

PROJECT NO. 55323

**REVIEW OF RENEWABLE
PORTFOLIO STANDARD**

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**PUBLIC UTILITY COMMISSION

OF TEXAS**

**PROPOSAL FOR PUBLICATION TO REPEAL AND REPLACE 16 TAC §25.173
AS APPROVED AT THE OCTOBER 12, 2023 OPEN MEETING**

The Public Utility Commission of Texas (commission) proposes the repeal of §25.173 relating to Goal for Renewable Energy and proposes new §25.173 relating to Renewable Energy Credit Program. The proposed new rule will establish a temporary solar only renewable energy credit (REC) trading program, as required by the uncodified requirement in section 53 of House Bill (HB) 1500 enacted by the 88th Texas Legislature (R.S.). The proposed new rule will also provide direction to the Electric Reliability Council of Texas (ERCOT) in maintaining an accreditation and banking system to award and track voluntary RECs generated by eligible facilities as required by the Public Utility Regulatory Act (PURA) §39.9113.

Growth Impact Statement

The agency provides the following governmental growth impact statement for the proposed rules, as required by Texas Government Code §2001.0221. The agency has determined that for each year of the first five years that the proposed new rule is in effect, the following statements will apply:

(1) the proposed rule will not create a government program and will not eliminate a government program; the proposed new rule will reestablish a modified version of an existing ERCOT program as directly required by statute;

- (2) implementation of the proposed rule will not require the creation of new employee positions and will not require the elimination of existing employee positions;
- (3) implementation of the proposed rule will not require an increase and will not require a decrease in future legislative appropriations to the agency;
- (4) the proposed rule will not require an increase and will not require a decrease in fees paid to the agency;
- (5) the proposed rule will not, in effect, create a new regulation, because it is replacing a similar regulation;
- (6) the proposed rules will repeal an existing regulation, but it will replace that regulation with a similar regulation;
- (7) the same number of individuals will be subject to the proposed rules' applicability as were subject to the applicability of the rule it is being proposed to replace; and
- (8) the proposed rules will not affect this state's economy.

Takings Impact Analysis

The commission has determined that the proposed rules will not be a taking of private property as defined in chapter 2007 of the Texas Government Code.

Public Benefits

Zachary Dollar, Market Economist, Market Analysis Division, has determined that for each year of the first five-year period the proposed sections are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the section.

Mr. Dollar has determined that for each year of the first five years the proposed section is in effect the public benefit anticipated as a result of enforcing the section will be the alignment of the REC program with the requirements of PURA. The proposed rule will also temporarily extend incentives for the generation of solar energy. The proposed rule will also enable the continued accreditation and marketing of renewable energy credits and the verification of green products. There will be no adverse economic effect on small businesses, micro-businesses or rural communities as a result of enforcing these sections. There is no anticipated economic cost to persons who are required to comply with these sections as proposed. Any economic costs would vary from person to person and are difficult to ascertain. However, Mr. Dollar believes the benefits accruing from implementation of the proposed sections will outweigh these costs.

Mr. Dollar has also determined that for each year of the first five years the proposed sections are in effect there should be no effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act §2001.022.

Costs to Regulated Persons

Texas Government Code §2001.0045(b) does not apply to this rulemaking because the commission is expressly excluded under §2001.0045(c)(7).

Public Hearing

The commission staff will conduct a public hearing on this rulemaking if requested in accordance with Texas Government Code §2001.029. The request for a public hearing must be received by November 6, 2023. Interested persons should contact David Smeltzer at david.smeltzer@

puc.texas.gov prior to requesting a public hearing to discuss the purpose and scope of a public hearing on a proposed rule. If a hearing is scheduled, commission staff will file in this project a notice of hearing.

Public Comments

Interested persons may file comments electronically through the interchange on the commission's website. Comments must be filed by November 6, 2023. Comments should be organized in a manner consistent with the organization of the proposed rules. The commission invites specific comments regarding the costs associated with, and benefits that will be gained by, implementation of the proposed rules. All comments should refer to Project Number 55323.

