

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 07R-166E

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IN THE MATTER OF THE PROPOSED RULES IMPLEMENTING RENEWABLE ENERGY STANDARDS 4 CCR 723-3.

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**COMMENTS OF THE INTERWEST ENERGY ALLIANCE  
ON THE NOTICE OF PROPOSED RULEMAKING**

The Interwest Energy Alliance (Interwest) appreciates the opportunity to present its thoughts about the rules proposed by the Commission for implementation of the expanded Renewable Portfolio Standard passed by the Colorado legislature and signed by the Governor as House Bill 07-1281 (HB1281). Formed in 2002, Interwest is a trade association that brings the nation's renewable energy industry together with the West's advocacy community. Our members support state-level public policies that harness the West's abundant –and inexhaustible– renewable energy and energy efficiency resources. It includes many of Colorado's renewable energy suppliers who together have generated over 1,000 construction jobs in the state in the last few years, as well as dozens of permanent, well-paying jobs in the state's local rural communities. Interwest works in Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming.

HB1281 made a number of changes to the existing renewable portfolio standard in terms of applicability, size of the standard, incentives for certain types of projects, acquisition methods, and included some specific guidance on implementation. While we recognize the desirability of limiting the scope of the rulemaking, we also recognize that there is a need for a more comprehensive review of the renewable energy standard rules at some point in the future, as evidenced by the testimony in the recent Public Service Company of Colorado Compliance Plan

hearing, Docket No. 06A-478E. We believe there are parts of the existing rules that are inconsistent with 40-2-124, C.R.S. both before and after HB1281 that need to be addressed.

The Commission's Notice of Proposed Rulemaking limits the scope to changes necessitated by changes to Colorado law enacted in the most recent legislative session, and clearly HB1281 contains a number of elements that directly affect the current rules. However, we respectfully submit that House Bill 07-1169, also passed by the legislature and signed into law by Governor Ritter, requires some minor rule changes, as well. We believe that this docket should address new rules required by both new statutes.

### **House Bill 07-1169**

This measure applies the Commission Interconnection Rule 3665 to Cooperative Electric Associations, and requires that rural electric associations not prevent or unreasonably burden the installation of customer-generator systems if such systems are designed to not export any customer-generated electricity from the customer's side of the meter. For ease of reference, the substance of HB1169 is repeated below.

**40-9.5-304. Interconnection - insurance.** (1) AN ELECTRIC UTILITY AND A CUSTOMER-GENERATOR SHALL COMPLY WITH THE INTERCONNECTION STANDARDS AND INSURANCE REQUIREMENTS ESTABLISHED IN THE RULES PROMULGATED BY THE PUBLIC UTILITIES COMMISSION PURSUANT TO SECTION 40-2-124; EXCEPT THAT THE ELECTRIC UTILITY MAY REDUCE OR WAIVE ANY OF SUCH INSURANCE REQUIREMENTS.

(2) AN ELECTRIC UTILITY SHALL NOT PREVENT OR OTHERWISE UNREASONABLY BURDEN THE INSTALLATION OF A CUSTOMER-GENERATOR SYSTEM IF SUCH SYSTEM INCLUDES PROTECTIVE EQUIPMENT THAT PREVENTS ANY EXPORT OF CUSTOMER-GENERATED ELECTRICITY FROM THE CUSTOMER'S SIDE OF THE METER.

We suggest that this new law can be captured in its entirety with the following changes to Rule Section 3653:

- Retain the original title: Municipal and Cooperative Utilities
- Add a new subsection (e) that reads as follows:

(e) Cooperative electric associations shall comply with Rule 3665, except that a cooperative electric association may reduce or waive any of the insurance requirements. Cooperative electric associations shall not prevent or otherwise unreasonably burden the installation of a customer-generator system if such system includes protective equipment that prevents any export of customer-generated electricity from the customer's side of the meter.

### **Rule 3659 Renewable Energy Credits**

Subsection (c) of this rule sets forth the notion that the QRU may acquire RECs beyond the minimum requirements for compliance in a given year provided the retail rate impact cap is not violated. However, the operative language from HB1281 reads as follows:

THE COMMISSION SHALL NOT RESTRICT THE QUALIFYING RETAIL UTILITY'S OWNERSHIP OF RENEWABLE ENERGY CREDITS IF THE QUALIFYING RETAIL UTILITY COMPLIES WITH THE ELECTRIC RESOURCE STANDARD OF PARAGRAPH (c) OF THIS SUBSECTION (1) AND DOES NOT EXCEED THE RETAIL RATE IMPACT ESTABLISHED BY PARAGRAPH (g) OF THIS SUBSECTION (1).

