

TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES
CHAPTER 9 ELECTRIC SERVICES
PART 572 RENEWABLE ENERGY FOR ELECTRIC UTILITIES

17.9.572.1 ISSUING AGENCY: New Mexico Public Regulation Commission.
[17.9.572.1 NMAC - Rp, 17.9.572.1 NMAC, 5-31-13]

17.9.572.2 SCOPE:

- A.** All electric public utilities are subject to 17.9.572.1 through 17.9.572.21 NMAC.
 - B.** Rural electric distribution cooperatives are subject to 17.9.572.1 through 17.9.572.6, 17.9.572.17, 17.9.572.21, 17.9.572.22, and 17.9.572.23 NMAC.
- [17.9.572.2 NMAC - Rp, 17.9.572.2 NMAC, 5-31-13]

17.9.572.3 STATUTORY AUTHORITY: Sections 62-15-34, 62-15-36, 62-16-7, 62-16-8 and 62-16-9 NMSA 1978.
[17.9.572.3 NMAC - Rp, 17.9.572.3 NMAC, 5-31-13]

17.9.572.4 DURATION: Permanent.
[17.9.572.4 NMAC - Rp, 17.9.572.4 NMAC, 5-31-13]

17.9.572.5 EFFECTIVE DATE: May 31, 2013, unless a later date is cited at the end of a section.
[17.9.572.5 NMAC - Rp, 17.9.572.5 NMAC, 5-31-13]

17.9.572.6 OBJECTIVE: The purpose of this rule is to implement the Renewable Energy Act Section 62-16-1, et seq. NMSA 1978, and to bring significant economic development and environmental benefits to New Mexico.
[17.9.572.6 NMAC - Rp, 17.9.572.6 NMAC, 5-31-13]

17.9.572.7 DEFINITIONS: Unless otherwise specified, as used in this rule:

- A. procure** means to generate or purchase renewable energy or to purchase renewable energy certificates or to commit to generate or purchase renewable energy or to commit to purchase renewable energy certificates;
- B. public utility** means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include rural electric cooperatives;
- C. reasonable cost threshold (RCT)** means the cost level established by the commission above which a public utility shall not be required to add renewable energy to its electric energy supply portfolio pursuant to the renewable portfolio standard;
- D. renewable energy** means electrical energy generated by means of a low or zero emissions generation technology with substantial long-term production potential and generated by use of renewable energy resources that may include solar, wind, hydropower resources brought into service after July 1, 2007, geothermal, fuel cells that are not fossil fueled and biomass resources; biomass resources are fuels, such as agriculture or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; renewable energy does not include fossil fuel or nuclear energy;
- E. renewable energy certificate (REC)** means a document evidencing that the enumerated renewable energy kilowatt-hours have been generated from a renewable energy generating facility, and shall represent all of the environmental attributes associated with the generation of renewable energy;
- F. renewable portfolio standard (RPS)** means the percentage of retail energy sales by a public utility to electric consumers in New Mexico that is required to be supplied by renewable energy;
- G. fully diversified renewable energy portfolio** means one in which no less than 30% of the renewable portfolio standard requirement is met using wind energy, no less than 20% is met using solar energy, no less than 5% is met using one or more of the other renewable energy technologies, as defined by this section; in a fully diversified renewable energy portfolio, no less than the following percentages are met through distributed generation:
 - (1) no less than 1 ½% for plan years 2011 through 2014; and
 - (2) no less than 3% beginning in plan year 2015;

H. emissions means all emissions regulated by state or federal authorities, including but not limited to all criteria pollutants and hazardous air pollutants, plus mercury and carbon dioxide (CO₂);

I. distributed generation means electric generation sited at a customer's premises, providing electric energy to the customer load at that site or providing electric energy to a public utility or a rural electric distribution cooperative for use by multiple customers in one or more contiguous distribution substation service areas;

J. plan year means the calendar year for which approval is being sought;

K. plan year total revenues means plan year projected total retail revenues including the sum of:

- (1) plan year total retail energy sales multiplied by the company's approved base fuel and non-base fuel retail rates by rate class;

