

STAFF REPORT
Summary of Renewable Portfolio Standard Compliance
Compliance Year 2013
Docket N2014.1.3

October 14, 2014

TO: Commissioners
FR: Bob Decker, Public Policy Bureau, and Jason Brown and Jeremiah Langston, Legal Division
CC: PSC Electric

Montana's Renewable Portfolio Standard ("RPS") law provides that public utilities and competitive electricity suppliers have until three months following the end of each compliance year to obtain renewable energy credits ("RECs") for that compliance year. Administrative rules of the Montana Public Service Commission ("Commission") direct utilities and competitive suppliers to demonstrate compliance with the RPS law by filing an annual compliance report by the same date, i.e., March 31 of the year following the compliance year. The compliance report is intended to provide information on volume of annual electricity sales, number of retail customers, consumption data for each retail customer, and (for public utilities) acquisition of RECs and electricity from Community Renewable Energy Projects ("CREPs").¹

On January 10, 2014, Commission staff mailed an instructional letter to all known electric public utilities and electricity suppliers whose operations in Montana were subject to RPS in the past. The letter summarized RPS requirements, provided copies of RPS statutes and rules, described filing procedures, and included links to standardized report forms available on the PSC website.

The instructional letter also described changes made to the RPS law during the 2013 session of the Montana Legislature. Among those changes, public utilities that served 50 or fewer retail customers in Montana on December 31, 2012, as well as competitive electricity suppliers with four or fewer small customers in Montana, are now exempt (beginning in compliance year 2013) from the requirement to procure energy from renewable eligible resources. As a result, public utilities Avista and Black Hills Power and competitive supplier ConocoPhillips are now exempt from RPS compliance.

For compliance year 2013, two public utilities and four competitive electricity suppliers filed compliance reports. Core data from the reports may be found in the attached table, "Montana Renewable Portfolio Standard Compliance Reports – Compliance Year 2013 (N2014.1.3)."

¹ See the postscript of this memo for web links to relevant RPS statutes, administrative rules, and 2013 legislative changes to RPS law.

The reporting process generally functioned well, but the staff encountered some anomalies and makes these observations:

- Electrical service data from NorthWestern Energy (“NWE”) indicated that **PPL EnergyPlus** may have acquired, but not reported, a new small customer. However, an inquiry from PSC staff determined that the data reflected new meter installations by an existing PPL EnergyPlus customer. PSC staff judged PPL EnergyPlus to be in RPS compliance.
- Information from NWE (in a report containing data regarding electricity suppliers that used NWE’s transmission and/or distribution facilities to deliver electricity to retail customers in 2012, the basis year for 2013 compliance requirements) indicated that **ConocoPhillips** appeared to serve 21 small customers in the compliance period. Our subsequent inquiry to ConocoPhillips revealed that the data referred to multiple meters and not to new small customers.
- NWE data identified **Independent Electricity Supply Service** (“IESS”) as a supplier with small retail sales in 2012 (the basis year for 2013 compliance requirements), but IESS did not submit a compliance report for 2013. Staff investigation into this anomaly revealed that IESS dissolved as a corporation in 2013², therefore leaving the PSC with no entity to approach about failure to file compliance reports and, if it were to be assessed by the Commission, payment of an administrative penalty for non-compliance. The staff sees no additional steps in this situation that are legally or practically available to the Commission.
- **NWE** reported a CREP procurement of 25.1 MW, 18.9 MW less than its compliance requirement of 44 MW. However, NWE has petitioned from the Commission, in D2013.10.77, a waiver from CREP compliance in 2013. The waiver request has not yet been resolved, but because it is the explicit subject of a separate docket, the staff sees no need to keep this RPS compliance docket open until the waiver decision is made.

The staff considers RPS reporting and compliance for 2013 to be complete, and we recommend that the docket be closed. If the Commission would like to discuss 2012 RPS compliance in a work session, we would be pleased to schedule a date at the earliest opportunity. A commissioner wanting a work session presentation can contact the staff to make arrangements.

