

PROJECT NO. 35792

RULEMAKING TO RELATING TO	§	
THE GOAL FOR RENEWABLE	§	PUBLIC UTILITY COMMISSION
ENERGY	§	
	§	OF TEXAS
	§	

STAFF STRAWMAN RULE

The staff of the Public Utility Commission of Texas request comments on the following strawman amendments to rules relating to the goal for renewable energy. Project No. 35792 has been assigned to this proceeding.

The amendments include changes to PUC Substantive Rule 25.173, Goal for Renewable Energy, that would establish renewable energy credits to serve as the enforcement mechanism for the 500 megawatt non-wind renewable energy target in PURA § 39.904. Other changes to this section are (1) the establishment of alternative compliance payments; (2) elimination of compliance premiums for non-wind renewable resources; and (3) elimination of renewable energy offsets for facilities in operation prior to January 1, 2002 and allowing such facilities to earn RECs, instead. The amendments also include changes to PUC Substantive Rule 25.109, Registration of Power Generation Companies and Self-Generators, to permit small generating facilities that comply with the interconnection rules for distributed generation facilities to avoid registering as a power generation company or self generator. The amendments also include changes to PUC Substantive Rule 25.211, Interconnection of On-Site Distributed Generation, to require that the owners of distributed generation facilities that interconnect with a utility

distribution system provide information concerning the distributed generation facilities to the utility.

The staff invites comments on the draft rules. These comments will be useful in developing proposed rules that are expected to be issued in a formal comment period early in 2010. Comments on the draft rule (16 copies) may be submitted to the Filing Clerk, Public Utility Commission of Texas, 1701 North Congress Avenue, PO Box 13326, Austin, Texas 78711-3326, before 3 p.m. on January 29, 2010.

Comments should be organized in a manner consistent with the organization of the draft rule.

All comments should refer to Project Number 35792.

Questions concerning the comments or this notice should be referred to David Smithson, Competitive Services Division, (512)-936-7156.

§25.173. Goal for Renewable Energy.

(a) **Purpose.** The purposes of this section are:

- (1) to ensure that the cumulative installed generating capacity from renewable energy technologies in this state totals ~~2,280 megawatts (MW) by January 1, 2007~~, 3,272 MW by January 1, 2009, 4,264 MW by January 1, 2011, 5,256 MW by January 1, 2013, and 5,880 MW by January 1, 2015, with a target of at least 500 MW of the total installed renewable capacity after September 1, 2005, coming from a renewable energy technology other than a source using wind energy, and that the means exist for the state to achieve a target of 10,000 MW of installed renewable capacity by January 1, 2025;
- (2) to provide for a renewable energy credits trading program by which the renewable energy requirements established by the Public Utility Regulatory Act (PURA) §39.904(a) may be achieved in the most efficient and economical manner;
- (3) to encourage the development, construction, and operation of new renewable energy resources at those sites in this state that have the greatest economic potential for capture and development of this state's environmentally beneficial resources;
- (4) to protect and enhance the quality of the environment in Texas through increased use of renewable resources; and
- (5) to ensure that all customers have access to providers of energy generated by renewable energy resources pursuant to PURA §39.101(b)(3).

(b) **Application.** This section applies to power generation companies, as defined in §25.5 (relating to Definitions), distributed renewable generation owners (DRGOs) and independent school district solar generation owners (ISD-SG Owners) as defined in

§25.217 of this title (relating to distributed renewable generation), and retail entities as defined in subsection (c) of this section.

(c) **Definitions.**

- (1) **Compliance period** -- A calendar year beginning January 1 and ending December 31 of each year in which renewable energy credits are required of a retail entity.
- ~~(2) **Compliance premium** -- A premium awarded by the program administrator in conjunction with a renewable energy credit that is generated by a renewable energy source that is not powered by wind and meets the criteria of subsection (m) of this section. For the purpose of the renewable energy portfolio standard requirements, one compliance premium is equal to one renewable energy credit.~~
- ~~(23) **Designated representative** -- A responsible natural person authorized by the owners or operators of a renewable resource to register that resource with the program administrator. The designated representative must have the authority to represent and legally bind the owners and operators of the renewable resource in all matters pertaining to the renewable energy credits trading program.~~
- ~~(4) **Existing facilities** -- Renewable energy generators placed in service before September 1, 1999.~~
- ~~(35) **Generation offset technology** -- Any renewable technology that reduces the demand for electricity at a site where a customer consumes electricity. An example of this technology is solar water heating.~~
- ~~(46) **Microgenerator** -- A customer who owns one or more eligible renewable energy resources ~~generating units~~ with a rated capacity of less than 1 MW operating on the customer's side of the utility meter.~~
- ~~(7) **New facilities** -- Renewable energy generators placed in service on or after September 1, 1999. A new facility includes the incremental capacity and associated energy from an existing renewable facility achieved through repowering activities undertaken on or after September 1, 1999.~~