- (2) projected fuel clause revenues; and

- (3) all projected rider revenues, not including:

- (a) projected plan year renewable portfolio revenue requirements, and

- (b) projected undergrounding rider contributions in aid of construction;

L. plan year total retail energy sales means weather adjusted retail energy sales in kWh projected for the plan year adjusted for projected energy efficiency reductions based on approved energy efficiency and load management programs in effect at the time of the filing, less:

- (1) energy sales to large customers that qualify under Section 62-16-4A (2) NMSA 1978; and

- (2) energy sales to customers exempted pursuant to Section 62-16-4A (3) NMSA 1978;

M. large customer adjustment means the specific procurement requirements for nongovernmental customers at a single location or facility, regardless of the number of meters at that location or facility, with consumption exceeding 10 million kilowatt-hours per year, the procurement of renewable energy will be limited to the lower of two percent of that customer's annual electric charges or \$99,000; after January 1, 2012, the \$99,000 limit is adjusted for inflation by the amount of the cumulative increase change in the consumer price index, urban, all items (CPI-U) published by the bureau of labor statistics between January 1, 2011 and January 1 of the procurement plan year;

N. political subdivision of the state means a division of the state made by proper authorities thereof, acting within their constitutional powers, for purpose of carrying out a portion of those functions of the state which by long usage and inherent necessities of government have always been regarded as public.

[17.9.572.7 NMAC - Rp, 17.9.572.7 NMAC, 5-31-13]

17.9.572.8 LIBERAL CONSTRUCTION: This rule shall be liberally construed to carry out its intended purposes. If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the application of such provision to other persons or circumstances, shall not be affected thereby.

[17.9.572.8 NMAC - Rp, 17.9.572.8 NMAC, 5-31-13]

17.9.572.9 RELATIONSHIP TO OTHER COMMISSION RULES: Unless otherwise specified, this rule does not supersede any other rule of the commission but supplements rules applying to public utilities.

[17.9.572.9 NMAC - Rp, 17.9.572.9 NMAC, 5-31-13]

17.9.572.10 RENEWABLE PORTFOLIO STANDARD:

A. Each public utility must develop an annual Renewable Energy Act plan to comply with the renewable portfolio standard. Renewable energy resources that are in a public utility's electric energy supply portfolio on July 1, 2004 shall be counted in determining compliance with this rule. However, renewable energy sold to customers through a premium-priced or a voluntary renewable energy tariff shall not be counted in determining compliance with this rule. Other factors being equal, preference shall be given to renewable energy generated in New Mexico.

B. The renewable portfolio standard shall consist of:

- (1) no less than 10% for each plan year from 2011 through 2014 of the utility's plan year total retail energy sales;

- (2) no less than 15% for each plan year from 2015 through 2019 of the utility's plan year total retail energy sales; and

- (3) no less than 20% for plan year 2020 and thereafter of the utility's plan year total retail energy sales.

[17.9.572.10 NMAC - Rp, 17.9.572.10 NMAC, 5-31-13]

17.9.572.11 DIVERSIFICATION REQUIREMENTS FOR PORTFOLIOS: Each public utility must meet its renewable portfolio standard requirements using a diversified portfolio of resources, taking into consideration the overall reliability, availability, dispatch flexibility and cost of the various renewable resources as follows:

A. Except as provided in this section, public utility annual Renewable Energy Act plans shall be designed to achieve a fully diversified renewable energy portfolio no later than January 1, 2011.

B. Public utilities shall not be required to provide a fully diversified renewable portfolio when doing so would conflict with reasonable cost thresholds established by the commission or when full diversification is prevented by technical constraints or limitations. For the purposes of this section, technical constraints or limitations include, but are not limited to, transmission constraints, limitations on system integration, limited availability of particular renewable resources, and limitations on system reliability, but shall not include constraints or limitations that the public utility is capable of overcoming at reasonable cost or effort. Notwithstanding the provisions of this Subsection B excusing the failure by a public utility to meet the requirement to provide a fully diversified renewable energy portfolio, each public utility must meet its overall renewable portfolio standard.

