8.2.b. A calculation of the electric utility's projected yearly sales to retail customers for the years 2011-2025;

8.2.c. A calculation of the expected number of credits required to meet the Portfolio Standard set forth in this rule;

8.2.d. An anticipated time line for the development, purchase or procurement of credits sufficient to meet the Portfolio Standard set forth in this rule;

8.2.e. A nonbinding estimate of the costs to comply with the Portfolio Standard set forth in this rule;

8.2.f. A description of any greenhouse gas emission reduction or offset projects or energy efficiency or demand-side energy initiative projects that have been or will be submitted for certification under Rule 4 that the electric utility proposes to convert to credits in accordance with this rule;

8.2.g. A list of any requirements and a description of how the electric utility satisfied or will satisfy those requirements if an electric utility is subject to an alternative energy, advanced energy, renewable energy or similar energy portfolio standard in any other state;

8.2.h. Information on the electric utility's resource acquisition activities or those of its affiliated utilities; and

8.2.i. Such further information as required by the Commission.

8.3. Upon the filing of an application for approval of a portfolio standard compliance plan, and after hearing and proper notice, the Commission may, in its discretion, approve or disapprove, or approve in part or disapprove in part, the application.

8.3.a. After giving proper notice and receiving no protest within thirty days after the notice is given, the Commission may waive formal hearing on the application. Notice shall be published as a Class I legal advertisement in compliance with the provisions of W. Va. Code §59-3-1, and shall be given in a manner and in such form as may be prescribed by the Commission.

8.3.b. The Commission shall, following proper notice and hearing, if any, render a final decision on any application filed pursuant to Rule 8 within two hundred seventy days of the filing of the application.

8.3.c. If, and to the extent, the Commission determines that a portfolio standard compliance plan has a reasonable expectation of achieving the Portfolio Standard requirements at a reasonable cost to electric customers in this state, the Commission shall approve the plan. In establishing that the requisite standard for approval of a portfolio standard compliance plan is met, the burden of proof shall be upon the applicant.

8.3.d. In the event the Commission disapproves of an application filed pursuant to Rule 8, in whole or in part, the Commission shall specify its reason or reasons for disapproval. Any portion of the application not approved by the Commission shall be modified and resubmitted by the applicant.

8.3.e. Either upon an application of the electric utility, a petition by a party or the Commission's own motion, a compliance plan proceeding may be reopened for the purpose of considering and making, if appropriate, alterations to the plan. If an electric utility seeks to alter an approved compliance plan it shall submit an application in accordance with Rule 8.2.

8.3.f. Approval of the compliance plan does not eliminate the need for an electric utility to otherwise obtain required approvals, including, but not limited to, certificates to construct, consent to enter into affiliated contracts and recovery of compliance costs. Furthermore, nothing in this rule shall be interpreted to alter or amend the existing power and authority of the Commission.

8.3.g. Approval of the compliance plan does not relieve an electric utility from its obligation to pay a compliance assessment pursuant to the provisions of this rule if it fails to comply with the Portfolio Standard set forth herein.

8.4. By March 31 each year following the Commission's approval of an electric utility's compliance plan, the electric utility shall submit to the Commission an annual progress report, in filing formats to be determined by the Commission, demonstrating

compliance with the requirements of the Portfolio Standard. The progress report shall include:

8.4.a. The electric utility's sales to retail customers in West Virginia as recorded at the customer's meter in the previous two calendar years, by year, in total number of megawatt-hours;

8.4.b. The total amount of energy the electric utility has generated, purchased or procured from alternative or renewable energy resources as of December 31 of the previous calendar year;

8.4.b.1. The portions, stated separately, of the total amount of energy required in Rule 8.4.b corresponding to energy generated, purchased or procured from the combustion of natural gas and generated from supercritical technology, if any;

8.4.b.2. The electric utility's sales to retail customers in West Virginia as recorded at the customer's meter in the two previous calendar years, by year, corresponding to voluntary purchases by retail customers of energy from renewable sources, if any;

8.4.c. The balance of the credits from alternative and renewable energy resource facilities the electric utility has purchased or procured as of December 31 of the previous calendar year;

8.4.d. The balance of the credits the utility has been awarded or purchased from energy efficiency or demand-side energy initiative projects or greenhouse gas emission reduction or offset projects as of December 31 of the previous calendar year;

