

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING**RM29-2021-01, IN THE MATTER OF 15 DCMR CHAPTER 29 – RENEWABLE ENERGY PORTFOLIO STANDARD,**

1. The Public Service Commission of the District of Columbia (Commission), pursuant to its authority under D.C. Official Code §§ 2-505 and 34-802,¹ hereby gives notice of its final rulemaking action adopting amendments to Chapter 29 (Renewable Energy Portfolio Standard) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations.

2. On August 13, 2021, the Commission published a Notice of Proposed Rulemaking (First NOPR)² in the *District of Columbia Register* proposing to amend Sections 2902, 2903, and 2999 of the Commission’s Renewable Energy Portfolio Standard (RPS) rules to generally require all renewable generating facilities, including behind-the-meter (BTM) generators with a capacity of less than ten kilowatts (10kW), to account for the electricity output through the use of a revenue-grade production meter or inverter-based production measurement equipment. On September 16, 2021, the Commission extended the comment period to October 13, 2021.³ On October 8, 2021, the Commission adopted changes to Section 2902.12 on an emergency basis to no longer permit amendments to solar energy system capacity or orientation to be deemed approved, and to require as-built construction drawings with applications seeking to amend a solar energy system’s capacity and/or orientation.⁴

3. Comments filed in response to the First NOPR primarily concerned the proposed change to Section 2903.2 that requires meter or production measurement equipment installation to previously installed solar photovoltaic systems. Many argued the significant cost to upgrade previously installed systems under 10kW would vastly outweigh the limited marginal benefit this requirement would have towards meeting the District’s climate goals. The Office of the People’s Counsel (OPC) in its comments raised an unrelated issue regarding the applicable standard to apply to solar thermal energy systems.⁵

¹ D.C. Code §§ 2-505 (2016 Repl.) and 34-802 (2019 Repl.).

² 68 *D.C. Reg.* 008076 (August 13, 2021).

³ *RM29-2021-01, In the Matter of 15 DCMR Chapter 29 — Renewable Energy Portfolio Standard* (“*RM29-2021-01*”), Order No. 21019, ¶ 1, rel. Sept. 16, 2021.

⁴ 68 *D.C. Reg.* 010605-010606 (October 8, 2021). Second Emergency Rulemaking published at 69 *D.C. Reg.* 000942 (February 4, 2022).

⁵ *RM29-2021-01*, Motion for Leave to File Comments Out-of-Time and Comments of the Office of the People’s Counsel for the District of Columbia regarding the Proposed Amendments to the Renewable Energy Portfolio Standard at 4, filed October 14, 2021.

4. After consideration of the comments filed in response to the First NOPR, the Commission issued a Second NOPR⁶, which, among other things, removed the Commission's proposed amendment to require previously installed solar photovoltaic systems less than 10kW to have a meter or production measurement equipment, but indicated such requirement would apply to newly installed systems. After fully considering the comments filed, the Commission by Order No. 21134 adopted the amendments as final on March 24, 2022. The amendments shall become final upon publication of this notice in the *District of Columbia Register*.

Chapter 29, RENEWABLE ENERGY PORTFOLIO STANDARD, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:

Section 2902, GENERATOR CERTIFICATION AND ELIGIBILITY, is amended as follows:

- 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 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 an OG-100 certification based on the most current adopted standard from the Solar Rating and Certification Corporation (SRCC), if applicable;
 - (f) Documentation that the energy output of 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 most current adopted 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

⁶ 69 D.C. Reg. 000733 (January 28, 2022).

used have an OG-100 certification based on the most current adopted standard from the SRCC, if applicable;

- (g) Documentation that the energy output of residential solar thermal energy systems is determined by the most current adopted 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 an OG-100 certification based on the most current adopted standard from the SRCC, if applicable;
- (h) Interconnection Approval for the renewable generator, if applicable; and
- (i) Documentation of site maps or construction drawings which identify the solar energy system's capacity, number of panels, tilt and azimuth, if applicable. These maps and/or drawings must include any as-built modifications, even if they are different from the site maps or construction drawings that were submitted to the Department of Consumer and Regulatory Affairs (DCRA), or the appropriate jurisdictional permitting authority.