C. In any year for which a public utility's annual Renewable Energy Act plan does not provide for a fully diversified portfolio, the public utility shall describe its plan for achieving a fully diversified portfolio in a timely manner.

D. Renewable energy certificates used to meet the distributed generation diversity requirement may not also be used to meet a resource-specific diversity requirement.

[17.9.572.11 NMAC - Rp, 17.9.572.14 NMAC, 5-31-13]

17.9.572.12 REASONABLE COST THRESHOLD: The reasonable cost threshold is a customer protection mechanism that limits the customer bill impact resulting from annual Renewable Energy Act plans as measured by plan year revenue requirements. A public utility shall calculate the large customer adjustment consistent with the methodology for the reasonable cost threshold.

A. A public utility shall not be required to add renewable energy to its electric energy portfolio in any plan year, pursuant to the renewable portfolio standard, where the annual renewable energy plan revenue requirement is above the reasonable cost threshold established by the commission pursuant to Subsection B of this section.

B. The reasonable cost threshold in any plan year is 3% of plan year total revenues, beginning in 2013.

C. As changing circumstances warrant, and after notice and hearing, the commission may prospectively modify the reasonable cost threshold. In modifying the reasonable cost threshold, the commission will take into account:

- (1) the price of renewable energy at the point of sale to the public utility;
- (2) transmission and interconnection costs required for the delivery of renewable energy to retail customers;
- (3) the impact of the cost for renewable energy on retail customer rates;
- (4) overall diversity, reliability, availability, dispatch flexibility, cost per kilowatt-hour and life cycle cost on a net present value basis of renewable energy resources available from suppliers; and
- (5) other factors, including public benefits, the commission deems relevant.

D. In any given year, if the cost to procure renewable energy is greater than the reasonable cost threshold, a public utility will not be required to incur that cost or to procure that resource, provided that the condition excusing performance under the renewable portfolio standard in any given year will not operate to delay the annual increases in the renewable portfolio standard in subsequent years. A public utility that believes its procurement will exceed the reasonable cost threshold shall file with the commission a request for waiver of the renewable portfolio standard for the applicable plan year. The request shall explain in detail why the public utility cannot procure resources at a cost less than the reasonable cost threshold and shall include an explanation and evidence of all efforts the public utility undertook to procure resources at a cost within the reasonable cost threshold. Waiver requests shall be deemed granted if not acted upon 60 days.

[17.9.572.12 NMAC - Rp, 17.9.572.11 NMAC, 5-31-13]

17.9.572.13 RESOURCE SELECTION:

A. The utility shall determine all commercially available resources or purchases of renewable energy certificates available to the utility, either by ownership or by contract, for the procurement plan year that will satisfy the RPS and the diversity requirements.

B. Of the resources or REC purchases identified above, the company shall use the net present value methodology to identify the most cost effective additional or new renewable resource(s) necessary and available to satisfy both the annual renewable portfolio standard and the diversity requirements.

C. In the case that the resources required are not required to satisfy diversity requirements those resources must represent the most cost effective option available.
[17.9.572.13 NMAC - Rp, 17.9.572.12 NMAC, 5-31-13]

17.9.572.14 ANNUAL RENEWABLE ENERGY ACT PLAN: An annual Renewable Energy Act plan shall include plan year and next plan year data. The plan year shall be presented for commission approval and the next plan year shall be presented for informational purposes.

A. On or before July 1 of each year, each public utility must file with the commission an annual Renewable Energy Act plan. The filing schedule shall be staggered, each of the investor owned utility filings shall occur one month apart, the last filing to be made July 1 of each year. The utilities shall file alphabetically each year (El Paso electric shall file May 1; public service company of New Mexico shall file June 1; and southwestern public service company shall file July 1 each year).

