



June 19, 2020

Public Utilities Commission of the State of Colorado
1560 Broadway, No. 250
Denver, CO 80202

Proceeding No. 19R-0096E: Comments of Center for Resource Solutions on Proposed Amendments to Rule Regulating Electric Utilities, 4 Code of Colorado Regulation 723-3

Center for Resource Solutions (CRS) appreciates this opportunity to submit comments on Decision No. C19-0197 Notice of Proposed Rulemaking (NOPR) dated February 27, 2019 ("2-27-2019 NOPR") and appendices. Our comments at this time are limited to proposed changes to the Renewable Energy Standard (RES) Rules and Net Metering Rules.

Background on CRS and Green-e®

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS provides technical guidance to policymakers and regulators at different levels on matters related to renewable energy policy design, accounting, tracking and verification, market interactions, and consumer protection. CRS also administers the Green-e® programs. For over 20 years, Green-e® has been the leading independent certification for voluntary renewable electricity products in North America. In 2018, Green-e® certified retail sales of over 62 million megawatt-hours (MWh), serving over 1.2 million retail purchasers of Green-e® certified renewable energy, including 61,000 businesses.¹

Comments on Proposed RES Rules

1. Counting net-metered (NEM) distributed generation (DG) towards a regulated entity's RES Compliance without acquisition and retirement of the associated renewable energy certificates (RECs)—per proposed rules 3654(a), 3655(a), 3655(d), 3658(n), 3662(c)(XI), 3662(c)(XII), and potentially others—will result in double counting. It also prevents system owners from using their investment to make an incremental impact on climate change. Rather, these systems would subsidize compliance for regulated entities. This may reduce demand in the NEM program and for renewable DG overall.

¹ See the 2019 (2018 Data) Green-e® Verification Report here for more information: <https://resource-solutions.org/g2019/>.

CRS supports the following previously submitted comments on this issue in this proceeding.

- “Opening Comments of the Colorado Solar and Storage Association and the Solar Energy Industries Association,” 3-29-2019, pg. 7 and Sec. 2.2 (pg. 12-18).
- “Vote Solar Initial Comments,” 3-29-2019, pg. 12.
- “Initial Comments of Western Resource Advocates,” 4-15-2019, Sec. II.A (pg. 27-30) and pg. 45.
- “Post-Hearing Comments of the Colorado Energy Office,” 5-31-2019, pg. 18.
- “COSSA & SEIA Post-Hearing Comments,” 5-31-2019, Sec 2.c.ii (pg. 15-17).
- “Vote Solar’s Post-Hearing Comments,” 5-31-2019, pg. 9.
- “Final Comments of Western Resource Advocates,” 5-31-2019, pg. 19-20.

The following previously submitted comments also express concern with these proposed rules or urge that they require further discussion, acknowledging the risk of double counting.

- “Comments of the Colorado Energy Office,” 5-1-2019, pg. 18-19, 22, 26.
- “19R-0096E_Public Service Company of Colorado’s Initial Comments,” 3-29-2019, pg. 5, 39, 47.
- “19R-0096E_Public Service Company of Colorado Reply Comments,” 4-19-2019, pg. 11.

2. CRS requests additional information regarding the proposed modification to rule 3656(b), stating that a utility’s RES compliance plan proceeding will serve as the venue for the Commission’s consideration of “voluntary offerings related to renewable energy such as Public Service’s Windsource program” (2-27-2019 NOPR, pg. 46).

Voluntary renewable energy offerings, by definition, are not eligible for compliance. Please confirm that voluntary renewable energy sales are not counted toward RES compliance, under either current or proposed rules, and explain why information on voluntary renewable energy offerings should be included in a RES compliance plan proceeding.

Comments on Net Metering Rules

3. The last sentence of Sec. 40-2-124(e)(I)(B), C.R.S. does not require, or support, proposed RES rules 3655(a) and 3655(d), or by extension proposed NEM rule 3680(b).

According to the 2-27-2019 NOPR, proposed NEM rule 3680(b)—new metering requirements for retail renewable DG—is intended to support proposed RES rules 3655(a) and 3655(d) that would allow utilities to count the electricity produced by these systems toward RES compliance irrespective of the disposition of the associated RECs. The 2-27-2019 NOPR states that proposed rules 3655(a) and 3655(d), and by extension proposed rule 3680(b), are in accordance with the last sentence of Sec. 40-2-

124(e)(l)(B), C.R.S.: “Electricity generated under [the NEM] program shall be eligible for the qualifying utility’s compliance with this article.”

However, this part of statute does not say that generation under the NEM program shall be *automatically* counted toward RES compliance or shall be eligible for RES compliance *irrespective of the RECs*. In fact, such an interpretation contradicts the previous Sec. 40-2-124(d), C.R.S., which establishes, “a system of tradable renewable energy credits that may be used by a qualifying retail utility to comply with this [renewable energy] standard,” as well as 4 CCR 723-3:3654(m), which says: “For purposes of compliance with this RES, there shall be no ‘double counting’ of eligible energy or RECs. RECs shall be used for a single purpose only, and shall be retired upon use for that purpose.” Current rules requiring RECs for NEM generation counted toward the RES appear to be in accordance with this this sentence in statute as well.

4. Estimation methods for NEM generation should not be used for RES compliance without the associated RECs.

The 2-27-2019 NOPR seeks comment on the following question:

“If net metering is deemed to ‘cause’ eligible energy to be generated, could estimates of the electricity produced by certain systems suffice for RES compliance purposes such that no production meter is necessary? For example, would estimates be sufficient for retail renewable distributed generation not over ten 10 kW? If estimates are suitable, should the Commission adopt the same or similar provisions for estimating the production of retail renewable distributed generation as in Existing Rule 3658(f)(X) which was applied for the upfront standard offers to purchase RECs?” (2-27-2019 NOPR, pg. 60).

Strangely, asserting that counting NEM generation toward RES compliance without the associated RECs (i.e. “net metering is deemed to ‘cause’ eligible energy to be generated”) is a condition for estimation (and the suggestion that the current rules requiring RECs necessitate new metering rules) contradicts the previous paragraph 204 of the NOPR stating that new metering requirements in proposed rule 3680(b) are needed to support the proposal not to require RECs for NEM generation.

To prevent double counting and provide consumer protection, CRS recommends that RECs be used consistently as the compliance instrument for the RES in Colorado. Where generation is estimated, and cannot be issued certificates in the Western Renewable Energy Generation Information System (WREGIS), NEM generators and the estimated generation that is counted toward RES compliance should be tracked in another database. This database can be used to calculate RECs from estimated DG in Colorado for RES compliance. In this case, owners of DG systems may still choose to retain their RECs and utilities may still be required to acquire them from system owners for RES compliance. Generation from systems keeping their RECs will not be included in the database.

Where generation from DG systems is being used for RES compliance, it should be clearly disclosed to the system owners and they should be fully compensated for providing compliance benefits, so that they do not subsidize compliance.

Please let me know if we can provide any further information or answer any other questions.

Sincerely,

_____/s/____

Todd Jones

Director, Policy