- (5) New non-wind renewable energy resource (non-wind renewable resource)** --
A resource installed after September 1, 2005 that produces energy derived from renewable energy technologies other than wind.
- (68) Off-grid generation** -- The generation of renewable energy in an application that is not interconnected to a utility transmission or distribution system.
- (79) Opt-Out Notice** -- Written notice submitted to the commission by a transmission-level voltage customer pursuant to PURA §39.904(m-1).
- (810) Program administrator** -- The entity approved by the commission that is responsible for carrying out the administrative responsibilities related to the renewable energy credits trading program as set forth in subsection (g) of this section.
- (911) REC aggregator** -- An entity managing the participation of two or more microgenerators in the REC trading program.
- (1012) REC offset (offset)** -- A REC offset represents one megawatt-hour (MWh) of renewable energy from an existing facility that is not eligible to earn renewable energy credits ~~or compliance premiums~~.
- (1113) Renewable energy credit (REC or credit)** -- A REC represents one MWh of ~~renewable~~ energy that is physically metered and verified in Texas and meets the requirements set forth in subsection (e) of this section.
- (1214) Renewable energy credit account (REC account)** -- An account maintained by the renewable energy credits trading program administrator for the purpose of tracking the production, sale, transfer, purchase, and retirement of RECs ~~or compliance premiums~~ by a program participant.
- (1315) Renewable energy credits trading program (trading program)** -- The process of awarding, trading, tracking, and submitting RECs ~~or compliance premiums~~ as a means of meeting the renewable energy requirements set out in subsection (d) of this section.
- (1416) Renewable energy resource (renewable resource)** -- A resource that produces energy derived from renewable energy technologies.

- (1517) **Renewable energy technology** -- Any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment. Renewable energy technologies include those that rely on energy derived directly from the sun, wind, geothermal, hydroelectric, wave, or tidal energy, or on biomass or biomass-based waste products, including landfill gas. A renewable energy technology does not rely on energy resources derived from fossil fuels, waste products from fossil fuels, or waste products from inorganic sources.
- (1618) **Renewable Portfolio Standard (RPS)** -- The amount of capacity required to meet the requirements of PURA §39.904 pursuant to subsection (h) of this section.
- (1719) **Repowered Facility** -- An existing facility that has been modernized or upgraded to use renewable energy technology to produce electricity consistent with this rule.
- (1820) **Retail entity** -- Municipally-owned utilities, generation and transmission cooperatives and distribution cooperatives that offer customer choice; retail electric providers (REPs); and investor-owned utilities that have not unbundled pursuant to PURA Chapter 39.
- (1924) **Settlement period** -- The first calendar quarter following a compliance period in which the settlement process for that compliance period takes place.
- ~~(22) **Small producer** -- A renewable resource that is less than ten megawatts (MW) in size.~~
- (20) Tier 1 renewable energy credit (Tier 1 REC) – A REC earned by a renewable resource using solar renewable energy technology.
- (21) Tier 2 renewable energy credit (Tier 2 REC) – A REC earned by a renewable resource using renewable energy technology other than wind or solar.
- (22) Tier 3 renewable energy credit (Tier 3 REC) – A REC earned by a renewable resource that is not a new non-wind resource.

~~(2320)~~ **Transmission-level voltage customer** -- A customer that receives electric service at 60 kilovolts (kV) or higher or that receives electric service directly through a utility-owned substation that is connected to the transmission network at 60 kV or higher.

(d) **Renewable energy credits trading program (trading program).** Renewable energy credits may be generated, transferred, and retired by renewable energy power generators certified pursuant to subsection ~~(e)~~ of this section, retail entities, and other market participants as set forth in this section.