B. The annual Renewable Energy Act plan is to include:

(1) testimony and exhibits providing a full explanation of the utility's determination of the plan year and next plan year renewable portfolio standard and reasonable cost threshold;

(2) the cost of procurement in the plan year and the next plan year for all new renewable energy resources required to comply with the renewable portfolio standard selected by the utility pursuant to Section 13 of this rule;

(3) the amount of renewable energy the public utility plans to provide in the plan year and the next plan year required to comply with the renewable portfolio standard;

(4) testimony and exhibits demonstrating how the cost and amount specified in Paragraphs (2) and (3) of this subsection were determined;

(5) testimony and exhibits demonstrating the plan year and next plan year procurement amounts and costs based on revenue requirements expected to be recovered by the utility;

(6) testimony and exhibits demonstrating the plan year and next plan year procurement amounts and costs if complying with a fully diversified renewable portfolio standard is limited by the reasonable cost threshold;

(7) testimony and exhibits demonstrating the plan year and next plan year procurement amounts and costs based on revenue requirements expected to be recovered by the utility if limited by the reasonable cost threshold;

(8) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, costs of interconnection and transmission, availability, dispatchability, renewable energy certificate values and portfolio diversification requirements;

(9) testimony and exhibits regarding the amount and impact of renewable energy that can be added in any given year without adding generating resources for load following or system regulation purposes;

(10) testimony and exhibits demonstrating that the portfolio procurement plan is consistent with the integrated resource plan and explaining any material differences; and

(11) demonstration that the plan is otherwise in the public interest.

C. Plan year revenue requirements: For RCT purposes, the plan year revenue requirements shall reflect rate impacts on customer bills and shall be determined by applying a traditional revenue requirements impact approach for all resources, including regulatory assets authorized in prior plan years, used to satisfy the renewable portfolio standard and shall not include normalizations, annualizations and out of period adjustments.

(1) Revenue requirement adjustments shall only include avoided fuel and purchased power costs, environmental credits pursuant to compliance rules in effect during the plan year, and costs for capacity, transmission, or distribution that can be shown to result in actual reductions in costs to ratepayers.

(2) Avoided fuel costs are expected or modeled fuel savings that result from the procurement of renewable resources in the plan years.

D. A public utility shall serve notice and a copy of its annual renewable energy plan filing by first class mail on renewable resource providers requesting such notice from the commission, the New Mexico attorney general, and the intervenors in the public utility's most recent rate case. A public utility shall also post on its website the most recent and the pending annual Renewable Energy Act plans.

[17.9.572.14 NMAC - Rp, 17.9.572.16 NMAC, 5-31-13]

17.9.572.15 COST RECOVERY FOR RENEWABLE ENERGY:

A. A public utility shall recover the reasonable costs of complying with this rule through the rate making process, including its reasonable interconnection and transmission costs and other costs attributable to acquisition and delivery of renewable energy to retail New Mexico customers.

B. Costs that are consistent with commission-approved annual Renewable Energy Act plans are deemed to be reasonable.

C. A public utility that is permitted to defer the recovery of renewable energy costs pursuant to commission order may, through the ratemaking process, recover from customers that are not subject to the rate impact limitations of Sections 62-16-4A(2) and 62-16-4A(3) NMSA 1978 the cumulative sum of those deferred amounts, plus a carrying charge on those amounts.

D. For customers that are subject to the rate impact limitations of Section 62-16-4A(2) NMSA 1978, a public utility may, through the ratemaking process, recover from those customers the cumulative sum of those Section 62-16-4A(2) NMSA 1978 limited deferred amounts, plus carrying charges on those amounts.

E. Any renewable energy procurement costs recovered through the utility's fuel clause shall be separately identified in its monthly and annual fuel and purchased power clause adjustment filings and its continuation filings.

