

2900 **APPLICABILITY**

2900.1 This chapter establishes the Public Service Commission’s (Commission) rules and regulations governing the Renewable Energy Portfolio Standard (RPS) applicable to all District of Columbia retail electricity sales as provided in D.C. Official Code §§ 34-1431 through 34-1439.

SOURCE: Notice of Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Notice of Final Rulemaking published at 59 DCR 2313 (March 23, 2012); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).

2901 RPS COMPLIANCE REQUIREMENTS

- 2901.1 An Electricity Supplier shall meet the Renewable Energy Portfolio Standard requirement by obtaining Renewable Energy Credits (RECs) that equal the annual percentage requirement for electricity sold at retail or by paying the specified compliance fee. An Electricity Supplier shall not apply any surplus RECs derived from voluntary purchases of energy from qualified renewable sources toward its mandatory compliance requirements.
- 2901.2 An Electricity Supplier shall meet the solar portion of the Tier One requirement by obtaining the equivalent amount of RECs from solar energy systems no larger than fifteen megawatts (15 MW) in capacity that are located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, except that RECs generated by solar energy facilities that are not located within the District of Columbia nor in locations served by a distribution feeder serving the District of Columbia that the Commission certified prior to February 1, 2011, may be used to meet the solar requirement. However, an Electricity Supplier may also meet the solar requirement by obtaining RECs from solar energy systems larger than fifteen megawatts (15 MW) in capacity, provided that these solar energy systems are located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia. In addition, Electricity Suppliers may meet the non-solar portion of the Tier One renewable source requirement of the renewable energy portfolio standard by obtaining renewable energy credits from solar energy systems that are not located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, regardless of capacity.
- 2901.3 Each Electricity Supplier shall establish and maintain a Generation Attribute Tracking System (GATS) account for the load it serves within the District of Columbia.
- 2901.4 Compliance with the Renewable Energy Portfolio Standard is on a calendar year basis.
- 2901.5 Each Electricity Supplier must prepare and submit an annual Compliance Report to the Commission containing the following information:
- (a) The quantity of its annual District of Columbia retail electricity sales;
 - (b) A calculation of the annual quantity of required Tier One, Tier Two, and Solar Energy RECs;
 - (c) The quantity of Tier One, Tier Two, and Solar Energy RECs purchased and evidence of those purchases;
 - (d) The quantity of Tier One, Tier Two, and Solar Energy Credits transferred to the Electricity Supplier by a Renewable On-Site Generator;
 - (e) A calculation of any compliance fees that the Electricity Supplier owes;

- (f) Certification of the accuracy and veracity of the report;
 - (g) All documentation supporting the data appearing in the annual compliance report; and
 - (h) A summary report of RECs retired during the reporting period.
- 2901.6 Each Electricity Supplier shall make available to the Commission through its GATS account all RECs and the total price paid in order to comply with the Renewable Energy Portfolio Standard.
- 2901.7 An Electricity Supplier's annual compliance report shall be submitted to the Commission by April 1 of the calendar year following the year of compliance. After notification of a decision of non-compliance by the Commission, a supplier shall, within ten (10) days, submit the appropriate payment, take the actions necessary to come into compliance, or file its response contesting the decision of non-compliance.
- 2901.8 Any Electricity Supplier that fails to file the annual compliance report as required by this chapter and D.C. Official Code § 34-1434 (a) may be subject to Commission action to compel submission of the required report. Such action may include the issuance of an Order to Show Cause by the Commission.
- 2901.9 Any Electricity Supplier that fails to meet its Renewable Energy Portfolio Standard requirements shall submit the required annual Compliance Fee to the District of Columbia Renewable Energy Development Fund administered by the District of Columbia Department of Energy & Environment by April 1 of the calendar year following the year of compliance.
- 2091.10 An Electricity Supplier may apply the Solar Energy RECs, retired for compliance with the Solar Energy requirement, to meet the Tier One Renewable Energy requirement as well.
- 2901.11 After December 31, 2019, RECs from a Tier Two renewable resource shall not apply toward meeting the Renewable Energy Portfolio Standard requirements.
- 2901.12 Energy supply contracts entered into prior to August 1, 2011, shall not be subject to the increased solar energy requirement as required by the Distributed Generation Amendment Act of 2011 (D.C. Law 19-36); but any extension or renewal of such contracts, executed on or after August 1, 2011, shall be subject to the increased solar energy requirement as required by this act. Energy supply contracts entered into prior to the effective date of the Renewable Energy Portfolio Standard Expansion Amendment Act of 2016 (D.C. Law 21-154), October 8, 2016, shall not be subject to the increased solar energy compliance fees as required by that act until October 8, 2021; but any extension or renewal of such contracts shall be subject to the increased solar energy compliance fee as required by that act.
- 2901.13 The Compliance Fee shall be:

- (a) Fifty dollars (\$50) for each REC shortfall for Tier One resources;
- (b) Ten dollars (\$10) for each REC shortfall for Tier Two resources; and
- (c) Three hundred dollars (\$300) for each REC shortfall for Solar Energy resources in 2008; five hundred dollars (\$500) for each REC shortfall for Solar Energy resources in 2009 through 2023; four hundred dollars (\$400) for each REC shortfall for Solar Energy resources in 2024 through 2028; three hundred dollars (\$300) for each REC shortfall for Solar Energy resources in 2029 through 2032; and fifty dollars (\$50) for each REC shortfall for Solar Energy resources in 2033 and thereafter.

SOURCE: Final Rulemaking published at 55 DCR 561 (January 18, 2008); as amended by Final Rulemaking published at 56 DCR 7839 (October 2, 2009), incorporating text of Proposed Rulemaking published at 56 DCR 2596 (April 3, 2009); as amended by Final Rulemaking published at 59 DCR 2313 (March 23, 2012); as amended by Final Rulemaking published at 61 DCR 11422 (October 31, 2014); as amended by Final Rulemaking published at 62 DCR 14087 (October 30, 2015); as amended by Final Rulemaking published at 63 DCR 4874 (April 1, 2016); as amended by Final Rulemaking published at 64 DCR 4231 (May 5, 2017); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).

2902 GENERATOR CERTIFICATION AND ELIGIBILITY

- 2902.1 Renewable generators, including behind-the-meter (BTM) generators, must be certified as a qualified resource by the Commission. The Commission shall not certify any Tier One solar energy system larger than fifteen megawatts (15 MW) in capacity – except for solar energy systems larger than fifteen megawatts (15 MW) in capacity that are located on property owned by the Government of the District of Columbia or by any agency or independent authority of the Government of the District of Columbia – located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia. In addition, solar energy systems that are not located within the District of Columbia or in locations served by a distribution feeder serving the District of Columbia, regardless of capacity may be certified as a qualified resource to meet the non-solar portion of the Tier One renewable source requirement of the renewable energy portfolio standard.
- 2902.2 Renewable generators, including BTM generators, may be certified as a Tier One or Tier Two resource. In order to be certified, applicants must complete the Commission’s “Application for Certification as an Eligible District of Columbia Renewable Energy Standards Generating Facility”.
- 2902.3 An applicant submitting an Application for certification as a renewable resource shall state, at a minimum:
- (a) The name of the Renewable Energy Facility for which the application is made and its address;
 - (b) The name of the owner of the facility and the owner’s contact information;
 - (c) The name of the operator of the facility and the operator’s contact information;
 - (d) The name of a contact person and the person’s contact information;
 - (e) The renewable fuel type(s) and capacity information;
 - (g) The operational start date; and
 - (h) Whether the facility is a “behind-the-meter” generator.
- 2902.4 In addition to the information required in § 2902.3, an applicant submitting an Application must also attach:
- (a) A current Certificate of Good Standing for the applicant issued by the state in which the business was formed, if applicable;
 - (b) A copy of the U.S. Department of Energy, Energy Information Administration Form EIA 860, if the rated capacity is greater than one megawatt (1 MW);