(1) The program administrator shall apportion an RPS requirement among all retail entities as a percentage of the retail sales of each retail entity as set forth in subsection (h) of this section. Each retail entity shall be responsible for meeting its RPS requirement by retiring sufficient RECs or making alternative compliance payments, as set forth in subsections (h) and (l) of this section to comply with this section. The requirement to retire RECs or make alternative compliance payments to comply with this section becomes effective on the date a retail entity begins serving retail electric customers in Texas or, for an electric utility, as specified by law.

(2) A power generating company may participate in the program and may generate RECs and buy or sell RECs as set forth in subsection ~~(l)~~ of this section.

(3) RECs shall be credited on an energy basis as set forth in subsection ~~(l)~~ of this section.

(4) Municipally-owned utilities and distribution cooperatives that do not offer customer choice have no RPS requirement. However, regardless of whether the municipally-owned utility or distribution cooperative offers customer choice, a municipally-owned utility or distribution cooperative possessing renewable resources that meet the requirements of subsection (e) of this section may sell RECs generated by such a resource to retail entities as set forth in subsection ~~(l)~~ of this section.

(5) Except where specifically stated, the provisions of this section shall apply uniformly to all participants in the trading program.

(e) **Facilities eligible for producing RECs ~~and compliance premiums~~ in the renewable energy credits trading program.** For a renewable facility to be eligible to produce RECs ~~and compliance premiums~~ in the trading program it must be either a ~~new facility~~ renewable resource (including a new non-wind renewable resource) or a repowered facility as defined in subsection (c) of this section, and must also meet the requirements of this subsection.

(1)-(7) (No change.)

(f) **Facilities not eligible for producing RECs in the renewable energy credits trading program.** A renewable energy capacity addition associated with an emissions reductions project described in Health and Safety Code §382.05193, that is used to satisfy the permit requirements in Health and Safety Code §382.0519 ~~renewable facility~~ is not eligible to produce RECs in the trading program: ~~if it is:~~

(1) ~~A renewable energy capacity addition associated with an emissions reductions project described in Health and Safety Code §382.05193, that is used to satisfy the permit requirements in Health and Safety Code §382.0519; or~~

(2) ~~An existing facility that is not a small producer as defined in subsection (e) of this section or has not been repowered as permitted under subsection (e) of this section.~~

(g) **Responsibilities of program administrator.** The commission shall appoint an independent entity to serve as the trading program administrator. At a minimum, the program administrator shall perform the following functions:

(1) Create accounts that track RECs ~~or compliance premiums~~ and alternative compliance payments for each participant in the trading program;

(2) Award RECs ~~or compliance premiums~~ to registered renewable energy facilities on a quarterly basis based on verified meter reads;

- ~~(3)~~ Award offsets to retail entities on an annual basis based on a nomination submitted by the retail entity pursuant to subsection (i) of this section;
- (34) Annually record the retirement of RECs ~~or compliance premiums~~ and remission of alternative compliance payments of that each retail entity ~~submits~~;
- ~~(45)~~ Retire RECs at the end of each REC's compliance life;
- ~~(56)~~ Maintain public information on its website that provides trading program information to interested buyers and sellers of RECs;
- ~~(67)~~ Create an exchange procedure where persons may purchase and sell RECs ~~or compliance premiums~~. The exchange shall ensure the anonymity of persons purchasing or selling RECs ~~or compliance premiums~~. The program administrator may delegate this function to an independent third party, subject to commission approval;
- ~~(78)~~ Make public each month the total energy sales of retail entities in Texas for the previous month;
- ~~(89)~~ Perform audits of generators participating in the trading program to verify accuracy of metered production data;
- ~~(910)~~ Allocate the RPS requirement to each retail entity in accordance with subsection (h) of this section; and
- ~~(1011)~~ Submit an annual report to the commission and remit to the commission the alternative compliance payments it has received. The program administrator shall submit a report to the commission on or before May 15 of each calendar year. The report shall contain information pertaining to renewable energy power generators and retail entities. At a minimum, the report shall contain:
 - (A) the amount of existing and new renewable energy capacity in MW installed in the state by technology type, the owner/operator of each facility, the date each facility began to produce energy, the amount of energy generated in megawatt-hours (MWh) each quarter for all capacity participating in the trading program or that was retired from service; ~~and~~
 - (B) a listing of all retail entities participating in the trading program, and for each retail entity's its RPS requirement, ~~the number of offsets used by~~

~~each retail entity, the number of RECs retired by each retail entity, the number of compliance premiums retired by each retail entity, and the amount of any alternative compliance payments made; and~~

(C) a listing of all retail entities that were in compliance with the RPS requirement, a listing of all retail entities that failed to comply with the RPS requirement, and the deficiency of each retail entity that failed to retire sufficient RECs or remit alternative compliance payments ~~or compliance premiums~~ to meet its RPS requirement.