8.4.d.1. The electric utility's sales to retail customers in West Virginia as recorded at the customer's meter in the two previous years, by year, corresponding to voluntary purchases by retail customers of offsets or greenhouse gas emission reductions offsetting retail power use, if any;

8.4.e. A comparison of the budgeted and actual costs as compared to the estimated cost of the portfolio standard compliance plan, including the information on credit transactions required under Rule 6.1.a., subject to the same public disclosure provisions in Rule 6.1.b.;

8.4.f. An accounting issued by PJM-EIS that shows the number of alternative and renewable energy resource credits purchased and/or held by the electric utility as of December 31 of the previous calendar year;

8.4.g. An accounting issued by PJM-EIS that shows the portions, reported separately, of alternative and renewable energy resource credits retired to meet the

Portfolio Standard of the previous calendar year corresponding to energy generated from the combustion of natural gas and energy generated from supercritical technology, if any;

8.4.h. The vintage year and serial number of the greenhouse gas emission reductions or offsets awarded or purchased and attestation by the electric utility that all greenhouse gas emission reductions or offsets used for compliance under this rule were retired in the offset registry of the approved greenhouse gas program in which the reductions or offsets were registered for the purpose of this rule;

8.4.i. For any credits awarded for emission reductions or offsets under Rule 5.4 in any previous year, an attestation that the offsets remain in compliance with the reversal rules of the greenhouse gas program where the reductions or offsets were registered;

8.4.j. A list of any requirements and a description of how the electric utility satisfied or will satisfy those requirements if an electric utility is subject to an alternative energy, advanced energy, renewable energy or similar energy portfolio standard in any other state;

8.4.k. Any other information required by the Commission to prevent the double-counting of credits;

8.4.l. Such further information as required by the Commission.

8.5. The Commission shall impose a special assessment on all electric utilities required to file a compliance plan.

8.5.a. The assessments shall be prorated among the covered electric utilities on the basis of kilowatt hours of retail sales in West Virginia and shall be due and payable on September 1 of each year.

8.5.b. The amount of revenue collected pursuant to Rule 8.5 will be determined as provided in W. Va. Code §24-2F-6.

8.5.c. The funds generated from the assessments shall be used exclusively to offset all reasonable direct and indirect costs incurred by the Commission in administering the provisions of this rule.

§150-34-9. Compliance Determination and Assessment.

9.1. The Commission shall determine whether each electric utility doing business in this state is in compliance with the Portfolio Standard following the end of each calendar year during which a Portfolio Standard applies.

9.1.a. An electric utility must own credits needed to comply with the Portfolio Standard of a given year by December 31, 2015 for the first year and by December 31 of

each following year with a Portfolio Standard. Credits owned to meet the Portfolio Standard of a given year must be retired in the registry as provided for in Rule 7.5 by submission of the annual progress report required by Rule 8.4 in the next calendar year.

9.1.b. The requirements of this rule for an electric utility in each year are summarized in Table 150-34B at the end of this rule:

9.1.c. On or after March 31, 2016 and after March 31 of each following year, the Commission shall verify compliance of the electric utility with the Portfolio Standard in the previous calendar year. By June 30, 2016 and by June 30 of each following year in which an annual progress report is required, the Commission will initiate a proceeding and provide written notice to each electric utility of an initial assessment of its compliance status, including any preliminary calculation of a compliance assessment due.

9.1.d. The Commission shall impose a compliance assessment on the electric utility that shall equal at least the lesser of the following:

9.1.d.1. Fifty dollars multiplied by the number of additional credits that would be needed to meet an alternative and renewable energy Portfolio Standard in a given year; or

9.1.d.2. Two hundred percent of the average market value of credits sold for the purpose of compliance with the Portfolio Standard of this rule in a given year multiplied by the number of additional credits needed to meet the alternative and renewable energy Portfolio Standard for that year.

9.2. An electric utility shall advise the Commission in writing within 15 days of the issuance of the notice under 9.1.c. whether it accepts the Commission's compliance assessment determination or chooses to contest the determination.

9.2.a. If an electric utility or an interested person chooses to contest the Commission's compliance assessment determination, it must file a petition to modify the level of the compliance assessment. The petition must include documentation supporting the proposed modification.