[17.9.572.15 NMAC - Rp, 17.9.572.12 NMAC, 5-31-13]

17.9.572.16 CUSTOMERS EXEMPTED PURSUANT TO SECTION 62-16-4A(3) NMSA 1978: Any customer that is a political subdivision of the state, with consumption exceeding 20 million kilowatt-hours per year at any single location or facility, and that owns renewable energy generation, is exempt from all charges by the utility for renewable energy procurements in a year, regardless of the number of customer locations or meters on the system, if that customer certifies to the state auditor and notifies the commission and its serving utility, that it will expend 2 ½% of that year's annual electricity charges to continue to develop, within 24 months, customer-owned renewable energy generation. That customer shall also certify that it will retire all renewable energy certificates associated with the energy produced from that expenditure.

A. The notice to the commission and the customer's serving utility shall be timely, shall state the plan year for which the exemption will apply and shall include a copy of the customer's certification to the state auditor.

B. This section only exempts customers from charges for renewable energy procurement costs incurred and to be recovered by the customer's serving utility during the plan year for which the certification applies.

C. A New Mexico jurisdictional public utility shall not retire any RECs retired per the certification of a customer made pursuant to Section 62-16-4A(3) NMSA 1978 for RPS or voluntary renewable energy program compliance.

[17.9.572.16 NMAC - N, 5-31-13]

17.9.572.17 RENEWABLE ENERGY CERTIFICATES:

A. Each public utility shall annually establish its compliance with the renewable portfolio standard through the filing of an annual report, as provided in 17.9.572.19 NMAC, documenting the retirement of renewable energy certificates. Effective for services provided on and after January 1, 2015, each rural electric distribution cooperative shall annually establish its compliance with the renewable portfolio standard through the filing of an annual report, as provided in 17.9.572.23 NMAC, documenting the retirement of renewable energy certificates.

B. Non-WREGIS registered RECs shall contain the following information:

- (1) the name and contact information of the renewable energy generating facility owner or operator;
- (2) the name and contact information of the public utility or rural electric distribution cooperative purchasing the renewable energy certificate;
- (3) the type of generator technology and fuel type;
- (4) the generating facility's physical location, nameplate capacity in MW, location and ID number of revenue meter and date of commencement of commercial generation;
- (5) the public utility or rural electric distribution cooperative to which the generating facility is interconnected;
- (6) the control area operator for the generating facility; and
- (7) the quantity in kWh and the date of the renewable energy certificate creation.

C. Renewable energy certificates:

- (1) are owned by the generator of the renewable energy unless:
 - (a) the renewable energy certificates are transferred to the purchaser of the energy through specific agreement with the generator;

(b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility or rural electric distribution cooperative, purchaser of the renewable energy unless retained by the generator through specific agreement with the public utility or rural electric distribution cooperative purchaser of the energy; or

(c) a contract for the purchase of renewable energy is in effect prior to January 1, 2004, in which case the purchaser of the energy owns the renewable energy certificates for the term of such contract;

(2) may be traded, sold or otherwise transferred by their owner to any other party; such transfers and use of the certificate by a public utility or rural electric distribution cooperative for compliance with the renewable energy portfolio standard do not require physical delivery of the electric energy represented by the certificate to a public utility or rural electric distribution cooperative, so long as the electric energy represented by the certificate was contracted for delivery in New Mexico, or consumed or generated by an end-use customer of the public utility or rural electric distribution cooperative in New Mexico, unless the commission determines that there is an active regional market for trading renewable energy and renewable energy certificates in any region in which the public utility or rural electric distribution cooperative is located;

(3) that are used once by a public utility or rural electric distribution cooperative to satisfy the renewable portfolio standard and are retired, or that are traded, sold or otherwise transferred by the public utility or rural electric distribution cooperative shall not be further used by the public utility or rural electric distribution cooperative; and

(4) that are not used by a public utility or rural electric distribution cooperative to satisfy the renewable portfolio standard and that are not traded, sold or otherwise transferred by the public utility or rural electric distribution cooperative may be carried forward for up to four years from the date of creation and, if not used by that time, shall be retired by the public utility or rural electric distribution cooperative.