- (c) A Certificate of Authorization to Conduct Business in the District of Columbia, if applicable;
- (d) Documentation of authority to sign on behalf of the applicant;
- (e) Documentation that the energy output of the non-residential solar heating, cooling, or process heat property systems producing or displacing greater than ten thousand kilowatt hours (10,000 kWh) per year is determined by an on-site energy meter that meets performance standards established by the International Organization of Legal Metrology (OIML) and the solar collectors used have a OG-100 certification from the Solar Rating and Certification Corporation (SRCC), if applicable;
- (f) Documentation that the energy output of the non-residential solar heating, cooling, or process heat property systems producing or displacing ten thousand (10,000) or less kilowatt-hours per year is determined by the SRCC OG-300 annual system performance rating protocol applicable to the property or by an on-site energy meter that meets performance standards established by OIML and the solar collectors used have a OG-100 certification from the SRCC, if applicable;
- (g) Documentation that the residential solar thermal system energy output is determined by the SRCC OG-300 annual rating protocol or by an on-site energy meter that meets performance standards established by OIML and the solar collectors used have a OG-100 certification from the SRCC, if applicable; and
- (h) Interconnection Approval for the renewable generator, if applicable.

2902.5 An applicant submitting an Application must attest to:

- (a) Environmental Compliance, if the fuel type is not solar energy; and
- (b) General Compliance that all information contained in the Application is true and accurate.

2902.6 An Application shall be submitted through the Commission's website at www.dcpsc.org using the RPS interactive feature in the eDocket system. Applications may be submitted through the RPS interactive feature twenty-four (24) hours a day, seven (7) days a week. Review of applications in accordance with §§ 2902.7 and 2902.8 shall commence on the next business day if the application is submitted after 5:30 p.m. on a business day or if submitted on a non-business day.

2902.7 The Commission shall issue a decision on the Application within thirty (30) business days of the submission date subject to the conditions set forth in § 2902.6 filing. The generation resource shall be considered certified if the Commission has not acted within the thirty (30) business-day period, except where the Commission has issued a request for additional information.

- 2902.8 In cases where the Commission determines that an Application is insufficient or incomplete, the Commission or its staff will send a written request for additional information within fifteen (15) business days of the submission date subject to the conditions set forth in § 2902.6. In such cases, the applicant shall have fifteen (15) days to submit the additional information.
- 2902.9 An application shall be accepted for filing and docketed within fifteen (15) business days of the submission date provided no additional information is requested.
- 2902.10 A request for additional information from the Commission shall toll the deadline in § 2902.7 for issuing a decision on the applicant's Application.
- 2902.11 Upon receipt of the additional information from the applicant or its authorized representative, the Application shall be accepted for filing and docketed, and the Commission shall issue a decision on the application in accordance with the time periods prescribed in § 2902.7.
- 2902.12 Upon approval of an application, the Commission shall assign a unique GATS certificate number to the eligible renewable energy generating resource. The Commission should be notified of any planned substantive changes in the operating characteristics of a certified generating facility at least thirty (30) days prior to the effective date of such changes. Substantive changes include, but are not limited to, changes in fuel type, fuel mix, and generator type. A revised application should be submitted for Commission review, subject to the time periods prescribed in § 2902.7. In addition, applicants and District-certified generating facilities shall notify the Commission of any substantive changes in information provided in an original or amended application within thirty (30) days. If a system is already certified, the changes to the system or facility shall be deemed approved unless the Commission requests additional information within fifteen (15) business days. If a request for additional information is issued for a system that is already certified, the changes to the system or facility shall be deemed approved within fifteen (15) business days after a response is received, unless further information is requested.
- 2902.13 A renewable generator may be decertified by the Commission if it is determined to no longer be an eligible renewable resource due to fraud or a material change in the nature of the resource. Before being decertified, a renewable electricity generator will be given thirty (30) days' written notice and an opportunity to show cause why it should not be decertified.
- 2902.14 Any renewable generator that is decertified due to fraud may not create any District of Columbia RECs for a three (3)-year period and may not retroactively create RECs for that same three (3)-year period.
- 2902.15 Any subsequent unrelated owner of the decertified renewable generator, pursuant to § 2902.14, is not subject to the three (3)-year exclusion beginning with its effective date of ownership.