(h) **Allocation of RPS requirement to retail entities.** The program administrator shall allocate RPS requirements among retail entities. ~~Any renewable capacity that is retired before January 1, 2015 or any capacity shortfalls that arise due to purchases of RECs from out-of-state facilities shall be replaced and incorporated into the allocation methodology set forth in this subsection. Any changes to the allocation methodology to reflect replacement capacity shall occur two compliance periods after the facility is retired or the capacity shortfall occurs.~~ The program administrator shall use the following methodology to determine the total annual RPS requirement for a given year and the final RPS allocation for individual retail entities:

(1) The total statewide RPS requirement for each compliance period shall be calculated in terms of MWh and shall be equal to the applicable capacity requirement set forth in this paragraph multiplied by 8,760 hours per year, multiplied by the appropriate capacity conversion factor set forth in subsection (j) or (k) of this section. The renewable energy capacity requirements for the compliance period beginning January 1; of the year indicated shall be:

~~(A) 1,400 MW of new resources in 2006;~~

~~(B) 1,400 MW of new resources in 2007;~~

~~(C) 2,392 MW of new resources in 2008;~~

~~(A)(D) 2,392 MW of new resources in 2009;~~

(BE) 3,384MW of new resources in 2010, including 100 mW from non-wind renewable resources, 10 mW of which are from solar resources;

- (~~CF~~) 3,384 MW of new resources in 2011, including 200 mW from non-wind renewable resources, 20 mW of which are from solar resources;
 - (~~DG~~) 4,376 MW of new resources in 2012, including 300 mW from non-wind renewable resources, 30 mW of which are from solar resources;
 - (~~EH~~) 4,376 MW of new resources in 2013, including 400 mW from non-wind renewable resources, 40 mW of which are from solar resources;
 - (~~FI~~) 5,000 MW of new resources in 2014, including 500 mW are from non-wind renewable resources, 50 mW of which are from solar resources; and
 - (~~GJ~~) 5,000 MW of new resources for each year after 2014, including 500 mW from non-wind renewable resources, 50 mW of which are from solar resources.
- (2) The final RPS allocation for an individual retail entity for a compliance period shall be calculated as follows:
- (A) Beginning with the ~~2008–2010~~ compliance period, ~~prior to the preliminary RPS allocation~~ each retail entity’s total retail energy sales are reduced to ~~exclude~~ by the consumption of customers that opt out in accordance with subsection (j) of this section. Each retail entity’s ~~preliminary RPS allocation~~ is determined by dividing its total retail energy sales in Texas (excluding consumption of customers that opt out) by the total retail sales in Texas of all retail entities, and multiplying that percentage by the total statewide RPS requirement for that compliance period.
 - (i) A Tier 1 RPS allocation shall be based on the solar resource requirement in paragraph (1) for the year.
 - (ii) A Tier 2 RPS allocation shall be based on the non-wind resource requirement in paragraph (1) for the year, less the requirement for solar resources for that year.
 - (iii) A Tier 3 RPS allocation shall be based on the solar resource requirement in paragraph (1) for the year, less the requirement for non-wind and solar resources for that year.

~~(B) The adjusted RPS allocation for each retail entity that is entitled to an offset is determined by reducing its preliminary RPS allocation by the offsets to which it qualifies, as determined under subsection (i) of this section, with the maximum reduction equal to the retail entity's preliminary RPS allocation. The total reduction for all retail entities is equal to the total usable offsets for that compliance period.~~

~~(C) Each retail entity's final RPS allocation for a compliance period shall be increased to recapture the total usable offsets calculated under subparagraph (B) of this paragraph. The additional RPS allocation shall be calculated by dividing the retail entity's preliminary RPS allocation by the total preliminary RPS allocation of all retail entities. This fraction shall be multiplied by the total usable offsets for that compliance period and this amount shall be added to the retail entity's adjusted RPS allocation to produce the retail entity's final RPS allocation for the compliance period.~~