D. Public utilities and rural electric distribution cooperatives are responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources and has not been retired, traded, sold or otherwise transferred to another party. Public utilities and rural electric distribution cooperatives shall maintain records sufficient to meet the demonstration requirement of this subsection.

E. The acquisition, sale or transfer, and retirement of any renewable energy certificates used to meet renewable portfolio standards on or after January 1, 2008 shall be registered with the western renewable energy generation information system (WREGIS) or its direct successor(s), except as provided in Subsection F of this section. Certificates whose retirement has been registered by the public utility or rural electric distribution cooperative with WREGIS shall be deemed to meet the requirements of Subsection D of this section.

F. Renewable energy certificates representing electricity delivered to New Mexico and registered with a tracking system other than WREGIS may be used to meet renewable portfolio standards so long as WREGIS lacks the capability to import certificates from that other tracking system.

G. The requirement for registration and trading of renewable energy certificates through WREGIS shall not constitute a finding by the commission that a regional renewable energy market is generally available.

H. Until such time as the commission has determined that there is a regional market for exchanging renewable energy and renewable energy certificates that is generally available for all public utilities and rural electric distribution cooperatives in the state, any public utility or rural electric distribution cooperative may seek approval from the commission to meet some or all of its renewable portfolio standard using individual renewable energy certificates that represent energy generated by a renewable energy resource within a regional renewable energy market or trading system in any region where the public utility or rural electric cooperative is located.

I. Any state having a mandatory renewable portfolio standard that accepts renewable energy certificates for energy produced and delivered in New Mexico on a non-discriminatory basis for compliance with its RPS shall be deemed to be part of an active regional market for RECs for the purposes of Paragraph (2) of Subsection C of this section.

[17.9.572.17 NMAC - Rp, 17.9.572.13 NMAC, 5-31-13]

17.9.572.18 VOLUNTARY RENEWABLE TARIFFS:

A. Each public utility shall offer a voluntary renewable energy tariff for those customers who want the option to purchase additional renewable energy.

B. The voluntary renewable tariff may also include provisions to enable consumers to purchase renewable energy within certain energy blocks and by source of renewable energy. Additionally, each public utility must develop an educational program on the benefits and availability of its voluntary renewable energy program. The tariff, along with the details of the consumer education program, shall be on file with the commission.

[17.9.572.18 NMAC - Rp, 17.9.572.15 NMAC, 5-31-13]

17.9.572.19 ANNUAL RENEWABLE ENERGY PORTFOLIO REPORT: Concurrent with the filing of an annual renewable energy plan, each public utility must file with the commission a report on its renewable energy generation or purchases of renewable energy during the prior plan year. This report shall:

- A. itemize all renewable energy generation or renewable energy certificate purchases and sales;
- B. list, and include copies of, all renewable energy certificates, including acquired, issued or retired certificates;
- C. document from WREGIS or its successor the RECs acquired, sold, retired, transferred, or expired; such documentation shall include reports from WREGIS or its successor which allow the commission to determine, by fuel type, the number of RECs in each calendar year:
 - (1) acquired;
 - (2) sold;
 - (3) retired;
 - (4) transferred; and
 - (5) expired;
- D. describe the retirements made to meet RPS compliance based on actual retail sales and procurement costs, for the most recent reporting period including, the reductions, if any, to the RPS for procurements for non-governmental customers with consumption exceeding 10 million kilowatt hours per year, customers that are political subdivisions, or due to the RCT, including an explanation and exhibits demonstrating how the reduction was determined, how the diversity requirements were satisfied and the quantity of RECs banked for future compliance use;
- E. describe and quantify the implementation of the voluntary renewable tariff requirements in 17.9.572.18 NMAC; and
- F. present a full explanation of approved recovery mechanisms for approved annual renewable energy plan costs and a complete accounting of all collected and deferred amounts.

