

**PUBLIC SERVICE COMMISSION  
STATE OF MONTANA**

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January 20, 2012

**TO: Electric Public Utilities and Electricity Suppliers in Montana**

**RE: Docket N2012.1.1 – Renewable Portfolio Standard Compliance Reporting**

By March 31, 2012, electric public utilities and electricity suppliers must submit a report to the Public Service Commission (Commission) demonstrating compliance with the Renewable Portfolio Standard (RPS) for compliance year 2011. Your company is receiving this letter because it previously submitted a report or was identified as a public utility or electricity supplier. Attached for your convenience are copies of the RPS statutes and rules.

The law requires public utilities and competitive electricity suppliers to procure at least 10% of their retail sales in Montana from eligible renewable resources, which include wind, solar, geothermal and certain biomass and small hydroelectric resources. It also requires that eligible renewable resources be certified by the Commission, and that renewable energy credits be verified through a regional tracking system. The Commission requires all electricity suppliers to report in order to determine whether they are competitive electricity suppliers. If your company reported as an electricity supplier last year, you may receive a separate letter (attached) regarding your status in 2012 (to be reported by March 31, 2013).

The Commission has developed standard forms intended to make reporting easier. Please download the appropriate form – one is for public utilities and one for electricity suppliers – at <http://psc.mt.gov/energy/>, and submit it with any related materials **both by mail or delivery and electronically** (e-file in .pdf format at <http://psc.mt.gov/AccountLogin.asp>) to the Montana Public Service Commission, Regulatory Division, 1701 Prospect Avenue, P.O. Box 202601, Helena, MT 59620-2601 **by March 31, 2012**. The Commission will not post an e-filing to its website until it received a hard copy by mail or delivery.

As of January 1, 2012, public utilities must purchase electricity from community renewable energy projects. Before the next reporting deadline of March 31, 2013, the Commission will add a section to the public utility form for demonstrating compliance with this requirement.

If you have questions, please contact Jason Brown at (406) 444-6187, [jbrown4@mt.gov](mailto:jbrown4@mt.gov), or Bob Decker at (406) 444-7627, [bdecker@mt.gov](mailto:bdecker@mt.gov).

Sincerely,

A handwritten signature in black ink that reads "Brian DeKiep".

Brian DeKiep  
Public Policy and Regional Transmission Bureau Chief

Attachments

**69-3-2001. Short title.** This part may be cited as the "Montana Renewable Power Production and Rural Economic Development Act".

**69-3-2002. Findings.** The legislature finds that:

- (1) Montana is blessed with an abundance of diverse renewable energy resources;
- (2) renewable energy production promotes sustainable rural economic development by creating new jobs and stimulating business and economic activity in local communities across Montana;
- (3) increased use of renewable energy will enhance Montana's energy self-sufficiency and independence; and
- (4) fuel diversity, economic, and environmental benefits from renewable energy production accrue to the public at large, and therefore all consumers and utilities should support expanded development of these resources to meet the state's electricity demand and stabilize electricity prices.