Rule 3659(c) does not address the requirement that the QRU comply with the electric resource standard, including the solar components thereof. To the extent that a QRU that is subject to the solar standard acquires non-solar eligible resources or RECs beyond its minimum requirements, such acquisition must not in any current or future year restrict or jeopardize the ability of the QRU to comply with the solar standards. In other words, the investor-owned QRU must be able to meet its solar compliance obligations in current and future compliance years as a precondition to acquiring non-solar resources and RECs beyond its minimum requirements.

## **Rule 3660 Cost Recovery and Incentives**

Rule 3660(e) allows investor-owned QRUs to acquire renewable resources “without being required to comply with the competitive bidding requirements in Rule 3655.” This language, however, appears to conflict with subsections (a) and (b) of Rule 3655 that require competitive procurement for eligible resources effectively without exception. A simple fix would be to insert the word *generally* into 3655(a) and (b) in appropriate places. Alternatively, each of these two subsections in Rule 3655 could begin with “Except as otherwise allowed by these rules, ...”

In addition, the wording in 3660(e)(III) appears to be incomplete. We believe the intent of this subsection was to allow the QRU to own in excess of the 50% limitation in 3660(e)(II) if it participates as a *bidder* in the competitive procurement processes identified in Rule 3655, including subsection (I) and is selected as a winning bidder.

## **Rule 3661 Retail Rate Impact**

The Commission seeks comment on a retail rate impact methodology for cooperative electric associations. The concept embodied in the statutory retail rate impact limitation is to net the cost of eligible resources against the cost of non-eligible resources reasonably available at the time of the determination. In practice this means to compare the costs of two scenarios for the QRU – one that incorporates the resources required by HB1281 to one that could be termed “business as usual,” or BAU, that excludes those resources using instead non-eligible resources to supply the power and energy. The difference in costs between the two should not exceed one percent for cooperative electric associations. There are several key points to ensure when designing this calculation.

- The eligible resources that are included in the 1281 scenario and excluded from the BAU scenario should be identical to the resources used by the QRU for compliance with the standards set forth in HB1281, regardless of whether the resources may already exist on the QRU's system. If the QRU does not want to count existing resources in the retail rate impact test, then it should not count them towards compliance.
- Along with the costs, all of the beneficial effects of eligible resources should be reflected in the 1281 scenario. The obvious benefits of eligible resources include avoiding the cost of energy that would otherwise need to be generated through non-eligible resources as well as the avoided capacity costs of future non-eligible resources. The less obvious benefits may include avoided costs of transmission and distribution, avoided carbon and other emission costs, and so forth.
- For cooperative electric associations that receive all or nearly all of their electricity at wholesale from an energy supplier like Tri-State Generation and Transmission Association or Xcel Energy, which is effectively every cooperative in the state, the avoided capacity and energy benefits reflected in the retail rate impact limitation should be those up-stream at the supplier and not simply the near term demand and energy charges of the distribution cooperative.

We recognize that at least one of these points is not consistent with the current rules for the retail rate impact calculation, however it is more important to get the policy right for consistency with the statute than to continue the current rule's potential internal inconsistencies.<sup>1</sup>

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<sup>1</sup> These inconsistencies were clearly evident in Docket No. 06A-478E, however we respect the Commission's preference for focusing on rule changes required by new law, and waiting for completion of one full cycle of practice under the renewable energy rules prior to consideration of other rule changes.

In other words, implementing the policies embodied in the statute must prevail over other goals.

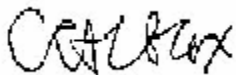
#### **Other relevant statutes**

Finally, we would like to encourage the Commission to utilize its regulatory flexibility and authority under 40-2-123, C.R.S. to help implement Governor Ritter's new energy economy. This statute has been undervalued in the past and can provide a basis for promoting more widespread use of both energy efficiency and renewable technologies by giving such new resources the "fullest possible consideration." The text is repeated here for your convenience.

*The commission shall give the fullest possible consideration to the cost-effective implementation of new clean energy and energy-efficient technologies in its consideration of generation acquisitions for electric utilities, bearing in mind the beneficial contributions such technologies make to Colorado's energy security, economic prosperity, environmental protection, and insulation from fuel price increases. The commission shall consider utility investments in energy efficiency to be an acceptable use of ratepayer moneys.*

Interwest thanks the Commission for this opportunity to comment on the proposed rules, and looks forward to working with the Commission and interested parties to develop a workable set of implementation rules to promote a robust renewable energy market in Colorado.

Respectfully submitted this 11<sup>th</sup> day of June, 2007.



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Craig Cox, Executive Director  
Interwest Energy Alliance  
P.O. Box 272  
Conifer, Colorado 80433  
303-679-9331  
[cox@interwest.org](mailto:cox@interwest.org)  
[www.interwest.org](http://www.interwest.org)