Statutory Authority

These amendments are proposed under the following provisions of PURA: §14.001, which authorizes the commission to adopt and enforce rules reasonably required in the exercise of its powers and jurisdiction; §39.151, which gives the commission complete authority to oversee the independent organization's operations; and §39.9113, which requires the independent organization certified under §39.151 for the ERCOT power region to maintain an accreditation and banking system to award and track voluntary renewable energy credits generated by eligible facilities.

The amendments are also proposed under the provisions of HB 1500 §53 from the 88th Texas Legislature (R. S.) which directs the commission to adopt a program, effective until September 1, 2025, to apply repealed PURA §39.904 as it existed immediately before the section's effective

repeal date only to renewable energy technologies that exclusively rely on an energy source that is naturally regenerated over a short time and are derived directly from the sun.

Cross Reference to Statutes: Public Utility Regulatory Act §§14.002, 39.151, and 39.9113; and HB 1500 from the 88th Texas Legislature (R. S.).

§25.173. Goal for Renewable Energy.

[REPEALED]

§25.173. Renewable Energy Credit Program.

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

- (1) Establish a solar renewable portfolio standard program based on repealed PURA §39.904, and phase out this program by September 1, 2025, and
- (2) Direct the independent organization certified under PURA §39.151 for the ERCOT region to administer a voluntary renewable energy credit (REC) accreditation program.

(b) **Definitions.**

- (1) **Compliance period --** A 12-month compliance period beginning January 1, 2024 and ending December 31, 2024 (2024 compliance period), and a partial compliance period beginning January 1, 2025, and ending August 31, 2025 (2025 compliance period).
- (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 meets the criteria of subsection (d) of this section. For the purpose of the renewable energy portfolio standard requirements, one compliance premium is equal to one solar renewable energy credit.
- (3) **Designated representative --** A 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.
- (5) **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.
- (6) **Microgenerator** -- A customer who owns one or more eligible renewable energy generating units with a rated capacity of less than 1MW 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.
- (8) **Off-grid generation** -- The generation of renewable energy in an application that is not interconnected to a utility transmission or distribution system.
- (9) **Opt-out notice** -- Written notice submitted to the commission by a transmission-level voltage customer under PURA §39.904(m-1).
- (10) **Program administrator** -- The entity responsible for carrying out the administrative responsibilities related to the renewable energy credits accreditation and solar renewable energy credits trading programs as set forth in this section. In accordance with PURA §39.9113, the program administrator for the REC accreditation program is the independent organization certified under PURA

§39.151 for the ERCOT region. The commission also appoints the independent organization certified under PURA §39.151 for the ERCOT region as the program administrator for the solar renewable energy credits trading program.

- (11) **REC aggregator** -- An entity managing the participation of two or more microgenerators in the REC trading program.
- (12) **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.
- (13) **Renewable energy credit (REC)** -- A REC represents one MWh of renewable energy that is physically metered and verified in Texas and meets the requirements set forth in subsection (d) of this section.
- (14) **Renewable energy credit account (REC account)** -- An account maintained by the program administrator for the purpose of tracking the production, sale, transfer, purchase, and retirement of RECs, solar RECs, or compliance premiums by a program participant.
- (15) **Renewable energy credits accreditation program (accreditation program).** -- The process of awarding, trading, tracking, and submitting RECs as a means of meeting the renewable energy requirements set out in subsection (f) of this section.
- (16) **Renewable energy resource (renewable resource)** -- A resource that produces energy derived from renewable energy technologies.
- (17) **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.

