

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4 and 476.2, the Utilities Board (Board) gives notice that on November 3, the Board issued an “Order Adopting Rules” in Docket No. RMU-2017-0002, In re: Rule Making for Renewable Energy Percentage Verification [199 IAC 30], to establish rules for renewable energy percentage verification as Chapter 30 of the Board’s rules.

Notice of Intended Action was published in the June 21, 2017, Iowa Administrative Bulletin as **ARC 3118C**.

From May 22 to July 10, 2017, appearances were filed by the Iowa Business Energy Coalition (IBEC); Interstate Power and Light Company (IPL); MidAmerican Energy Company (MidAmerican); and the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice. Joint appearances were filed by the Environmental Law & Policy Center and the Iowa Environmental Council (collectively, the “Environmental Intervenors”) and Facebook, Inc. (Facebook), Google Inc. (Google), and Microsoft Corporation (Microsoft) (collectively, the “Tech Customers”).

On or before July 11, 2017, the Board received statements of position from OCA, IPL, MidAmerican, the Environmental Intervenors (joined by Wind on the Wires), and the Tech Customers. An oral presentation was held on July 26, 2017, in the Utilities Board hearing room at 1375 E. Court Avenue, Des Moines, Iowa. The following parties participated at the oral presentation: OCA, MidAmerican, IPL, the Environmental Intervenors, the Tech Customers and Board staff. On August 7, 2017, the Board received reply comments from OCA, IPL, MidAmerican, Center for Resource Solutions (CRS), the Environmental Intervenors and the Tech Customers. Included in the Tech Customers’ comments were proposed revisions to the rules supported by MidAmerican, the Tech Customers, and the Environmental Intervenors. On August 16, 2017, the Board received sur-reply comments from the Tech Customers. The Board held a workshop on September 6, 2017, and requested additional comments from the parties. From September 14 to September 19, 2017, OCA, IPL, MidAmerican, the Tech Customers, CRS, and the Environmental Intervenors all filed post-workshop comments.

The Board has modified the chapter proposed in the Notice of Intended Action based on comments received in writing and during the July 26, 2017, oral presentation and the September 9, 2017, workshop. The adopted rules are identical to those published under the Notice of Intended Action, except as follows:

The structure of the chapter has been changed in order to enhance readability. A definition section has been added to the rules. The rules include a deadline for interested parties to file a response to a petition filed under Chapter 30. The rules provide that a renewable energy credit (REC) purchased separate from renewable energy may count toward the renewable energy percentage as long as the REC replaces a sold REC which would otherwise be considered eligible. The rules require entities that request verification under Chapter 30 to provide the Board access to the tracking systems that were used for the associated RECs. The rules do not include a provision for the evaluation of the reasonableness and prudence of REC retirement as part of the verification process and require the utility to file the estimated market value of prior period retired RECs. The rules also include sample claim language for the renewable energy claims that may be used by the utility and its customers.

The order approving this Adopted and Filed rule making can be found on the Board’s Electronic Filing System website, efs.iowa.gov, in Docket No. RMU-2017-0002.

After analysis and review of this rule making, the Board concludes that Chapter 30 may have the beneficial effect of encouraging renewable energy development in Iowa and will not have a detrimental effect on jobs in Iowa.

This amendment is intended to implement Iowa Code chapter 476.

This amendment will become effective December 27, 2017.

The following amendment is adopted.

Adopt the following new 199—Chapter 30:

CHAPTER 30
RENEWABLE ENERGY PERCENTAGE VERIFICATION

199—30.1(476) General information.

30.1(1) *Scope and limitation.* This chapter establishes the process by which, upon a petition from a utility, the board will verify that a specified percentage of a utility’s energy generation is renewable energy.

30.1(2) *Definitions.* Except where otherwise specifically defined by law:

“*M-RETS*” means the Midwest Renewable Energy Tracking System.

“*PJM-GATS*” means the PJM Generation Attribute Tracking System.

“*Prior period*” means the calendar year immediately preceding the utility’s request for verification of the REP.