2902.5 An applicant submitting an Application must attest to:

- (a) Environmental Compliance, if the fuel type is not solar energy;
- (b) General Compliance that all information contained in the Application is true and accurate;
- (c) General Compliance with all Commission rules; and
- (d) General Compliance, once certified, with production reporting requirements, terms of use, and the operating rules of the PJM Environmental Information Service GATS (PJM-EIS GATS).

...

2902.12 Upon approval of an application, the Commission shall assign a unique GATS certificate number to the eligible renewable energy generating resource.

- (a) The Commission shall 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, generating capacity, generating resource tilt and/or azimuth, and generator type.
- (b) A revised application or amendments shall 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.

- (c) Any application for change in a solar energy system’s orientation or system size shall include documentation of site maps or construction drawings which identify the system’s capacity, number of panels, tilt and azimuth. These maps and/or drawings shall include any as-built modifications, even if they are different from the site maps or construction drawings that were submitted to the DCRA, or the appropriate jurisdictional permitting authority.

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, gross negligence, or a material change in the nature of the resource. To make this determination, and to generally determine if renewable generators are in compliance with the RPS rules, the Commission or its authorized representative, may conduct a physical inspection or audit, as deemed appropriate, on any renewable generator to certify its production claims in the PJM-EIS GATS system. Before decertification, an owner of a renewable 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.

...

Section 2903, CREATION AND TRACKING OF RENEWABLE ENERGY CREDITS, is amended as follows:

2903.1 RECs shall be created and tracked through the PJM-EIS GATS.

2903.2 Behind-the-meter generators and CREFs shall submit to PJM-EIS GATS actual production data from a revenue-grade generation meter, or inverter-based revenue-grade generation measurement equipment. The reporting shall comply with the production reporting requirements, terms of use, and the operating rules of the PJM-EIS GATS. The RPS applicant shall provide accurate production data to PJM-EIS GATS or risk facing the actions outlined in sections 2902.13 and 2902.14. Behind-the-meter generators that are certified or were submitted to the Commission for certification before the effective date of this subsection and currently use engineering-based estimates in PJM-EIS GATS may continue using

estimates to report output. For solar thermal energy systems that do not generate electricity:

- (a) If the output is to be estimated, the Commission will provide PJM-EIS GATS 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 Production data from behind-the-meter generators and CREFs shall be recorded in GATS no less than semi-annually in order to be eligible for compliance. Estimated production shall not be allowed if the metering equipment fails. However, production data may be submitted after the equipment failure has been corrected and a full month of data has been accurately recorded.

...

Section 2999, DEFINITIONS, is amended as follows:

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

Azimuth – The angle between the horizontal direction of the sun and a reference to direction (North) of a solar panel. This direction is non-magnetic unless so specified.

...

Community Renewable Energy Facility or CREF – an energy facility with a capacity no greater than five (5) megawatts that: (a) uses renewable resources defined as a Tier One Renewable Source in accordance with Section 3(15) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005, (D.C. Law 15-340; D.C. Official Code § 34-1431(15) (2019 Repl.), as amended); (b) is located within the District of Columbia; (c) has at least two (2) Subscribers; and (d) has executed an Interconnection Agreement and a CREF Rider with the Electric Company.

...

Inverter-Based Revenue-Grade Generation Measurement Equipment –

Electrical inverter equipment, advanced inverters (upon commercial availability), or inverter communicating equipment—used by a behind-the-meter generator or CREF—that measures the generated electricity output at the inverter, is capable of recording the cumulative kilowatt-hours that the generator produces which meets the latest American National Standards Institute (ANSI) C-12.20 standard including an accuracy deviation no greater than +/- 0.5%, and that easily displays all collected data and retains lifetime production even in the event of a power outage.

...

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

Revenue-Grade Generation Meter – A meter used by a behind-the-meter generator or CREF that measures the generated electricity at the AC output of an inverter, is capable of recording the cumulative kilowatt-hours that the generator produces which meets the latest American National Standards Institute (ANSI) C-12.20 standard including an accuracy deviation no greater than +/- 0.5%, and that easily displays all collected data and retains lifetime production even in the event of a power outage.

...

Solar Thermal Energy System – a system that converts solar energy into useful thermal energy output, consistent with the definitions in this chapter.

...

Tilt – The vertical orientation to the sun of a solar panel in reference to level ground.