(3) A REC offset that was generated prior to the effective date of this paragraph may be retired to meet a Tier 3 RPS, in accordance with the rules that were in effect prior to the effective date of this paragraph. ~~Concurrent with determining final individual RPS allocations for the current compliance period in accordance with this subsection, the program administrator shall recalculate the final RPS allocations for the previous compliance periods, taking into account corrections to retail sales resulting from resettlements. The difference between a retail entity's corrected final RPS allocation and its original final RPS allocation for the previous compliance periods shall be added to or subtracted from the retail entity's final RPS allocation for the current compliance period.~~

~~(i) **Nomination and award of REC offsets.**~~

~~(1) A REP, municipally owned utility, G&T cooperative, distribution cooperative, or an affiliate of a REP, municipally owned utility, or distribution cooperative, may~~

~~apply offsets to meet all or a portion of its renewable energy purchase requirement, as calculated in subsection (h) of this section, only if those offsets were nominated in a filing with the commission by June 1, 2001.~~

- ~~(2) — The program administrator shall award offsets consistent with the commission's actions to verify designations of REC offsets and with this section.~~
- ~~(3) — REC offsets shall be equal to the average annual MWh output of an existing resource for the years 1991-2000 or the entire life of the existing resource, whichever is less.~~
- ~~(4) — REC offsets qualify for use in a compliance period under subsection (h) of this section only to the extent that:
 - ~~(A) — The resource producing the REC offset has continuously since September 1, 1999 been owned by or its output has been committed under contract to a utility, municipally owned utility, or cooperative (or successor in interest) nominating the resource under paragraph (1) of this subsection or, if the resource has been committed under a contract that expired after September 1, 1999 and before January 1, 2002, it was owned by or its output was committed under contract to a utility, municipally owned utility, or cooperative on January 1, 2002; and~~
 - ~~(B) — The facility producing the REC offsets is operated and producing energy during the compliance period in a manner consistent with historic practice.~~~~
- ~~(5) — If the production of energy from a facility that is eligible for an award of REC offsets ceases for any reason, or if the power purchase agreement with the facility's owner (or successor in interest) that is referred to in paragraph (4)(A) of this subsection has lapsed or is no longer in effect, the retail entity shall no longer be awarded REC offsets related to the facility.~~
- ~~(6) — REC offsets shall not be traded.~~

(ij) **Opt-out notice.**

- (1) A customer receiving electrical service at transmission-level voltage who submits an opt-out notice to the commission for the applicable compliance period shall have its load excluded from the RPS calculation.
- (2) An investor-owned utility that is subject to a renewable energy requirement under this section shall not collect costs attributable to the REC program from an eligible customer who has submitted an opt-out notice. An investor-owned utility whose rates include the cost of RECs shall file a tariff to implement this subsection, not later than 30 days after the effective date of this section.
- (3) A customer opt-out notice must be filed in the commission-designated project number before the beginning of a compliance period for the notice to be effective for that period. Each opt-out notice must include the name of the individual customer opting out, the customer's ESI IDs, the retail entities serving those ESI IDs, and the term for which the notice is effective, which may not exceed two years. The customer opting out must also provide the information included in the opt-out notice directly to ERCOT and may request that ERCOT protect the customer's ESI ID and consumption as confidential information. ~~For notices submitted for the 2008 compliance period, a customer may amend a notice to include this information not later than January 15, 2009, if its initial notice did not include the information.~~—A customer may revoke a notice under this subsection at any time prior to the end of a compliance period by filing a letter in the designated project number and providing notice to ERCOT.

(i) Capacity conversion factor for non-wind renewable energy technologies.

- (1) For the 2010 and 2011 compliance periods, conversion factors for non-wind renewable energy technologies shall be:
 - (A) 75% for non-wind technologies, other than solar; and
 - (B) 25% for solar technologies.
- (2) Beginning with the 2012 compliance period, capacity conversion factors for non-wind renewable and solar energy technologies shall be calculated according to

subsection (k) of this section, using performance data for the relevant technologies.

(k) **Calculation of capacity conversion factor.** The capacity conversion factor used by the program administrator to allocate credits to retail entities shall be calculated during the fourth quarter of each odd-numbered compliance year. The capacity conversion factor shall:

- (1) Be based on actual generator performance data for the previous two years for all renewable resources in the trading program during that period for which at least 12 months of performance data are available.
- (2) Represent a weighted average of generator performance; and
- (3) Use all actual generator performance data that is available for each renewable resource, excluding data for testing periods.