**69-3-2003. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Ancillary services" means services or tariff provisions related to generation and delivery of electric power other than simple generation, transmission, or distribution. Ancillary services related to transmission services include energy losses, energy imbalances, scheduling and dispatching, load following, system protection, spinning reserves and nonspinning reserves, and reactive power.
- (2) "Balancing authority" means a transmission system control operator who balances electricity supply and load at all times to meet transmission system operating criteria and to provide reliable electric service to customers.
- (3) "Common ownership" means the same or substantially similar persons or entities that maintain a controlling interest in more than one community renewable energy project even if the ownership shares differ between two community renewable energy projects. Two community renewable energy projects may not be considered to be under common ownership simply because the same entity provided debt or equity or both debt and equity to both projects.
- (4) "Community renewable energy project" means an eligible renewable resource that:
  - (a) is interconnected on the utility side of the meter in which local owners have a controlling interest and that is less than or equal to 25 megawatts in total calculated nameplate capacity; or
  - (b) is owned by a public utility and has less than or equal to 25 megawatts in total nameplate capacity.
- (5) (a) "Competitive electricity supplier" means any person, corporation, or governmental entity that is selling electricity to small customers at retail rates in the state of Montana and that is not a public utility or cooperative.
  - (b) The term does not include governmental entities selling electricity produced only by facilities generating less than 250 kilowatts that were in operation prior to 1990.
- (6) "Compliance year" means each calendar year beginning January 1 and ending December 31, starting in 2008, for which compliance with this part must be demonstrated.
- (7) "Cooperative utility" means:
  - (a) a utility qualifying as an electric cooperative pursuant to Title 35, chapter 18; or
  - (b) an existing municipal electric utility as of May 2, 1997.
- (8) "Dispatch ability" means the ability of either a balancing authority or the owner of an electric generating resource to rapidly start, stop, increase, or decrease electricity production from that generating resource in order to respond to the balancing authority's need to match supply resources to loads on the transmission system.
- (9) "Electric generating resource" means any plant or equipment used to generate electricity by any means.
- (10) "Eligible renewable resource" means a facility either located within Montana or delivering electricity from another state into Montana that commences commercial operation after January 1, 2005, and that produces electricity from one or more of the following sources:
  - (a) wind;
  - (b) solar;
  - (c) geothermal;
  - (d) water power, in the case of a hydroelectric project that:
    - (i) does not require a new appropriation, diversion, or impoundment of water and that has a nameplate rating of 10 megawatts or less; or
    - (ii) is installed at an existing reservoir or on an existing irrigation system that does not have hydroelectric generation as of April 16, 2009, and has a nameplate capacity of 15 megawatts or less;
  - (e) landfill or farm-based methane gas;
  - (f) gas produced during the treatment of wastewater;
  - (g) low-emission, nontoxic biomass based on dedicated energy crops, animal wastes, or solid organic fuels from wood, forest, or field residues, except that the term does not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chroma-arsenic;

(ii) hydrogen derived from any of the sources in this subsection (10) for use in fuel cells;  
(i) the renewable energy fraction from the sources identified in subsections (10)(a) through (10)(j) of electricity production from a multiple-fuel process with fossil fuels; and  
(j) compressed air derived from any of the sources in this subsection (10) that is forced into an underground storage reservoir and later released, heated, and passed through a turbine generator.

(11) "Local owners" means:

- (a) Montana residents or entities composed of Montana residents;
- (b) Montana small businesses;
- (c) Montana nonprofit organizations;
- (d) Montana-based tribal councils;
- (e) Montana political subdivisions or local governments;
- (f) Montana-based cooperatives other than cooperative utilities; or
- (g) any combination of the individuals or entities listed in subsections (11)(a) through (11)(f).

(12) "Nonspinning reserve" means offline generation that can be ramped up to capacity and synchronized to the grid within 10 minutes and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(13) "Public utility" means any electric utility regulated by the commission pursuant to Title 69, chapter 3, on January 1, 2005, including the public utility's successors or assignees.

(14) "Renewable energy credit" means a tradable certificate of proof of 1 megawatt hour of electricity generated by an eligible renewable resource that is tracked and verified by the commission and includes all of the environmental attributes associated with that 1 megawatt-hour unit of electricity production.

(15) "Seasonality" means the degree to which an electric generating resource is capable of producing electricity in each of the seasons of the year.

(16) "Small customer" means a retail customer that has an individual load with an average monthly demand of less than 5,000 kilowatts.

(17) "Spinning reserve" means the online reserve capacity that is synchronized to the grid system and immediately responsive to frequency control and that is needed to maintain system frequency stability during emergency conditions, unforeseen load swings, and generation disruptions.

(18) "Total calculated nameplate capacity" means the calculation of total nameplate capacity of the community renewable energy project and other eligible renewable resources that are:

- (a) located within 5 miles of the project;
- (b) constructed within the same 12-month period; and
- (c) under common ownership.