9.2.b. The Commission shall schedule a hearing on the petition, and render its decision in writing to the electric utility.

9.2.c. Failure of an electric utility or an interested person to respond by filing a petition for a hearing to the Commission within 15 days of the issuance of the notice under Rule 9.1.c. shall be deemed an acceptance of the Commission's compliance assessment determination.

9.3. Compliance assessments collected by the Commission shall be deposited into the Alternative and Renewable Energy Resources Research Fund.

§150-34-10. Alternative and Renewable Energy Resources Research Fund.

10.1. The Commission and the Division of Energy shall jointly administer a special revolving fund in the State Treasury, which shall be designated the "Alternative and Renewable Energy Resources Research Fund." The fund shall be used to award matching grants for demonstration, commercialization, research and development projects relating to alternative and renewable energy resources and energy efficiency technologies.

10.2. The fund shall consist of any moneys appropriated by the Legislature, any compliance assessments collected by the Commission under this rule, any gifts, bequests or other contributions to the fund from private entities or electric customers, and any interest or other return on the moneys in the fund.

10.3. Any donations to the fund collected by an electric generation supplier or electric distribution company shall be forwarded to the Commission and the Commission shall deposit such moneys in the fund.

§150-34-11. Cost Recovery and Rate Incentives for Electric Utility Investment in Alternative and Renewable Energy Resources.

11.1. An electric utility shall have the right to recover the costs of complying with the alternative and renewable energy Portfolio Standard set forth in this rule in a manner prescribed by the Commission. Although the Commission may approve costs that exceed the costs of current utility generation or purchased power, the electric utility has the burden to demonstrate that the costs are reasonable and represent the least cost of compliance. Notwithstanding any provision of the West Virginia Code to the contrary, an electric utility may not recover in rates the costs of compliance assessments imposed under Article 2F, Chapter 24 of the West Virginia Code or these rules.

11.2. Upon a finding that it is in the public interest of this state, as provided in W. Va. Code §24-2F-1, the Commission may authorize incentive ratemaking allowances for electric utility investment in the construction of new alternative or renewable energy resource facilities in West Virginia to encourage investments in the use and development of alternative or renewable energy resource facilities.

11.3. The Commission shall determine, at such time and in such proceeding, form and manner as is considered appropriate by the Commission, the extent to which any electric utility investment qualifies for the incentive ratemaking pursuant to this Rule 11.

§150-34-12. Public Reporting.

12.1. The Commission shall, under W. Va. Code §29B-1-4, treat as confidential and exempt from public disclosure under Rule 6.1.a. pricing information received from

utilities concerning individual transactions. The Commission shall make available to the public aggregate pricing data on credits.

12.2. The Commission may publish electric utilities' aggregate sales to retail customers in West Virginia corresponding to voluntary purchases by retail customers of energy from renewable sources and voluntary retail purchases of offsets or greenhouse gas emission reductions offsetting retail power use.

12.3. The Commission may publish information on the compliance record of an electric utility and overall program performance.

TABLE 150-34A

**CRITERIA FOR AWARDING CERTIFIED ALTERNATIVE AND RENEWABLE
ENERGY RESOURCE CREDITS**

Energy resource facility type	Credit multiplier applied during compliance determination
Alternative energy resource facility	1x
Renewable energy resource facility	2x
Renewable energy resource facility sited upon a reclaimed surface mine	3x

TABLE 150-34B**SUMMARY OF CREDIT ACCOUNTING AND REPORTING REQUIREMENTS FOR
UTILITIES
(2010 - 2025)**

Calendar Year	Portfolio Standard	Acquisition of Credits	Annual Progress Report and Retirement in GATS (due date)
2011	0% of 2010 retail sales	Not applicable	By 3/31/2012
2012	0% of 2011 retail sales	Not applicable	By 3/31/2013
2013	0% of 2012 retail sales	Not applicable	By 3/31/2014
2014	0% of 2013 retail sales	Not applicable	By 3/31/2015
2015	10% of 2014 retail sales	By 12/31/2015	By 3/31/2016
2016	10% of 2015 retail sales	By 12/31/2016	By 3/31/2017
2017	10% of 2016 retail sales	By 12/31/2017	By 3/31/2018
2018	10% of 2017 retail sales	By 12/31/2018	By 3/31/2019
2019	10% of 2018 retail sales	By 12/31/2019	By 3/31/2020
2020	15% of 2019 retail sales	By 12/31/2020	By 3/31/2021
2021	15% of 2020 retail sales	By 12/31/2021	By 3/31/2022
2022	15% of 2021 retail sales	By 12/31/2022	By 3/31/2023
2023	15% of 2022 retail sales	By 12/31/2023	By 3/31/2024
2024	15% of 2023 retail sales	By 12/31/2024	By 3/31/2025
2025	25% of 2024 retail sales	By 12/31/2025	By 3/31/2026