(l) **Alternative compliance payments for non-wind renewable technologies.** A retail entity may meet all or a portion of its non-wind or solar RPS requirement, as calculated in subsection (h) of this section, by making alternative compliance payments to the program administrator.

- (1) A retail entity's non-wind RPS requirement shall be reduced by one Tier 2 REC for every forty dollars (\$40) the retail entity remits in alternative compliance payments.
- (2) A retail entity's solar RPS requirement shall be reduced by one Tier 1 REC for every one hundred dollars (\$100) it remits in alternative compliance payments.
- (3) Alternative compliance payments received by the program administrator shall be remitted to the commission.

(m) **Production, transfer, and expiration of RECs.** The program administrator shall administer a trading program for renewable energy credits in accordance with the requirements of this subsection.

- (1) The owner of a renewable resource shall earn one REC when a MWh is metered at that renewable resource. The program administrator shall record the energy in metered MWh and credit the REC account of the renewable resource that generated the energy on a quarterly basis. Quarterly production shall be rounded to the nearest whole MWh, with fractions of 0.5 MWh or greater rounded up. RECs shall be issued in the following categories:
 - (A) A Tier 1 REC shall be issued for energy produced by a solar generation facility that is a new non-wind renewable resource;
 - (B) A Tier 2 REC shall be issued for energy produced by a new non-wind renewable resource that is not a solar generation facility; and
 - (C) A Tier 3 REC shall be issued for energy produced by a facility that qualifies under this section that is not a new non-wind renewable resource.
- (2) The transfer of RECs between parties shall be effective only when the transfer is recorded by the program administrator.
- (3) The program administrator shall require that RECs be adequately identified prior to recording a transfer and shall issue an acknowledgement of the transaction to parties upon provision of adequate information. At a minimum, the following information shall be provided:
 - (A) identification of the parties;
 - (B) REC serial number, REC issue date, and the renewable resource that produced the REC;
 - (C) the number of RECs to be transferred; and
 - (D) the transaction date.
- (4) A retail entity shall surrender RECs to the program administrator for retirement from the market in order to meet its RPS requirement for a compliance period. The program administrator will document all REC retirements annually.
- (5) On or after each April 1, the program administrator will retire RECs that have not been retired by retail entities and have reached the end of their compliance life.

- (6) The program administrator may establish a procedure to ensure that the award, transfer, and retirement of credits are accurately recorded.
 - (7) The issue date of RECs created by a renewable energy resource shall coincide with the beginning of the compliance period (calendar year) in which the credits are generated. All RECs shall have a compliance life of three compliance periods, after which the program administrator will retire them from the trading program.
 - (8) Each REC that is not used in the compliance period in which it was created may be banked and is valid for the next two compliance periods.
- (n) **Settlement process.** The first quarter following the compliance period shall be the settlement period during which the following actions shall occur:
- (1) By January 31, the program administrator will notify each retail entity of its total RPS requirement for the previous compliance period as determined pursuant to subsection (h) of this section.
 - (2) By March 31, each retail entity shall submit credits from its account or remit alternative compliance payments ~~or compliance premiums~~ to the program administrator ~~from its account~~ equivalent to its RPS requirement for the previous compliance period. If the retail entity does not submit meet its RPS requirement by submitting sufficient credits ~~or compliance premiums~~ and paying alternative compliance payments, the retail entity is subject to the penalty provisions in subsection (p) of this section.
 - (3) The program administrator may request the commission to adjust the deadlines set forth in this section if changes to the ERCOT settlement calendar or other factors affect the availability of reliable retail sales data.
- (o) **Certification of renewable energy facilities.** The commission shall certify all renewable facilities that will produce ~~either REC offsets, RECs, or compliance premiums~~ for sale in the trading program. To be awarded RECs, ~~or REC offsets, or compliance premiums~~, a power generator must complete the certification process

described in this subsection. The program administrator shall not award ~~offsets, RECs, or compliance premiums~~ for energy produced by a power generator before it has been certified by the commission.

(1) The designated representative of the generating facility shall file an application with the commission on a form approved by the commission for each renewable energy generation facility. At a minimum, the application shall include the location, owner, technology, and rated capacity of the facility and shall demonstrate that the facility meets the resource eligibility criteria in subsection (e) of this section. Any subsequent changes to the information in the application shall be filed with the commission within 30 days of such changes.