- 2902.16 After December 31, 2019, a facility certified as a Tier Two renewable resource shall not be eligible to generate RECs for the District of Columbia's RPS program.
- 2902.17 Every facility using qualifying biomass to generate electricity and certified as a qualifying resource by the Commission shall submit annually by June 1, starting in 2016, information demonstrating each system's total system efficiency for the current calendar year consistent with the definitions of "total system efficiency," "fuel input," and "useful thermal energy output" in Subsection 2999.1.

SOURCE: Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Final Rulemaking published at 56 DCR 2727 (April 10, 2009); as amended by Final Rulemaking published at 56 DCR 7839 (October 2, 2009), incorporating text of Proposed Rulemaking published at 56 DCR 2596 (April 3, 2009); as amended by Final Rulemaking published at 59 DCR 2313, 2316 (March 23, 2012); as amended by Final Rulemaking published at 62 DCR 654 (January 16, 2015); as amended by Final Rulemaking published at 62 DCR 14087 (October 30, 2015); as amended by Final Rulemaking published at 63 DCR 4874 (April 1, 2016); as amended by Final Rulemaking published at 64 DCR 4231 (May 5, 2017); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).

2903 CREATION AND TRACKING OF RENEWABLE ENERGY CREDITS

- 2903.1 RECs shall be created and tracked through the PJM Environmental Information Service GATS (PJM-EIS GATS).
- 2903.2 Behind-the-Meter generators with a capacity of less than ten kilowatts (10 kW) may submit engineering-based estimates of their output if the generator is not directly metered by a revenue grade utility meter. For solar thermal energy systems that do not generate electricity:
- (a) If the output is to be estimated, the Commission will provide PJM-EIS with the output in kilowatt-hour savings for the system, based on SRCC's estimated annual system performance of OG-300 certified systems; or
 - (b) If the solar thermal energy system uses an energy meter that meets the performance standards established by OIML, then the solar thermal energy produced by the system shall be credited with one kilowatt hour (1 kWh) of electricity generated for each three thousand four hundred twelve British thermal units (3,412 BTUs) produced by the solar thermal energy system.
- 2903.3 RECs created by behind-the-meter generators must be recorded in GATS at least once each calendar year in order to be eligible for compliance.
- 2903.4 RECs shall be valid for a three (3)-year period from the date of generation. A newly certified renewable generator can produce RECs starting from January 1st of the year in which it was certified, except that any renewable generator certified in January of any year can produce RECs starting January 1st of the year before that certification.
- 2903.5 A REC shall be retired after it is used to comply with any state's Renewable Energy Portfolio requirement.
- 2903.6 Retroactively created RECs must be created and tracked through PJM-EIS GATS.

SOURCE: Notice of Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Notice of Final Rulemaking published at 59 DCR 2313, 2321 (March 23, 2012); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).