- (18) **Renewable portfolio standard (RPS)** -- The amount of capacity required to meet the requirements of PURA §39.904 under subsection (h) of this section.
- (19) **Repowered facility** -- An existing facility that has been modernized or upgraded to use renewable energy technology to produce electricity consistent with this rule.
- (20) **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 under PURA Chapter 39.
- (21) **Settlement period** -- The period following a compliance period in which the settlement process for that compliance period takes place as set forth in subsection (i) of this section.
- (22) **Small producer** -- A renewable resource that is less than ten megawatts (MW) in size.
- (23) **Solar renewable energy credit (solar REC)** -- A REC representing one MWh of renewable energy that is physically metered and verified in Texas and meets the requirements set forth in subsection (d) of this section.

(24) Solar renewable energy credit trading program (trading program) -- The process of awarding, trading, tracking, and submitting solar RECs or compliance premiums as a means of meeting the renewable energy requirements set out in subsection (d) of this section.

(25) 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.

(c) Certification of renewable energy facilities. The commission will certify all renewable facilities that will produce either REC offsets, RECs, solar RECs, or compliance premiums for sale in the trading and accreditation programs. To be awarded REC offsets, RECs, solar RECs, or compliance premiums, a power generator must complete the certification process described in this subsection. The program administrator must not award REC offsets, RECs, solar 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 must file an application with the commission on a form approved by the commission for each renewable energy generation facility. At a minimum, the application must include the location, owner, technology, and rated capacity of the facility, and must demonstrate that the facility meets the resource eligibility criteria in subsection (d)(1)(A) of this section. Any subsequent changes to the information in the application must 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 will inform both the program administrator and the designated representative whether the renewable facility has met the certification requirements. At that time, the commission will either certify the renewable facility as eligible to receive REC offsets, RECs, solar RECs, 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) Upon receiving notice of certification of new facilities, the program administrator will create a REC account for the designated representative of the renewable resource.
- (4) The commission or program administrator may make on-site visits to any certified facility, and the commission will decertify any facility if it is not in compliance with the provisions of this subsection.
- (5) A decertified renewable generator may not be awarded RECs or solar RECs. However, any RECs awarded by the program administrator and transferred to a retail entity prior to the decertification remain valid.

(d) Renewable energy credits, solar renewable energy credits, and compliance premiums.

(1) Renewable Energy Credits (RECs).

(A) Facilities eligible for producing RECs for the accreditation program.

For a renewable facility to be eligible to produce RECs for the trading program it must be either a new facility, a small producer, or a repowered

facility as defined in subsection (b) of this section and must also meet the requirements of this subsection.

(i) A renewable energy resource must not be ineligible under subparagraph (B) of this paragraph and must register under subsection (c) of this section.

(ii) For a renewable energy technology that requires fossil fuel, the facility's use of fossil fuel must not exceed 25.0% of the total annual fuel input on a British thermal unit (BTU) or equivalent basis.

(iii) For a renewable energy technology that requires the use of fossil fuel that exceeds 2.0% of the total annual fuel input on a BTU or equivalent basis, RECs can only be earned on the renewable portion of the production. A renewable energy resource using a technology described by this clause must comply with the following requirements:

(I) A meter must be installed and periodic tests of the heat content of the fuel must be conducted to measure the amount of fossil fuel input on a British thermal unit (BTU) or equivalent basis that is used at the facility;

(II) The renewable energy resource must calculate the electricity generated by the unit in MWh, based on the BTUs (or equivalent) produced by the fossil fuel and the efficiency of the renewable energy resource, subtract the MWh generated with fossil fuel input from the total MWh of generation and

report the renewable energy generated to the program administrator;

(III) The renewable energy resource must report the generation to the program administrator in the measurements, format, and frequency prescribed by the program administrator, which may include a description of the methodology for calculating the non-renewable energy produced by the resource; and

(IV) The renewable energy resource is subject to audit to verify the accuracy of the data submitted to the program administrator and compliance with this section, to be conducted by the program administrator or an independent third party as requested by the program administrator. If the program administrator requires a third party audit, the audit must be performed at the expense of the renewable energy resource.