(2) No later than 30 days after the designated representative files the certification form with the commission, the commission shall inform both the program administrator and the designated representative whether the renewable facility has met the certification requirements. At that time, the commission shall either certify the renewable facility as eligible to receive RECs, ~~offsets, or compliance premiums~~, or describe any insufficiencies to be remedied. If the application is contested, the time for acting is extended for such time as is necessary for commission action.

(3)-(5) (No change.)

(p) **Penalties and enforcement.** If by April 1 of the year following a compliance period the program administrator determines that a retail entity has not retired sufficient credits or made sufficient alternative compliance payments ~~or compliance premiums~~ to satisfy its ~~allocation~~ RPS requirement, the retail entity shall be subject to an administrative penalty pursuant to PURA §15.023, of \$50 ~~per MWh~~ for each deficient Tier 3 REC and an amount equal to twice the alternative compliance payment for each Tier 1 or Tier 2 REC that the retail entity is deficient.

(q) **Microgenerators and REC aggregators.** A REC aggregator may manage the participation of multiple microgenerators in the REC trading program. The program

administrator shall assign to the REC aggregator all RECs accrued by the microgenerators who are under a REC management contract with the REC aggregator.

(1) The microgenerator's units shall be installed and connected to the grid in compliance with ~~P.U.C. Substantive Rules~~ the rules in this title, applicable interconnection standards adopted pursuant to the ~~rules in this title~~ P.U.C. Substantive Rules, and federal rules.

(2)-(4) (No change.)

§25.109. Registration of Power Generation Companies and Self-Generators.

(a) Application.

(1)-(2) (No change.)

(3) ~~A person that owned such generating facility prior to September 1, 2000 shall register after September 1, 2000 and before January 1, 2001. A person that becomes subject to this section after September 1, 2000 must register on or before the first date of generating electricity.~~

(4) The owner of a distributed generation facility with capacity of two mW or less interconnected to an electric utility's distribution system in accordance with § 25.211 of this title (relating to interconnection of on-site distributed generation) may register under this section by providing the information to the utility that is required under § 25.211 and complying with any streamlined registration process established by the commission.

(b) – (i) (No change.)

§25.211. Interconnection of On-Site Distributed Generation (DG).

- (a) **Application.** Unless the context ~~clearly~~ indicates otherwise, in this section and §25.212 of this title (relating to Technical Requirements for Interconnection and Parallel Operation of On-Site Distributed Generation) the term "electric utility" applies to all electric utilities as defined in the Public Utility Regulatory Act (PURA) §31.002 that own and operate a distribution system in Texas. ~~This section shall not apply to an electric utility subject to PURA §39.102(c) until the expiration of the utility's rate freeze period.~~
- (b) **Purpose.** The purpose of this section is to ~~clearly~~ state the terms and conditions that govern the interconnection and parallel operation of on-site distributed generation in order to implement PURA §39.101(b)(3), which entitles all Texas electric customers to access to on-site distributed generation, to provide cost savings and reliability benefits to customers, to establish technical requirements that will promote the safe and reliable parallel operation of on-site distributed generation resources, to enhance both the reliability of electric service and economic efficiency in the production and consumption of electricity, and to promote the use of distributed resources in order to provide electric system benefits during periods of capacity constraints. Sales of power by a distributed generator in the intrastate wholesale market are subject to the provisions of this title relating to open-access comparable transmission service for electric utilities in the Electric Reliability Council of Texas (ERCOT).
- (c) **Definitions.** The following words and terms when used in this section and §25.212 of this title shall have the following meanings, unless the context ~~clearly~~ indicates otherwise:
- (1)-(15) (No change.)
- (16) **Tariff for interconnection and parallel operation of distributed generation —**
The commission-approved tariff for interconnection and parallel operation of

distributed generation including the application for interconnection and parallel operation of ~~DG~~ distributed generation and pre-interconnection study fee schedule.

(17)-(18)(No change.)