**69-3-2004. Renewable resource standard -- administrative penalty -- waiver.** (1) Except as provided in 69-3-2007 and subsections (11) and (12) of this section, a graduated renewable energy standard is established for public utilities and competitive electricity suppliers as provided in subsections (2) through (4) of this section.

(2) In each compliance year beginning January 1, 2008, through December 31, 2009, each public utility and competitive electricity supplier shall procure a minimum of 5% of its retail sales of electrical energy in Montana from eligible renewable resources.

(3) (a) In each compliance year beginning January 1, 2010, through December 31, 2014, each public utility and competitive electricity supplier shall procure a minimum of 10% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) Beginning January 1, 2012, as part of their compliance with subsection (3)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 50 megawatts in nameplate capacity.

(c) Public utilities shall proportionately allocate the purchase required under subsection (3)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2011.

(4) (a) In the compliance year beginning January 1, 2015, and in each succeeding compliance year, each public utility and competitive electricity supplier shall procure a minimum of 15% of its retail sales of electrical energy in Montana from eligible renewable resources.

(b) (i) As part of their compliance with subsection (4)(a), public utilities shall purchase both the renewable energy credits and the electricity output from community renewable energy projects that total at least 75 megawatts in nameplate capacity.

(ii) In meeting the standard in subsection (4)(b)(i), a public utility may include purchases made under subsection (3)(b).

(e) Public utilities shall proportionately allocate the purchase required under subsection (4)(b) based on each public utility's retail sales of electrical energy in Montana in the calendar year 2014.

(5) (a) In complying with the standards required under subsections (2) through (4), a public utility or competitive electricity supplier shall, for any given compliance year, calculate its procurement requirement based on the public utility's or competitive electricity supplier's previous year's sales of electrical energy to retail customers in Montana.

(b) The standard in subsections (2) through (4) must be calculated on a delivered-energy basis after accounting for any line losses.

(6) A public utility or competitive electricity supplier has until 3 months following the end of each compliance year to purchase renewable energy credits for that compliance year.

(7) (a) In order to meet the standard established in subsections (2) through (4), a public utility or competitive electricity supplier may only use:

(i) electricity from an eligible renewable resource in which the associated renewable energy credits have not been sold separately;

(ii) renewable energy credits created by an eligible renewable resource purchased separately from the associated electricity; or

(iii) any combination of subsections (7)(a)(i) and (7)(a)(ii).

(b) A public utility or competitive electricity supplier may not resell renewable energy credits and count those sold credits against the public utility's or the competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(c) Renewable energy credits sold through a voluntary service such as the one provided for in 69-8-210(2) may not be applied against a public utility's or competitive electricity supplier's obligation to meet the standards established in subsections (2) through (4).

(8) Nothing in this part limits a public utility or competitive electricity supplier from exceeding the standards established in subsections (2) through (4).

(9) If a public utility or competitive electricity supplier exceeds a standard established in subsections (2) through (4) in any compliance year, the public utility or competitive electricity supplier may carry forward the amount by which the standard was exceeded to comply with the standard in either or both of the 2 subsequent compliance years. The carryforward may not be double-counted.

(10) Except as provided in subsections (11) and (12), if a public utility or competitive electricity supplier is unable to meet the standards established in subsections (2) through (4) in any compliance year, that public utility or competitive electricity supplier shall pay an administrative penalty, assessed by the commission, of \$10 for each megawatt hour of renewable energy credits that the public utility or competitive electricity supplier failed to procure. A public utility may not recover this penalty in electricity rates. Money generated from these penalties must be deposited in the universal low-income energy assistance fund established in 69-8-412(1)(a).