(iv) The output of the facility must be readily capable of being physically metered and verified in Texas by the program administrator. Energy from a renewable facility that is delivered into a transmission system where it is commingled with electricity from non-renewable resources before being metered can not be verified as delivered to Texas customers. A facility is not ineligible if the facility is a generation-offset, off-grid, or on-site distributed renewable facility and it otherwise meets the requirements of this subparagraph.

(v) For a municipally owned utility operating a gas distribution system, any production or acquisition of landfill gas that is directly supplied to the gas distribution system is eligible to produce RECs based upon the conversion of the thermal energy in BTUs to electric energy in kWh using for the conversion factor the systemwide average heat rate of the gas-fired units of the combined utility's electric system as measured in BTUs per kWh.

(vi) For industry-standard thermal technologies, the RECs can be earned only on the renewable portion of energy production. Furthermore, the contribution toward statewide renewable capacity megawatt goals from such facilities must be equal to the fraction of the facility's annual MWh energy output from renewable fuel multiplied by the facility's nameplate MW capacity.

(vii) For repowered facilities, a facility is eligible to earn RECs on all renewable energy produced up to a capacity of 150 MW. A repowered facility with a capacity greater than 150 MW may earn RECs for the energy produced in proportion to 150 divided by nameplate capacity.

(B) Facilities not eligible for producing RECs for the accreditation

program. A renewable facility is not eligible to produce RECs if it is:

(i) 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

- (ii) An existing facility that is not a small producer as defined in subsection (c) of this section or has not been repowered as permitted under subparagraph (A) of this paragraph.

(2) Solar Renewable Energy Credits.

(A) Facilities eligible for producing solar RECs and compliance premiums

for the trading and accreditation programs. For a renewable facility to be eligible to produce solar RECs for the trading and accreditation programs it must be either a new facility, a small producer, or a repowered facility as defined in subsection (b) of this section and must also meet the requirements of this paragraph:

- (i) A renewable energy resource must not be ineligible under subparagraph (B) of this paragraph and must register under subsection (c) of this section.
- (ii) A facility must only use renewable energy technologies that exclusively rely on an energy source that is naturally regenerated, over a short time and derived directly from the sun.
- (iii) The output of the facility must be readily capable of being physically metered and verified in Texas by the program administrator. Energy from a renewable facility that is delivered into a transmission system where it is commingled with electricity from non-renewable resources before being metered can not be verified as delivered to

Texas customers. A facility is not ineligible if the facility is a generation-offset, off-grid, or on-site distributed renewable facility and it otherwise meets the requirements of this subparagraph.

(iv) For repowered facilities, a facility is eligible to earn RECs on all renewable energy produced up to a capacity of 150 MW. A repowered facility with a capacity greater than 150 MW may earn RECs for the energy produced in proportion to 150 divided by nameplate capacity.

(B) Facilities not eligible for producing solar RECs and compliance premiums in the trading and accreditation programs. A renewable facility is not eligible to produce solar RECs if it is:

(i) 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

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

(3) Compliance Premiums. The trading program administrator will award compliance premiums to solar REC generators certified by the commission under subsection (c) of this section. A compliance premium is created in conjunction with a solar REC.

- (A) For eligible solar technologies as set forth in paragraph (2)(A)(ii) of this subsection, one compliance premium will be awarded for each solar REC awarded for energy generated after January 1, 2024, ending December 31, 2024.
- (B) Except as provided in this paragraph, the award, retirement, trade, and registration of compliance premiums must follow the requirements of paragraph (4) of this subsection, subsection (e), and subsection (i) of this section.
- (C) A compliance premium may be used by any entity toward its RPS requirement under subsection (e)(2) of this section.
- (D) A compliance premium may not be used by any entity toward the RPS requirement after the 2024 compliance period.
- (E) The program administrator must increase the statewide RPS requirement calculated for the 2025 compliance period under subsection (e)(2)(A) of this section by the number of compliance premiums retired during the previous compliance period.
- (4) **Production, transfer, and expiration of RECs and solar RECs.** The production, transfer, and expiration of RECs and solar RECs must follow the requirements of this paragraph.
- (A) The owner of a renewable resource will earn one REC or solar REC when a MWh is metered at that renewable resource. The program administrator will 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 must be rounded to the nearest whole MWh, with fractions of 0.5 MWh or greater rounded up.