2904 RECOVERY OF FEES AND COSTS

- 2904.1 Recovery of any fees and costs by the local electric distribution company and electric suppliers shall be in accordance with D.C. Official Code § 34-1435.
- 2904.2 No Electricity Supplier shall recover any compliance fee levied pursuant to D.C. Official Code § 34-1434 from its customers without receiving prior approval from the Commission.
- 2904.3 Pursuant to D.C. Official Code § 34-1435(a), the local electric distribution company may recover prudently incurred Renewable Energy Portfolio Standard compliance costs, including REC purchases and any compliance fees.
- 2904.4 Local electric distribution company compliance costs for Standard Offer Service (SOS) shall be considered prudent if SOS energy suppliers are selected through a competitive bid process and the cost of complying with the Renewable Energy Portfolio Standard is included in the supplier's bid prices.
- 2904.5 Local electric distribution company compliance costs for Market Price Service shall be recovered through the Market Price Service Procurement Rate Schedule.
- 2904.6 Any cost recovery approved by the Commission may be in the form of a non-bypassable surcharge to current applicable customers and shall be disclosed on their bills.

SOURCE: Notice of Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Notice of Final Rulemaking published at 59 DCR 2313, 2322 (March 23, 2012); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).

2905 WAIVER

2905.1 The Commission reserves the right to waive any provision of these rules for good cause shown.

SOURCE: Notice of Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Notice of Final Rulemaking published at 59 DCR 2313, 2323 (March 23, 2012); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).

2906 – 2998 [RESERVED]

SOURCE: Notice of Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Notice of Final Rulemaking published at 59 DCR 2313, 2323 (March 23, 2012).

2999 DEFINITIONS

2999.1 For the purposes of this chapter, the following terms and phrases have the following meanings:

Adjacent PJM State – a state that is adjacent to the PJM Interconnection Region. The following states are deemed adjacent to the PJM Interconnection Region as of October 2011: Alabama, Arkansas, Georgia, Iowa, Mississippi, Missouri, New York, South Carolina, and Wisconsin. The adjacent states will vary as the boundary of the PJM Interconnection Region changes over time.

Behind-the-meter generator or BTM generator – a renewable on-site generator that is located behind a retail customer meter such that no utility-owned transmission or distribution facilities are used to deliver the energy from the generating unit to the on-site generator's load.

Black liquor – the spent cooking liquor from the Kraft process of paper making.

Brush – shrubs and stands of short, scrubby trees that do not reach merchantable size.

Commission – the Public Service Commission of the District of Columbia.

Customer generation – generation that is not principally dedicated for sale into the wholesale electricity market.

Dunnage – loose materials or padding used to support or protect cargo within shipping containers.

Energy Office – the District of Columbia Department of Energy & Environment's Energy Office.

Electricity Supplier – means a person, including an Aggregator, Broker, or Marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale to customers. The term excludes the following:

- (a) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to the occupants of the building for use by the occupants;
- (b) Any Person who purchases electricity for its own use or for the use of its subsidiaries or affiliates;
- (c) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not: (i) Take title to electricity; (ii) Market electric services to the individually-metered tenants of his or her building; or (iii) Engage in the resale of electric services to others;

- (d) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property;
- (e) Consolidators;
- (f) Community Renewable Energy Facilities (CREFs) as defined in Subsection 4199.1 and as described in Subsections 4109.1 through 4109.3 of Title 15, pursuant to the Community Renewable Energy Amendment Act of 2013 (D.C. Law 20-47; D.C. Official Code §§ 34-1518 *et seq.*);
- (g) An Electric Company; and
- (h) Any Person or entity that owns a behind-the-meter generator and sells or supplies the electricity from that generator to a single retail customer or customers behind the same meter located on the same premise.

Fuel input – the higher heating value of the input fuel type, measured in BTU/LB, based on the standardized heating type of fuel type, multiplied by the annual fuel used in as delivered tons, multiplied by 2000.

Fund – the District of Columbia Renewable Energy Development Fund.

PJM Interconnection – the regional transmission organization that is regulated by the Federal Energy Regulatory Commission and functionally controls the transmission system for the region that includes the District of Columbia.

PJM Interconnection region – the area within which the movement of wholesale electricity is coordinated by the PJM Interconnection, L.L.C. With respect to qualifying RECs, the following states are deemed within the PJM Interconnection Region as of October 2011: Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, and West Virginia.