(11) A public utility or competitive electricity supplier may petition the commission for a short-term waiver from full compliance with the standards in subsections (2) through (4) and the penalties levied under subsection (10). The petition must demonstrate that the:

(a) public utility or competitive electricity supplier has undertaken all reasonable steps to procure renewable energy credits under long-term contract, but full compliance cannot be achieved either because renewable energy credits cannot be procured or for other legitimate reasons that are outside the control of the public utility or competitive electricity supplier; or

(b) integration of additional eligible renewable resources into the electrical grid will clearly and demonstrably jeopardize the reliability of the electrical system and that the public utility or competitive electricity supplier has undertaken all reasonable steps to mitigate the reliability concerns.

(12) (a) Retail sales made by a competitive electricity supplier according to prices, terms, and conditions of a written contract executed prior to April 25, 2007, are exempt from the standards in subsections (2) through (4).

(b) The exemption provided for in subsection (12)(a) is terminated upon modification after April 25, 2007, of the prices, terms, or conditions in a written contract.

**69-3-2005. Procurement -- cost recovery -- reporting.** (1) In meeting the requirements of this part, a public utility shall:

(a) conduct renewable energy solicitations under which the public utility offers to purchase renewable energy credits, either with or without the associated electricity, under contracts of at least 10 years in duration;

(b) consider the importance of geographically diverse rural economic development when procuring renewable energy credits; and

(c) consider the importance of dispatch ability, seasonality, and other attributes of the eligible renewable resource

contained in the commission's supply procurement rules when considering the procurement of renewable energy or renewable energy credits.

(2) A public utility that intends to enter into contracts of less than 10 years in duration shall demonstrate to the commission that these contracts will provide a lower long-term cost of meeting the standard established in 69-3-2004.

(3) (a) Contracts signed for projects located in Montana must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401, in the performance of the work on the projects if the Montana residents have substantially equal qualifications to those of nonresidents.

(b) Contracts signed for projects located in Montana must require all contractors to pay the standard prevailing rate of wages for heavy construction, as provided in 18-2-414, during the construction phase of the project.

(4) All contracts signed by a public utility to meet the requirements of this part are eligible for advanced approval under procedures established by the commission. Upon advanced approval by the commission, these contracts are eligible for cost recovery from ratepayers, except that nothing in this part limits the commission's ability to subsequently, in any future cost-recovery proceeding, inquire into the manner in which the public utility has managed the contract and to disallow cost recovery if the contract was not reasonably administered.

(5) A public utility or competitive electricity supplier shall submit renewable energy procurement plans to the commission in accordance with rules adopted by the commission. The plans must be submitted to the commission on or before:

(a) June 1, 2013, for the standard required in 69-3-2004(4); and

(b) any additional future dates as required by the commission.

(6) A public utility or competitive electricity supplier shall submit annual reports, in a format to be determined by the commission, demonstrating compliance with this part for each compliance year. The reports must be filed by March 1 of the year following the compliance year.

(7) For the purpose of implementing this part, the commission has regulatory authority over

**69-3-2006. Commission authority -- rulemaking authority.** (1) The commission has the authority to generally implement and enforce the provisions of this part.

(2) The commission shall adopt rules before June 1, 2006, to:

(a) select a renewable energy credit tracking system to verify compliance with this part;

(b) establish a system by which renewable resources become certified as eligible renewable resources;

(c) define the process by which waivers from full compliance with this part may be granted;

(d) establish procedures under which contracts for eligible renewable resources and renewable energy credits may receive advanced approval;

(e) define the requirements governing renewable energy procurement plans and annual reports; and

(f) generally implement and enforce the provisions of this part.

**69-3-2007. Cost caps.** (1) A public utility that has restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the eligible renewable resource has demonstrated through a competitive bidding process that the total cost of electricity from that eligible resource, including the associated cost of ancillary services necessary to manage the transmission grid and firm the resource, is less than or equal to bids for the equivalent quantity of power over the equivalent contract term from other electricity suppliers.

(2) A public utility that has not restructured pursuant to Title 69, chapter 8, is not obligated to take electricity from an eligible renewable resource unless the cost per kilowatt hour of the generation from the renewable resource does not exceed by more than 15% the cost of power from any other alternate generating resource available to the public utility.