(B) The transfer of RECs or solar RECs between parties is effective only when the transfer is recorded by the program administrator.

(C) The program administrator will require that RECs or solar RECs be adequately identified prior to recording a transfer and must issue an acknowledgement of the transaction to parties upon provision of adequate information. At a minimum, the following information must be provided:

(i) identification of the parties;

(ii) REC or solar REC serial number, REC or solar REC issue date, and the renewable resource that produced the REC or solar REC;

(iii) the number of RECs or solar RECs to be transferred; and

(iv) the transaction date.

(D) A retail entity must surrender RECs or solar RECs to the program administrator for retirement from the market for a compliance period. The program administrator will document all REC or solar Rec retirements annually.

(E) On or after each April 1, the program administrator will retire RECs or solar RECs that have not been retired by retail entities and have reached the end of their compliance life.

(F) The program administrator may establish a procedure to ensure that the award, transfer, and retirement of RECs or solar RECs are accurately recorded.

(G) All RECs or solar RECs will have a compliance life of three compliance periods, after which the program administrator will retire them from the accreditation program.

(H) Each REC or solar 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. For purposes of this subparagraph, calendar year 2023 counts as a single compliance period.

(e) Solar renewable energy credits trading program.

(1) Solar- RECs may be generated, transferred, and retired by renewable energy power generators certified under subsection (c) of this section, retail entities, and other market participants as set forth in subsection (d)(4) of this section.

(A) The program administrator will apportion an RPS requirement among all retail entities as a percentage of the retail sales of each retail entity as set forth in paragraph (2) of this subsection. Each retail entity is responsible for retiring sufficient RECs as set forth in paragraph (2) of this subsection and subsection (d)(4) of this section for the 2024 and 2025 compliance periods. The requirement to retire solar RECs 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.

(B) A power generating company may participate in the trading program and may generate solar RECs and buy or sell solar RECs as set forth in subsection (d)(4) of this section.

(C) Solar RECs will be credited on an energy basis as set forth in subsection (d)(4) of this section.

(D) A municipally-owned utility or distribution cooperative possessing renewable resources that meet the requirements of subsection (d)(2)(A) of this section may sell solar RECs generated by such a resource to retail entities as set forth in subsection (d)(4) of this section.

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

(F) The trading program ends after the end of the 2025 compliance period on September 1, 2025.

(2) **Allocation of RPS requirement to retail entities.** The program administrator must 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 solar RECs from out-of-state facilities must be replaced and incorporated into the allocation methodology set forth in this subsection. Any changes to the allocation methodology to reflect replacement capacity must occur two compliance periods after the facility is retired or the capacity shortfall occurs. The program administrator must use the following methodology to determine the total annual RPS requirement for a given year and the final RPS allocation for individual retail entities:

(A) The total statewide RPS requirement for each compliance period must be calculated in terms of MWh and must be equal to the applicable capacity requirement set forth in this paragraph multiplied by 8,760 hours for the

2024 compliance period and 5,840 hours for the 2025 compliance period, multiplied by the appropriate capacity conversion factor set forth in paragraph (3) of this subsection. The renewable energy capacity requirements for the compliance periods beginning January 1, 2024 are:

- (i) 1,310 MW of new resources in the 2024 compliance period; and
- (ii) 655 MW of new resources in the 2025 compliance period.