Qualifying biomass – a solid, non-hazardous, cellulosic waste material that is segregated from other waste materials, and is derived from any of the following forest-related resources, with the exception of old growth timber, construction and demolition-derived wood and whole trees that are not part of a closed-loop biomass system, cleared solely for the purpose of energy production, unsegregated solid waste, or post-consumer wastepaper:

- (a) Mill residue;
- (b) Slash;
- (c) Brush;
- (d) Yard waste;
- (e) A waste pallet, crate, or dunnage;

- (f) Agricultural sources, including tree crops, vineyard materials, grain, legumes, sugar, and other crop by products or residues; or
- (g) Cofired biomass, subject to the condition under D.C. Official Code § 34-1433(f).

Renewable energy credit or REC – a credit representing one megawatt (1 MWH) hour of electricity produced by a Tier One or Tier Two renewable resource located within the PJM Interconnection region or within a state that is adjacent to the PJM Interconnection region.

Renewable energy portfolio standard or standard – the percentage of electricity sales at retail in the District of Columbia that is to be derived from Tier One renewable sources and Tier Two renewable sources in accordance with D.C. Official Code § 34-1432(c).

Renewable generator – a person that produces energy from a Tier One renewable source or Tier Two renewable source.

Slash –

- (a) Tree tops, branches, bark, or other residue left on the ground after logging or other forestry operations; or
- (b) Tree debris left after a natural catastrophe.

Solar energy – radiant energy, direct, diffuse, or reflected, received from the sun at wavelengths suitable for conversion into thermal, chemical, or electrical energy, that is collected, generated, or stored for use at a later time.

Tier One renewable source – one (1) or more of the following types of energy sources:

- (a) Solar energy;
- (b) Wind;
- (c) Qualifying biomass used at a generation unit that achieves a total system efficiency of at least sixty-five percent (65%) on an annual basis, can demonstrate that it achieved a total system efficiency of at least 65% on an annual basis through actual operational data after one year, and that started commercial operation after January 1, 2007;
- (d) Methane from the anaerobic decomposition of organic materials in a landfill or wastewater treatment plant;
- (e) Geothermal;
- (f) Ocean, including energy from waves, tides, currents, and thermal differences;

- (g) Fuel cells producing electricity from a Tier One renewable source under paragraph (c) or (d) of this paragraph; and
- (h) Raw or treated wastewater used as a heat source or sink for a heating or cooling system.

Tier two renewable source – one (1) or more of the following types of energy sources:

- (a) Hydroelectric power other than pumped storage generation;
- (b) Waste-to-energy; or
- (c) Qualifying biomass used at a generation unit that started commercial operation on or before December 31, 2006; or achieves a total system efficiency of less than 65%; or uses black liquor.

Total system efficiency – the sum of the net useful thermal energy output measured in BTUs divided by the total fuel input.

Useful thermal energy output – energy in the form of direct heat, steam, hot water, or other thermal form that is used in production and beneficial measures for heating, cooling, humidity control, process use, or other valid thermal end use energy requirements and for which fuel or electricity would otherwise be consumed. Useful thermal energy output does not include thermal energy used for the purpose of drying or refining biomass fuel.

Waste-to-energy – waste treatment, including the use of a licensed facility that burns waste resources in high-efficiency furnaces or boilers, to produce electricity. Such resources include municipal solid waste but exclude waste coal.

SOURCE: Final Rulemaking published at 55 DCR 000561 (January 18, 2008); as amended by Final Rulemaking published at 59 DCR 2313, 2323 (March 23, 2012); as amended by Final Rulemaking published at 63 DCR 4874 (April 1, 2016); as amended by Final Rulemaking published at 64 DCR 4231 (May 5, 2017); as amended by Final Rulemaking published at 65 DCR 11025 (October 5, 2018); as amended by Notice of Final Rulemaking published at 65 DCR 13524 (December 14, 2018).