(3) A competitive electricity supplier is not obligated to take electricity from an eligible renewable resource unless the total cost of the electricity from that eligible renewable resource, including ancillary services, is less than or equal to a cost cap determined by the commission based on:

(a) the cost of alternate power supplies available to the competitive electricity supplier; and

(b) the cost caps applicable to other utilities under this section.

**69-3-2008. Cooperative utility -- exemption -- standard.** (1) A cooperative utility is exempt from the graduated renewable energy standard established in 69-3-2004.

(2) Each governing body of a cooperative utility that has 5,000 or more customers is responsible for implementing and enforcing a renewable energy standard for that cooperative utility that recognizes the intent of the legislature to encourage new renewable energy production and rural economic development, while taking into consideration the effect of the standard on rates, reliability, and financial resources.

## Renewable Energy Resource Standard

**38.5.8301 RENEWABLE ENERGY RESOURCE STANDARD – PUBLIC UTILITIES** (1) A public utility's resource procurement plan pursuant to ARM 38.5.8201 through 38.5.8227 or integrated least cost resource plan pursuant to ARM 38.5.2001 through 38.5.2012 must thoroughly document compliance with the Montana Renewable Power Production and Rural Economic Development Act, 69-3-2001, et seq, MCA, hereafter renewable resource standards. Public utilities must consider the requirements of this rule an integral part of the planning and procurement processes described in ARM 38.5.8201 through 38.5.8227 and 38.5.2001 through 38.5.2012.

(2) For public utilities operating in Montana within the geographic boundaries of the Western Electricity Coordinating Council, all renewable energy credits used to comply with the renewable resource standards must be tracked and verified through the Western Renewable Energy Generation Information System (WREGIS). For public utilities operating in Montana within the geographic boundaries of Midwest Reliability Organization, all renewable energy credits used to comply with the renewable resource standards must be tracked and verified through the Midwest Renewable Energy Tracking System (MRETS).

(3) Before entering into a long-term contract to purchase renewable energy credits, with or without associated electricity, for purposes of complying with the renewable resource standards, a public utility must petition the commission to certify that the renewable energy credits were produced by an eligible renewable resource. The petition may stand on its own or may be part of a request for advanced approval of the price(s), term, and quantity in a proposed contract to purchase renewable energy credits, either with or without associated electricity. If the applicable renewable energy tracking system in (2) provides a mechanism for ensuring that renewable energy credits are produced by eligible renewable resources, as defined in 69-3-2003, MCA, a public utility may rely on that mechanism. Otherwise a public utility's petition must contain sufficient information on the source of the renewable energy credits to allow the commission to determine whether the source is an eligible renewable resource.

(4) A public utility may petition the commission for a waiver from full compliance with the renewable energy portfolio standards. The petition must include documentation and evidence showing that the public utility has undertaken all reasonable steps to procure renewable energy credits sufficient to comply with the applicable portfolio standards and could not achieve full compliance due to one or more of the following:

- (a) the unavailability of sufficient renewable energy credits;
  - (b) a determination that integrating additional eligible renewable resources into the electrical grid would jeopardize the reliability of the electrical system despite reasonable efforts to mitigate reliability concerns;
  - (c) full compliance would cause the public utility to exceed the cost caps in 69-3-2007, MCA;
- and
- (d) other documented reasons beyond the public utility's control.

(5) The commission will rule on a petition for a waiver from full compliance with the renewable portfolio standards after noticing the petition and allowing an opportunity for a public hearing.