(B) The final RPS allocation for an individual retail entity for a compliance period must be calculated as follows:

- (i) Beginning with the 2008 compliance period, prior to the preliminary RPS allocation, each retail entity's total retail energy sales are reduced to exclude the consumption of customers that opt out in accordance with paragraph (4) of this subsection. Each retail entity's preliminary RPS allocation is determined by dividing its total retail energy sales in Texas 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.
- (ii) 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 paragraph (5) of this subsection, 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.

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

(C) Concurrent with determining final individual RPS allocations for the current compliance period in accordance with this subsection, the program administrator must 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 must be added to or subtracted from the retail entity's final RPS allocation for the current compliance period.

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

- (A) 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;
- (B) Represent a weighted average of generator performance; and
- (C) Use all actual generator performance data that is available for each renewable resource, excluding data for testing periods.

(4) Opt-out notice.

- (A) A customer receiving electrical service at transmission-level voltage who submits an opt-out notice to the commission for the applicable compliance period must have its load excluded from the RPS calculation.
- (B) An investor-owned utility that is subject to a renewable energy requirement under this section must not collect costs attributable to the trading program from an eligible customer who has submitted an opt-out notice. An investor-owned utility whose rates include the cost of solar RECs must file a tariff to implement this paragraph, not later than 30 days after the effective date of this section.
- (C) 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 paragraph 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.

(5) Nomination and award of REC offsets.

- (A) 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 RPS requirement, as calculated in paragraph (2) of this subsection, only if those offsets were nominated in a filing with the commission by June 1, 2001.
- (B) The program administrator must award offsets consistent with the commission's actions to verify designations of REC offsets and with this section.
- (C) REC offsets must 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.
- (D) REC offsets qualify for use in a compliance period under paragraph (2) of this subsection only to the extent that:

- (i) 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 subparagraph (A) of this paragraph 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
- (ii) The facility producing the REC offsets is operated and producing energy during the compliance period in a manner consistent with historic practice.

(E) 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 subparagraph (D)(i) of this paragraph has lapsed or is no longer in effect, the retail entity must no longer be awarded REC offsets related to the facility.

(F) REC offsets can not be traded.

(f) **Renewable energy credits accreditation program.** The program administrator must maintain a voluntary banking and accreditation system to monitor a voluntary renewable energy credit accreditation program.

(1) Renewable energy credits may be generated, transferred, and retired by renewable energy power generators certified under subsection (c) of this section, retail entities, and other market participants as set forth in this section. For purposes of this subsection, there is no distinction between renewable energy credits and solar renewable energy credits.

(A) A power generating company may participate in the accreditation program and may generate RECs and buy or sell RECs as set forth in subsection (d)(4) of this section.

(B) RECs must be credited on an energy basis as set forth in subsection (d)(4) of this section.

(C) A municipally-owned utility or distribution cooperative possessing renewable resources that meet the requirements of subsection (d)(1)(A) and (d)(2)(A) of this section may sell RECs generated by such a resource to retail entities as set forth in subsection (d)(4) of this section.

(2) ERCOT may assign additional attributes to RECs, such as more precise REC-generation timestamps, to allow buyers to distinguish between RECs.

(g) **Responsibilities of the program administrator.** At a minimum, the program administrator must perform the following functions:

(1) Create accounts that track RECs, solar RECs, and compliance premiums for each participant in both the trading program and accreditation program;

- (2) Award RECs, solar RECs, or compliance premiums to registered renewable energy facilities on a quarterly basis based on verified meter reads during the compliance period;
- (3) Award offsets to retail entities on an annual basis based on a nomination submitted by the retail entity under subsection (e)(5) of this section;
- (4) Annually record the retirement of RECs, solar RECs, and compliance premiums that each retail entity submits;
- (5) Retire RECs, solar RECs, and compliance premiums at the end of each REC, solar REC, or compliance premiums' compliance life;
- (6) Maintain public information on its website that provides trading program and accreditation program information to interested buyers and sellers of RECs, solar RECs, or compliance premiums;
- (7) Create an exchange procedure where persons may purchase and sell RECs, solar RECs, or compliance premiums. The exchange must ensure the anonymity of persons purchasing or selling RECs, solar RECs, or compliance premiums. The program administrator may delegate this function to an independent third party, subject to commission approval;
- (8) Make public each month the total energy sales of retail entities in Texas for the previous month;
- (9) Perform audits of generators participating in the trading program to verify accuracy of metered production data;
- (10) Allocate the RPS requirement to each retail entity in accordance with subsection (e)(2) of this section; and