[17.9.572.19 NMAC - Rp, 17.9.572.17 NMAC, 5-31-13]

17.9.572.20 REVIEW BY COMMISSION:

- A. Interested parties wishing to protest an annual Renewable Energy Act plan shall do so by stating the bases for the protest within 30 days after the filing of the utility's annual renewable energy plan.
- B. The commission shall approve or modify annual Renewable Energy Act plans within 90 days and may approve such plans without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary.
- C. The commission may modify a plan after notice and hearing, and may, for good cause, extend the time to approve an annual Renewable Energy Act plan for an additional 90 days.
- D. If the commission has not acted within the ninety-day period, a plan is deemed approved.
- E. The commission may reject a plan if the commission finds that the plan does not contain the required information; upon such rejection the public utility's obligation to procure additional resources will be suspended for the time necessary to file a revised plan. In such instances, the total amount of renewable energy to be procured by the public utility will not change.

[17.9.572.20 NMAC - Rp, 17.9.572.18 NMAC, 5-31-13]

17.9.572.21 EXEMPTION AND VARIANCE: Any interested person may file an application for an exemption or a variance from the requirements of this rule. Such application shall:

- A. identify the section of this rule for which the exemption or variance is requested;
- B. describe the situation that necessitates the exemption or variance;
- C. set out the effect of complying with this rule on the public utility and its customers if the exemption or variance is not granted;
- D. define the result the request will have if granted;
- E. state how the exemption or variance will be consistent with the purposes of this rule;
- F. state why no other reasonable alternative is preferable; and
- G. state why the proposed alternative is in the public interest.

[17.9.572.21 NMAC - Rp, 17.9.572.19 NMAC, 5-31-13]

17.9.572.22 RURAL ELECTRIC DISTRIBUTION COOPERATIVES VOLUNTARY RENEWABLE

TARIFFS: Rural electric distribution cooperatives must offer their retail customers a voluntary renewable energy tariff to the extent that their suppliers under their all requirements contracts make such renewable resources available. Rural electric distribution cooperatives must report to the commission by April 30 of each year concerning the availability to them of renewable energy and the annual demand for renewable energy pursuant to their voluntary tariff.

[17.9.572.22 NMAC - Rp, 17.9.572.20 NMAC, 5-31-13]

17.9.572.23 RURAL ELECTRIC DISTRIBUTION COOPERATIVES RENEWABLE PORTFOLIO

STANDARD: Each rural electric distribution cooperative organized under the Rural Electric Cooperative Act shall meet a renewable portfolio standard as follows:

A. "Renewable energy," "renewable energy certificate" shall have the same definitions as provided in Subsections D and E of 17.9.572.7 NMAC.

B. No later than January 1, 2015, renewable energy shall comprise no less than 5% of each distribution cooperative's total retail sales to New Mexico customers; the renewable portfolio standard shall increase by 1% per year thereafter until January 1, 2020, at which time the renewable portfolio standard shall be 10%.

C. The renewable portfolio standard of each distribution cooperative shall be diversified as to the type of renewable energy resource, taking into consideration the overall reliability, availability, dispatch flexibility and the cost of the various renewable energy resources made available to the distribution cooperative by its suppliers of electric power.

D. Renewable energy generation by solar technologies which were developed and operational before January 1, 2012, by a distribution cooperative or through the wholesale contract obligation of the wholesale supplier, shall be given a three time multiplier credit for every kWh generated.

E. Renewable energy resources that are in a distribution cooperative's energy supply portfolio on January 1, 2008 shall be counted in determining compliance with this rule.

F. If a distribution cooperative determines that, in any given year, the cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold, the distribution cooperative shall not be required to incur that cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay any renewable portfolio standard in subsequent years. For purposes of the Rural Electric Cooperative Act, "reasonable cost threshold" means an amount that shall be no greater than 1% of the distribution cooperative's gross receipts from business transacted in New Mexico for the preceding calendar year and shall be subject to the following conditions:

(1) If the wholesale supplier is obligated to meet all or part of the distribution cooperative's requirements, pursuant to the wholesale electric service "all requirements" contract, the solar calculation by the wholesale provider, shall be provided in the distribution cooperative's filing to the commission.

(2) The distribution cooperative shall submit its RCT information in a form acceptable to the commission, with the information required in Subsection I below.