(6) A public utility may apply to the commission for advanced approval of a contract for the purchase of renewable energy credits with or without the associated electricity. An application by a public utility for advanced approval must incorporate by reference the public utility's most recent long-term resource plan, must include the public utility's most recent near-term action plan, and must provide:

- (a) a complete explanation and justification of all changes, if any, to the public utility's most recent long-term resource plan and near-term action plan, including how the public utility has responded to all commission written comments on the long-term plan relevant to compliance with the renewable resource standards;
- (b) a copy of the proposed contract, including all appendices and attachments, if any;

(c) testimony and supporting work papers demonstrating that the contract enables the public utility's compliance with the renewable resource standards in a manner that, to the fullest extent possible, is consistent with ARM Title 38, chapter 5, subchapter 20 or subchapter 82, whichever is applicable to the filing public utility;

(d) a copy of the request for proposals which preceded the proposed contract;

(e) a copy of all bids received;

(f) testimony and work papers demonstrating all due diligence and bid evaluation conducted by the public utility, including the application of bid rating mechanisms and management judgment;

(g) testimony and supporting work papers demonstrating that the price(s), term, and quantity associated with the power purchase agreement are reasonable and in the public interest;

(h) testimony and supporting work papers demonstrating the calculation of the utility's avoided costs and associated cost caps provided for in 69-3-2007, MCA;

(i) a thorough explanation and justification for any other terms in the power purchase agreement for which the public utility is requesting approval; and

(j) testimony and supporting documentation related to any advice received from the public utility's stakeholder advisory committee regarding the proposed contract or the underlying resource/product and actions taken or not taken by the public utility in response to such advice.

(7) The commission will process a petition for approval under the contested case procedures of the Montana Administrative Procedure Act. The commission will consider requests for expedited processing of petitions for advanced approval, but petitions submitted pursuant to this rule are not subject to the 180 day limit in 69-8-421, MCA.

(8) If a public utility determines in its ongoing long-term planning process pursuant to ARM 38.5.8201 through 38.5.8227 or 38.5.2001 through 38.5.2012 that the cost of complying with the renewable resource standards will likely exceed the cost caps in 69-3-2007, MCA, the public utility must submit an application to the commission no later than 180 days prior to the beginning of the compliance year. The application must thoroughly document the public utility's efforts to procure the required renewable energy credits, the calculated cost of compliance, work papers showing the most current calculation of the cost caps, an explanation of the methodology that underlies the calculation of the cost caps, and the amount by which the cost cap would be exceeded if the public utility were to comply with the renewable resource standards. Following notice of the application and an opportunity for a public hearing, the commission will issue an order authorizing or denying full or partial forbearance from the renewable resource standard for that compliance year.

(9) On an annual basis on or before March 31, public utilities subject to the retail choice provisions in 69-8-201, MCA, must submit to the commission a report disclosing:

(a) Each electricity supplier that uses the public utility's transmission and/or distribution facilities to deliver electricity to retail customers in the state;

(b) For each electricity supplier, the information required in ARM 38.5.8302(3). A public utility must assign a unique number to each retail customer of an electricity supplier with respect to the information in ARM 38.5.8302(3)(c) and (3)(d) to protect the customer's identity. (History: 69-3-103, 69-3-2006, 69-8-1006, MCA; IMP, 69-3-2003, 69-3-2004, 69-3-2005, 69-3-2006, 69-8-1004, 69-8-1005, 69-8-1006, 69-8-1007, MCA; NEW, 2006 MAR p. 1461, Eff. 6/2/06; AMD, 2007 MAR p. 2146, Eff. 12/21/07.)

**38.5.8302 RENEWABLE ENERGY STANDARD -- ELECTRICITY SUPPLIERS** (1) This rule applies to any electricity supplier that supplied electricity to one or more retail customers at any time during the twelve month period immediately preceding a compliance year.