(11) Submit an annual report to the commission. The program administrator must submit a report to the commission on or before May 15 of each calendar year. The report must contain information pertaining to renewable energy power generators and retail entities. At a minimum, the report must 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, each retail entity's RPS requirement, the number of offsets used by each retail entity, the number of solar RECs retired by each retail entity, the number of compliance premiums retired by each retail entity, 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 solar RECs or compliance premiums to meet its RPS requirement.

(h) **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 solar RECs or compliance premiums to satisfy its allocation, the retail entity is subject to an administrative penalty, under PURA §15.023, of \$50 per MWh that is deficient.

(i) **Settlement process.** The compliance period is the settlement period during which the following actions must occur:

(1) 30 days after the end of the compliance period, the program administrator will notify each retail entity of its total RPS requirement for the previous compliance period as determined under subsection (e)(2) of this section.

(2) 90 days after the end of the compliance period, each retail entity must submit solar RECs 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 sufficient solar RECs or compliance premiums to satisfy its obligation, the retail entity is subject to the penalty provisions in subsection (h) 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.

(j) **Microgenerators and REC aggregators.** A REC aggregator may manage the participation of multiple microgenerators in the trading and accreditation programs. The program administrator will assign to the REC aggregator all RECs or solar RECs accrued by the microgenerators who are under a REC management contract with the REC aggregator.

(1) The microgenerator's units must be installed and connected to the grid in compliance with commission Substantive Rules, applicable interconnection standards adopted under the commission Substantive Rules, and federal rules.

(2) Notwithstanding subsection (d)(1)(A)(iii) of this section, a REC aggregator may use any of the following methods for reporting generation to the program administrator, as long as the same method is used for each microgenerator in an aggregation unit, as defined by the REC aggregator. A REC aggregator may have more than one aggregation and may choose any of the methods listed below for each aggregation unit.

(A) The REC aggregator may provide the program administrator with production data that is measured and verified by an electronic meter that meets ANSI C12 standards and that will be separate from the aggregator's billing meter for the service address and for which the billing data and the renewable energy data are separate and verifiable data. Such actual data must be collected and transmitted within a reasonable time and is subject to verification by the program administrator. REC aggregators using this method will be awarded one REC for every MWh generated.

(B) The REC aggregator may provide the program administrator with sufficient information for the program administrator to estimate with reasonable accuracy the output of each unit, based on known or observed information that correlates closely with the generation output. REC aggregators using this method will be awarded one REC for every 1.25 MWh generated. After installing the unit, the certified technician must provide the microgenerator, the REC aggregator, and the program administrator the information required by the program administrator under this paragraph.

- (C) A generating unit may have a meter that transmits actual generation data to the program administrator using applicable protocols and procedures. Such protocols and procedures must require that actual data be collected and transmitted within a reasonable time. REC aggregators using this method will be awarded one REC for every MWh generated.
- (3) REC aggregators must register with the commission and the program administrator and must also register to participate in the trading and accreditation programs.
- (4) A microgenerator participating in the trading program individually without the assistance of a REC aggregator must comply with the requirements of this subsection.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's authority to adopt.

**ISSUED IN AUSTIN, TEXAS ON THE 12TH DAY OF OCTOBER 2023 BY THE
PUBLIC UTILITY COMMISSION OF TEXAS
ADRIANA A. GONZALES**