G. A rural electric distribution cooperative may collect from its customers a renewable energy and conservation fee of no more than one percent of the customer's bill. In no event shall a rural electric distribution cooperative collect more than \$75,000 annually through the renewable energy and conservation fee from any single customer. Money collected through the renewable energy and conservation fee shall be segregated in a separate renewable energy and conservation account from other distribution cooperative funds and shall be expended only on programs or projects to promote the use of renewable energy, load management or energy efficiency.

H. Each distribution cooperative that collects a renewable energy and conservation fee from its customers shall deduct from the fees paid to the state pursuant to Section 62-8-8 NMSA 1978 an amount equal to 50% of the amount of money collected through the renewable energy and conservation fee during the preceding calendar year.

I. By April 30 of each year, a distribution cooperative shall file with the public regulation commission a report on its purchases and generation of renewable energy during the preceding calendar year; the report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the renewable portfolio standard; the report shall provide the information required below:

(1) a summary of the distribution cooperative's purchases and generation of renewable energy and purchases of renewable energy certificates that occurred during the preceding calendar year;

(2) the total amount of monies collected by the distribution cooperative from its customers during the preceding calendar year through the assessment of a renewable energy and conservation fee and the balance of funds

in the distribution cooperative's renewable energy and conservation fund, as of January 1 and December 31 of the preceding calendar year;

(3) the amount of monies withheld by the distribution cooperative from the inspection and supervision fees due to the state that were placed in the renewable energy and conservation fund as a partial match of the renewable energy and conservation fees collected during the preceding calendar year;

(4) the amount of monies received by the distribution cooperative from any third party that were placed in the renewable energy and conservation fund;

(5) whether and to what extent the distribution cooperative will assess its customers for a renewable energy and conservation fee in the succeeding calendar year; and

(6) a summary of each renewable energy project, energy efficiency or load management program upon which monies from the renewable energy and conservation fund were expended during the preceding calendar year, which includes:

(a) a description of the anticipated benefits to the distribution cooperative's members from each project or program;

(b) the amount of monies spent on each project or program; and

(c) the current status of each project or program.

J. For renewable distributed generation systems of 25kW or less, whether interconnected or not with the distribution cooperative's system, the annual renewable energy credits can be determined by use of a metering device or pursuant to a recognized standard allocation of 2,500 kWhs per 1 kW of installed capacity, and these RECs shall not be required to be registered with WREGIS, if the following conditions are met:

(1) the renewable distributed generation system is owned by the distribution cooperative;

(2) the renewable distribution cooperative provides tariffed service to customers from the distributed generation system; and

(3) WREGIS lacks the capability to import certificates from the renewable distributed generation or

(4) if registration of the RECs from the renewable distributed generation cannot be justified by the cost of registration.

K. A distribution cooperative shall report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year.

[17.9.572.23 NMAC - Rp, 17.9.572.21 NMAC, 5-31-13]

HISTORY OF 17.9.572 NMAC:

Pre-NMAC History: None.

History of Repealed Material:

17 NMAC 10.572, Renewable Energy Development Program (filed 11-30-98) repealed 7-1-03.

17.9.572 NMAC, Renewable Energy as a Source of Electricity (filed 6-16-03) repealed 1-14-05.

17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 12-29-04) repealed 8-30-07.

17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 8-15-07) repealed 5-31-13.

Other History:

17 NMAC 10.572, Renewable Energy Development Program (filed 11-30-98) replaced by 17.9.572 NMAC, Renewable Energy as a Source of Electricity, effective 7-1-03, 17.9.572 NMAC, Renewable Energy as a Source of Electricity (filed 6-16-03) replaced by 17.9.572, Renewable Energy for Electric Utilities, effective 1-14-05.

17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 12-29-04) replaced by 17.9.572 NMAC, Renewable Energy for Electric Utilities (filed 8-15-07) replaced by 17.9.572 NMAC, Renewable Energy for Electric Utilities effective 5-31-13.