Rules Governing Alternative and Renewable Energy Portfolio Standard Qualification for Electric Generating Facilities

CONTACT INFORMATION

4.4.a.1 Please provide a copy of the current Certificate of Authority issued by the Secretary of State.

4.4.a.2 Please provide a current Certificate of Good Standing for the applicant issued by the state where the business is located.

4.4.b.1 Facility Name: _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____ Other: _____
 Email: _____

4.4.b.2 Owner(s) Name: (F / MI / L) _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

Name: (F / MI / L) _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.b.3 Operator Name: (F / MI / L) _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.b.4 Designated Representative Name: (F / MI / L) _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.b.5 Please provide documentation of authority as a designated representative to sign on behalf of the facility owners.

Rules Governing Alternative and Renewable Energy Portfolio Standard Qualification for Electric Generating Facilities

FACILITY INFORMATION			
4.4.b.6	Provide location of facility:	Is this location a reclaimed surface mine?	Y / N
4.4.b.7	Fuel Type:	Solar Photovoltaic / Solar Electric	Solar Thermal
	Mark with an "X" =>	Wind Power	Run of River
Capacity of Facility (kW):			
4.4.b.8	Provide a description of the facility in the space below. ↓	County?	This facility is a Customer or BTM Generator? Y / N
4.4.b.9			
Please identify and describe the metering system measuring generation on this project.			
	Model Name:	Model Number:	Has it been approved by the GATS operating rules? Y / N
	Serial Number:	Utility Grade Meter? Y / N	Inverter Reading? Y / N Generation >10kW? Y / N
4.4.b.10	Is this generating facility within the PJM Region? Y / N		
4.4.b.11	Is this facility certified by another state as an eligible generation to meet the portfolio standard of that state? Y / N		
	If "Yes", please indicate the state(s) where the facility is certified: 1) _____		
	2) _____		
	3) _____		
4.4.b.12	Is this facility being used for a voluntary retail customer program by an electric utility in West Virginia? Y / N		
4.4.b.13	Please provide the Office of Regulatory Information Systems Plant (ORISP) Code location for this facility.		
4.4.b.14	Does this facility exceed 1.0 MW in capacity as indicated in Section 4.4.b.7 of this form? Y / N		
	If YES, please include a copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860.		
This application must be verified in a format substantially similar to Form No. 12 - VERIFICATION found in the Commission Rules of Practice and Procedure (150 C.S.R. 1).			

Rules Governing Alternative and Renewable Energy Portfolio Standard Qualification as a Greenhouse Gas Emission Reduction or Offset Project

CONTACT INFORMATION

4.4.a.1 Please provide a copy of the current Certificate of Authority issued by the Secretary of State.

4.4.a.2 Please provide a current Certificate of Good Standing for the applicant issued by the state where the business

4.4.c.1 **Electric Utility Applying**

Name: _____ Street: _____ Zipcode: _____
 City: _____ State: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____ Other: _____

4.4.c.2 **Owner(s)**

Name: _____ Street: _____ Zipcode: _____
 City: _____ State: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.c.3 **Designated Representative**

Name: (F / MI / L) _____ Street: _____ Zipcode: _____
 City: _____ State: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.c.4 Please provide documentation of authority as a designated representative to sign on behalf of owners of the electric utility.