(d) **Terms of Service.**

- (1) **Banking.** An electric utility that sells electricity to retail customers ~~company operating in ERCOT~~ shall make banking services available to any customer upon the customer's request. This obligation continues until the electric utility offers customer choice ~~the ERCOT Independent System Operator begins operating ERCOT as a single control area.~~
- (2) **Distribution line charge.** No distribution line charge shall be assessed to a customer for exporting energy to the utility system.
- (3) **Interconnection operations and maintenance costs.** No charge for operation and maintenance of a utility system's facilities shall be assessed against a customer for exporting energy to the utility system.
- (4) **Scheduling fees.** A one-time scheduling fee for each banking period may be assessed for the disbursement of banked energy. No other scheduling fees may be assessed against an exporting ~~DG~~ distributed generation customer.
- (5) **Transmission charges.** No transmission charges shall be assessed to a customer for exporting energy. For purposes of this paragraph, the term transmission charges means transmission access and line charges, transformation charges, and transmission line loss charges.
- (6) **Contract reformation.** All interconnection contracts shall be conformed to meet the requirements of this section within 60 days of adoption.
- (7) **Tariffs.** No later than 30 days after the effective date of this section as amended, each electric utility shall file a tariff or tariffs for interconnection and parallel operation of distributed generation, ~~including tariffs for banking and scheduling fees,~~ in conformance with the provisions of this section. This provision does not require a utility that filed an interconnection study fee tariff prior to the effective date of this rule as amended to refile such tariff. The utility may file a new tariff or a modification of an existing tariff. Such tariffs shall ensure that back-up,

supplemental, and maintenance power is available to all customers and customer classes that desire such service, ~~until January 1, 2002~~if the electric utility sells electricity to retail customers. Any modifications of existing tariffs or offerings of new tariffs relating to this subsection shall be consistent with the commission-approved form. Concurrent with the tariff filing in this section, each utility shall submit:

- (A) a schedule detailing the charges of interconnection studies and all supporting cost data for the charges;
- (B) a standard application for interconnection and parallel operation of distributed generation; and
- (C) the interconnection agreement approved by the commission.

(e) (No change.)

(f) **Incremental demand charges.** During the term of an interconnection agreement a utility may require that a customer disconnect its distributed generation unit and/or take it off-line as a result of utility system conditions described in subsection (e)(3) and (4) of this section. Incremental demand charges arising from disconnecting the distributed generator as directed by company during such periods shall not be assessed by company to the customer. ~~After January 1, 2002, the distribution utility shall not be responsible for the provision of generation services or their related charges.~~

(g) **Pre-interconnection studies for non-network interconnection of distributed generation.** A utility may conduct a service study, coordination study or utility system impact study prior to interconnection of a distributed generation facility. In instances where such studies are deemed necessary, the scope of such studies shall be based on the characteristics of the particular distributed generation facility to be interconnected and the utility's system at the specific proposed location. By agreement between the utility and its customer, studies related to interconnection of ~~DG~~distributed generation on the customer's premise may be conducted by a qualified third party.

(1)-(2) (No change.)

(h)-(m) (No change.)

- (n) **Reporting requirements.** Each electric utility shall maintain records concerning applications received for interconnection and parallel operation of distributed generation. Such records will include the name of the applicant, the business address of the applicant, and the location of the proposed facility by county, the capacity rating of the facility in kilowatts, whether the facility is a renewable energy resource, as defined in § 25.173 of this title (relating to goal for renewable energy), the date each application is received, documents generated in the course of processing each application, correspondence regarding each application, and the final disposition of each application. The owner of a distributed generation facility that is interconnected under this section shall report to the utility any change in ownership of the facility and the cessation of operations of a facility. By March 30 of each year, ~~each~~^{every} electric utility shall file with the commission a distributed generation interconnection report for the preceding calendar year that identifies each distributed generation facility interconnected with the utility's distribution system. The report shall list the new distributed generation facilities interconnected with the system since the previous year' report, any distributed generation facilities no longer interconnected with the utility's system since the previous report, the capacity of each facility and whether it is a renewable energy resource, and the feeder or other point on the company's utility system where the facility is connected. The annual report shall also identify all applications for interconnection received during the previous one-year period, and the disposition of such applications. Each electric utility shall register with the commission a distributed generation facility on behalf of the owner unless the owner requests to perform the registration.
- (o) **Interconnection disputes.** Complaints relating to interconnection disputes under this section shall be handled in an expeditious manner pursuant to §22.242 (relating to Complaints). In instances where informal dispute resolution is sought, complaints shall be presented to the ~~Electric-Competitive Markets~~ Division. The ~~Electric-Competitive Markets~~ Division shall attempt to informally resolve complaints within 20 business days

of the date of receipt of the complaint. ~~Unresolved complaints shall be presented to the commission at the next available open meeting.~~