(2) The following definitions apply to this rule:

(a) "billing demand" means actual metered demand or, if service is not metered, an engineering calculation of demand;

(b) "electricity supplier" means any person, corporation, business entity, or government entity that sells electricity to retail customers in the state of Montana and that is not a public utility or cooperative utility;

(c) "individual load" means the sum of the billing demands of each metered and/or unmetered account of a retail customer;

(d) "retail customer" means:

(i) any customer that purchases electricity supply for residential, commercial, or industrial end-use purposes, does not resell electricity to others, and is separately identified in a public utility's billing system as a person or entity to which bills are sent for service to:

(A) metered and/or unmetered facilities located on contiguous property;

(B) public street and/or highway lights; and

(C) any combination of (2)(d)(i)(A) and (d)(i)(B); or

(ii) any customer determined by the Public Service Commission to be a retail customer on petition for such determination by either the electricity supplier or the customer.

(3) On an annual basis on or before March 31, an electricity supplier must submit to the commission a report disclosing:

(a) total number of retail customers served by month for the twelve month period ending December 31 of the prior year;

(b) total billed retail sales of electrical energy, measured in kilowatt-hours, by month for the twelve month period ending December 31 of the prior year;

(c) for each retail customer, billed sales of electrical energy, measured in kilowatt-hours, by month for the twelve month period ending December 31 of the prior year; and

(d) for each demand-metered retail customer, individual load by month for the twelve month period ending December 31 of the prior year.

(4) An electricity supplier may assign a unique number to each retail customer subject to the reporting requirement in (3)(c) and (3)(d) to protect the customer's identity. Based on the information in an electricity supplier's annual report, an officer must attest to whether or not the electricity supplier was a competitive electricity supplier during the period covered by the annual report. An electricity supplier must consent by signature of an officer to release by a public utility of the electricity supplier's retail customer load information to the commission for purposes of verifying information in an electricity supplier's annual report.

(5) If an electricity supplier is a competitive electricity supplier in any compliance year, the electricity supplier's annual report must demonstrate compliance with the renewable energy standards. Pursuant to 69-3-2004, MCA, a competitive electricity supplier must satisfy the renewable energy standard for all retail sales of electricity in Montana, which may exceed sales to small retail customers. Report blanks for demonstrating compliance are available from the commission.

(6) Renewable energy credits used to comply with the renewable energy standards must be generated by eligible renewable resources, as defined in 69-3-2003(7), MCA. A competitive electricity supplier must petition the commission to certify any source of renewable energy credits used to comply with the renewable energy standards.

(7) Renewable energy credits used to comply with the renewable resource standards must be tracked and verified through WREGIS unless otherwise specifically authorized by the commission. A competitive electricity supplier may request authorization to use a renewable energy credit tracking and verification mechanism other than WREGIS by submitting a written request to the commission. The commission will consider the request after noticing the request and providing interested persons an opportunity to comment and/or request a hearing.

(8) A competitive electricity supplier may petition the commission for a waiver from full compliance with the renewable resource standards. The petition must include documentation and evidence showing that the competitive electricity supplier has undertaken all reasonable steps to procure renewable energy credits sufficient to comply with the applicable standards and could not achieve full compliance due to one or more of the following:

(a) the unavailability of sufficient renewable energy credits;

(b) a determination by a public utility that integrating additional eligible renewable resources into the electrical grid would jeopardize the reliability of the electrical system despite reasonable efforts to mitigate reliability concerns;

(c) full compliance would cause the competitive electricity supplier to exceed the cost caps in 69-3-2007, MCA; and

(d) other documented reasons beyond the competitive supplier's control.

(9) An electricity supplier that is a competitive electricity supplier in any compliance year must submit a renewable energy procurement plan as part of its annual report. The renewable energy procurement plan must explain whether the electricity supplier expects to be a competitive electricity supplier in the upcoming compliance year and, if so, provide:

(a) an estimate of the competitive electricity supplier's total retail sales for the next compliance year;

(b) an estimate of the quantity of renewable energy credits needed to comply with the renewable energy standards; and

(c) the anticipated source(s) of the renewable energy credits. (History: 69-3-103, 69-3-2006, MCA; IMP, 69-3-2003, 69-3-2004, 69-3-2005, 69-3-2006, MCA; NEW, 2007 MAR p. 2146, Eff. 12/21/07.)