

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

**IN THE MATTER OF PUBLIC SERVICE COMPANY)
OF NEW MEXICO’S PETITION FOR)
DECLARATORY ORDER REGARDING THE)
PURCHASE OF RENEWABLE ENERGY)
CERTIFICATES FROM QUALIFYING FACILITIES)
)
PUBLIC SERVICE COMPANY OF NEW MEXICO,)
)
)
Petitioner)
)**

Case No. 05-00352-UT

**POST-HEARING REPLY BRIEF OF THE
COALITION FOR CLEAN AFFORDABLE ENERGY**

The Coalition for Clean Affordable Energy (“CCAЕ”) hereby submits its Reply Brief in this case. In this brief CCAЕ summarizes areas of agreement and areas of disagreement among the parties, and clarifies its position on the recommendations in Staff’s Brief-in-Chief.

Areas of Agreement Among the Parties

CCAЕ believes that the parties have expressed similar positions on many of the issues in this case. As articulated in several post-hearing briefs, the parties support many of Staff’s recommendations to the Commission, including:

- (1) that a utility has the discretion to acquire, or not to acquire, RECs from a QF from which it purchases energy under NMPRC Rule 17.9.570 NMAC;
- (2) it is reasonable and prudent for a public utility to pay value for RECs purchased to satisfy its RPS;
- (3) renewable energy consumed on-site by a QF is (or can be) energy “contracted for delivery” and thus usable to meet a utility’s renewable portfolio standard.

Areas of Disagreement Among the Parties

CCAIE is not in agreement with the following recommendations of Staff. In addition, other parties have expressed positions that are not in line with these Staff recommendations (in some cases there are disagreements over the italicized items in Staff's recommendations):

(2) it is reasonable and prudent for a public utility to pay value for RECs purchased to satisfy the RPS *only if it is a least cost option and the associated energy meets the requirement of the REA;*

(3) renewable energy consumed on-site by a QF is energy "contracted for delivery" and thus usable to meet a utility's renewable portfolio standard *only if it is the subject of a buy sell agreement;*

(5) the Commission should direct utilities to procure RECs principally to meet their RPS and to adopt strategies to minimize cost impacts on ratepayers

(6) RECs are obtained by a utility under the provision of the REA at the avoided cost calculated under the provisions of Rules 570 and 571.

As to issue (4), CCAIE agrees with Staff's position that the Legislature has authorized the Commission to approve incentives (RECs) that benefit existing owners of the customer-owned renewable energy systems. PNM and UNM are also in agreement on this issue; only EPE and SPS take a different position.

CCAIE's Disagreement with Staff's Position On Issues (2), (3), (5), and (6)

(2) It is reasonable and prudent for a public utility to pay value for RECs purchased to satisfy the RPS *if, it is a least cost option and the associated energy meets the requirement of the REA;*

Most parties support the first part of this recommendation, that utilities may acquire RECs to satisfy the RPS. However, CCAE believes that the REA and NMPRC Rule 572 adequately address the issues of cost, such as the Commission-approved Reasonable Cost Threshold (RCT). CCAE recommends that the Commission may determine, in annual utility procurement plans, that “it is reasonable and prudent for a public utility to pay value for RECs purchased to satisfy the RPS.” The latter portion of Staff’s recommendation is unnecessary, is unsupported by the record in this case, and potentially conflicts with existing provisions of Rule 572 and the Renewable Energy Act. *See* Rebuttal Testimony of Benjamin Luce at p.3, l.15, to p. 4, l.5.

(3) Renewable energy consumed on-site by a QF is energy “contracted for delivery” and thus usable to meet a utility’s renewable portfolio standard *if it is the subject of a buy sell agreement;*

CCAЕ disagrees with the need for a “buy-sell agreement” for the reasons put forth in its Post-Hearing Brief at p. 10. Staff’s recommendation to require a simultaneous buy-sell arrangement may be inconsistent with the provisions of Rules 570 and 571 and could cause undue hardship and costs for net-metered customers in New Mexico. CCAE recommends that the Commission find that renewable energy consumed on-site or delivered to the grid by a QF is energy “contracted for delivery” and thus usable to meet a utility’s RPS, if it is interconnected according to rules 570 or 571, and the total output of the renewable energy generation is measured either through a delivery meter to the grid or, in the case of net-metered systems, via an additional “RECs meter.”

(5) The Commission should direct utilities to procure RECs principally to meet their RPS and to adopt strategies to minimize cost impacts on ratepayers;

CCAIE disagrees with Staff's recommendation as it is inconsistent with the regional REC trading provisions authorized by the Renewable Energy Act. *See* Luce Rebuttal Testimony at p. 6. CCAIE recommends that the Commission should not broadly limit utility procurement of RECs. CCAIE also believes that the Reasonable Cost Threshold and other provisions adequately address the cost impacts on ratepayers.

(6) RECs are obtained by a utility under the provision of the REA at the avoided cost calculated under the provisions of Rules 570 and 571.

CCAIE disagrees with this recommendation for a variety of reasons. First, the record does not support this recommendation. Second, the Renewable Energy Act specifically allows the Commission to establish credit multipliers for different types of renewable resources, which allows utilities to pay different rates, including rates above avoided cost, for RECs and/or energy from different types of renewable energy technologies. Third, the avoided costs calculated under the provisions of Rules 570 and 571 only apply to the purchase of renewable energy under these rules. Should utilities wish to pay additional amounts for RECs from customer-owned systems, they would likely do so under the RCTs set by the Commission.

CCAЕ has recommended that the Commission consider establishing different RCTs for RECs, or RECs and energy combined.

Dated this 20th day of October, 2006.

Respectfully Submitted,

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