“*RECs*” means the renewable energy certificates for renewable generation in a tracking system.

“*Renewable energy claim*” means a claim made by a utility or a customer of a utility concerning the percentage of renewable energy used by the customer in a calendar year.

“*Renewable energy percentage*” or “*REP*” means the amount of renewable energy purchased and produced by a utility and used to serve its retail sales in a calendar year as a percentage of its overall retail sales.

“*Renewable generation*” means energy produced at any facility described in Iowa Code section 476.42(1)“a”(1).

“*Retired RECs*” means the quantity of RECs that (1) represent renewable generation in the prior period registered in accordance with tracking system rules and requirements, and (2) are retired by the utility in the tracking system in accordance with the tracking system rules and requirements, for the benefit of all of the utility’s customers prior to the calculation of the REP for such prior period. “Retired RECs” cannot include RECs that are obligated to specific entities or for purposes outside of this program. However, “retired RECs” does include RECs associated with any renewable energy mandates set forth in the Iowa Code.

“*Total retail sales*” means the amount of retail sales recorded by the utility in its IE-1 annual report to the board.

“*Tracking system*” means M-RETS, PJM-GATS or such other tracking systems as may be approved for use by the board, provided that renewable generation may be registered and retired in only one tracking system.

199—30.2(476) Process for verification.

30.2(1) *Procedure for verification of renewable energy percentage.*

a. A utility may file a petition requesting that the board verify the percentage of the utility’s retail sales that were served using renewable generation during the prior period.

b. Interested person(s) may file a response to the petition within 20 days from the date of the filing.

30.2(2) *Renewable energy percentage formula.* The formula to be used for calculating the percentage of renewable energy used by a utility to serve retail sales in a given calendar year is:

REP = Retired RECs divided by total retail sales

30.2(3) *Required evidence.* A utility requesting verification of its REP shall file the following information to support its request:

a. Evidence that the utility records all of its RECs in a tracking system or has transferred RECs recorded in other tracking systems to a tracking system.

b. Evidence that the MWh of qualifying renewable generation claimed to have been generated during the prior period were in fact generated by the utility’s own renewable generation facilities or purchased by the utility from a renewable facility along with the associated RECs during the prior period. Purchased RECs that are not bundled with the associated energy will not be counted as part of the REP unless the purchased RECs were used to replace otherwise eligible RECs. The purchased RECs must

be purchased during the prior period, and their purchase price must be lower than the price of the sold RECs.

c. Evidence that the number of RECs claimed to have been retired were in fact retired on behalf of the utility's retail customers in the tracking system. Such evidence shall consist of a screenshot of the tracking system's web page that shows the certificate numbers of the retired RECs, the retirement account to which the RECs were transferred and the date of retirement. The utility shall authorize the board to access the tracking system for purposes of verifying the information. Verification of the information shall not constitute personal investigation in connection with any future contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties.

d. An affidavit signed by a corporate officer verifying the accuracy of the REP calculation, the underlying data used in the calculation, compliance with this rule, and the evidence filed in support of it.

199—30.3(476) Reasonableness and prudence of REC retirement.

30.3(1) Board verification of a utility's renewable energy percentage shall not constitute a determination that the retirement of RECs by the utility in the prior period was reasonable and prudent, nor shall it create any presumption of reasonableness and prudence.

30.3(2) A utility seeking verification of its renewable energy percentage under this rule shall file the estimated market value of prior period retired RECs as part of its petition.

199—30.4(476) Renewable energy claims. After the board has verified the percentage of the utility's retail sales that were served using renewable energy generation, the board's findings will provide sample renewable energy claims that may be used by the utility and its customers. The language will be in substantially the following form, where "x" is the verified REP:

30.4(1) Utility: x percent of the electricity that the utility sold to retail customers during the prior period was from renewable energy generation. The utility provided its retail customers with x percent renewable energy during the prior period.

30.4(2) Utility retail customer: x percent of the electricity used by the customer during the prior period and purchased from the utility was from renewable energy generation.

These rules are intended to implement Iowa Code chapter 476.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/22/17.