RPS statutes

- Sections 69-3-2001 through 69-3-2010 of the Montana Codes Annotated (http://leg.mt.gov/bills/mca_toc/69_3_20.htm)

RPS administrative rules

- Sections 38.5.8301 and 38.5.8302 of the Administrative Rules of Montana (<http://www.mtrules.org/gateway/RuleNo.asp?RN=38%2E5%2E8301>)

Changes made to Montana’s RPS laws by the Montana Legislature in the 2013 session

- SB106: Revising the definition of “eligible renewable resource” (storage) (<http://leg.mt.gov/bills/2013/sesslaws/ch0259.pdf>)

² The Montana Department of Revenue issued a “Dissolution/Withdrawal Certificate” on August 12, 2013, and the Montana Secretary of State approved a filing of corporate dissolution from IESS on September 24, 2013.

- SB325: Revising the definition of “eligible renewable resource” (biomass)
(<http://leg.mt.gov/bills/2013/sesslaws/ch0328.pdf>)
- SB45: Revising the definition of “eligible renewable resource” (hydro expansions)
(<http://leg.mt.gov/bills/2013/sesslaws/ch0361.pdf>)
- SB164: Exempting certain utilities from RPS requirements
(<http://leg.mt.gov/bills/2013/sesslaws/ch0073.pdf>)
- SB 327: Exempting certain competitive electricity suppliers from RPS requirements
(<http://leg.mt.gov/bills/2013/sesslaws/ch0197.pdf>)
- SB 52: Clarifying the reporting of renewable energy credits
(<http://leg.mt.gov/bills/2013/sesslaws/ch0025.pdf>)

Attachments:

- Table: “Montana Renewable Portfolio Standard Compliance Reports – Compliance Year 2012”

	Avista	Black Hills Power	Conoco Phillips	Electric City Power	Ind. Elect. Supply	MDU	NWE	Powerex	PPL EnergyPlus	PPL Treas. State
Date received			3/26/14	3/31/14		3/17/14	3/31/14	3/31/14	3/31/14	3/31/14
2012 retail sales (MWh, reported)			308,290	37,568		756,048	5,931,400		1,980,902	236,493
2012 retail sales (MWh, NWE Attach. 4)			370,372	36,943	45,539				1,944,396	216,655
RECs required (reported)				3,757		75,605	593,140			23,649
RECs required (PSC calculated)				3,757		75,605	593,140			23,649
2011 RECs carry-over				0		0	0			7,622
2012 RECs carry-over				0		0	136,937			0
2013 RECs procured				3,758		75,605	790,210			16,027
2013 RECs retired				3,758		75,605	593,140			23,649
REC balance				0		0	334,007			0
2013 CREP required (MW, reported)				N/A		5.6	44.0			N/A
2013 CREP required (MW, PSC calculated ³)				N/A		5.6	44.1			N/A
2013 CREP procured (MW, reported)				N/A		5.6 ⁴	25.1			N/A
CREP balance (reported)				N/A		0	-18.9			N/A

Note

Not required to file ¹	Not required to file ¹	With fewer than 4 small customers, exempt from RPS ²	Dissolved by City of Great Falls ordinance, 12/17/13	Corporation dissolved in Sept. 2013	REC: Yes. CREP: pending petition for waiver (D2013.10.77)	Reported as not compet. elect. supplier	Reported as not compet. elect. supplier
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Compliance?

N/A	N/A	N/A	Yes	No	Yes	Pending	N/A	N/A	Yes
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¹ SB 164 (Legis. session 2013) exempts public utilities with 50 or fewer customers from RPS compliance. 69-3-2004(13), MCA.

² SB 327 (Legis. Session 2013) exempts competitive electricity suppliers with 4 or fewer small customers from RPS compliance. 69-3-2004(14)(a), MCA.

³ Calculation based on 2011 retail sales volume [69-3-2004(3)(c)] and reported volumes from utilities' 2011 annual reports to PSC.

⁴ In each of its petitions for CREP certification, MDU has requested and received full-plant capacity for CREP certification (Diamond Willow 1: 19.5 MW; Diamond Willow 2: 10.5 MW; Cedar Hills: 19.5 MW).

Although MDU allocates its generation resources to three states (MT, SD, ND), MDU's Montana-certified CREP procurement is 49.5 MW.

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