Rules Governing Alternative and Renewable Energy Portfolio Standard Qualification as a Greenhouse Gas Emission Reduction or Offset Project

PROJECT INFORMATION		Tons
4.4.c.5	Provide a report or include a statement indicating the estimated quantity of tons of carbon dioxide to be converted into credits. (1 Ton = 2,000 lbs.)	
4.4.c.6	Please provide proof of registration the project is registered with a Commission approved greenhouse gas program. Program Name: _____ ID Number: _____ Date Approved: _____	
4.4.c.7	Please provide a description of the _____ Location of Project? _____ County? _____ project.	
4.4.c.8	Provide attestation by the electric utility that the reductions or offsets will not be retired in the offset registry of an approved greenhouse gas program pursuant to any other program, law, policy, regulation, or voluntary retail customer program.	
4.4.c.9	Provide attestation by the electric utility of ownership of the emission reductions or offsets attained from the project developer.	
This application must be verified in a format substantially similar to Form No. 12 - VERIFICATION found in the Commission Rules of Practice and Procedure (150 C.S.R. 1).		

Rules Governing Alternative and Renewable Energy Portfolio Standard Qualification as an Energy Efficiency or Demand-side Energy Initiative Project

CONTACT INFORMATION

4.4.a.1 Please provide a copy of the current Certificate of Authority issued by the Secretary of State.

4.4.a.2 Please provide a current Certificate of Good Standing for the applicant issued by the state where the business

4.4.d.1 Electric Utility Applying

Name: _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____ Other: _____

4.4.d.2 Owner(s)

Name: _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.d.3 Designated Representative

Name: (F / MI / L) _____
 Street: _____
 City: _____ State: _____ Zipcode: _____
 Telephone: _____ Cellular: _____ FAX: _____
 Email: _____

4.4.d.4 Please provide documentation of authority as a designated representative to sign on behalf of owners of the electric utility.

Rules Governing Alternative and Renewable Energy Portfolio Standard Qualification as an Energy Efficiency or Demand-side Energy Initiative Project

PROJECT INFORMATION

4.4.d.5 Is this a Statewide Initiative Project? Y / N

If YES, proceed to Section 4.4.d.8 of this form.

If NO, continue.

Project Location?

_____ Please provide a description of the project.

4.4.d.6 Provide attestation from the retail customer that the costs of the acquisition or installation of the energy efficiency or demand-side energy initiative project have been paid for, or are directly reimbursed, in whole or in part, by the electric utility.

4.4.d.7 Acknowledgment from the retail customer that the project may generate credits of financial value which will be awarded to the utility and used for portfolio standard compliance purposes, banked for future compliance with the portfolio standard, or traded or sold to another entity.

4.4.d.8 Instead of customer attestation or acknowledgment, as required by Rules 4.4.d.6-7, alternate submission requirements will be allowed by the Commission for state-wide energy efficiency or demand-side energy initiative projects. Such alternative submission requirements may include, but are not limited to, documentation of project costs paid and that the utility has informed the customers that the utility will retain credits associated with the state-wide initiative projects.

4.4.d.9 Provide the proposed evaluation, measurement and verification plan for the project, including a schedule for submitting information to the Commission required in Rule 5.5.a.

This application must be verified in a format substantially similar to Form No. 12 - VERIFICATION found in the Commission Rules of Practice and Procedure (150 C.S.R. 1).

Public Service Commission

Richard E. Hitt, General Counsel



201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0450
FAX: 1-866-336-2893
E-mail: rhitt@psc.state.wv.us

November 14, 2013

Judy Cooper, Director
Administrative Law Division
Secretary of State's Office
Building 1, Suite 157K
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305-0771

Via Hand Delivery

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2013 NOV 14 PM 3:44

FILED

Re: Public Service Commission; proposed amendments to Rules Governing Alternative and Renewable Energy Portfolio Standard, 150 C.S.R. Series 34

Dear Ms. Cooper:

Enclosed for filing is a copy of proposed amendments to the above rule series. The amendments rules are promulgated under the Commission's existing rulemaking authority, exempt from legislative rulemaking review pursuant to W. Va. Code § 24-1-7.

Also enclosed are a notice of a comment period, a fiscal note, a summary of the rule, and a statement of circumstances.

Because the Commission is not part of the Cabinet structure, the Commission Order is the evidence of the approval of the filing by the agency head, Chairman Michael A. Albert.

Please date stamp the enclosed three extra copies of the filing packet and return them with our messenger. If you have any questions or if there are any problems please bring them to my attention.

Sincerely Yours,

Richard E. Hitt
General Counsel

cc: Cynthia L. Wilson, Law Clerk