

**TITLE 17 PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 9 ELECTRIC SERVICES**  
**PART 572 RENEWABLE ENERGY FOR ELECTRIC UTILITIES**

**17.9.572.1 ISSUING AGENCY:** New Mexico Public Regulation Commission.

**17.9.572.2 SCOPE:** 17.9.572.1 through 17.9.572.17 NMAC apply to all electric public utilities; 17.5.9.1 through 17.9.572.6, and 17.9.572.18 NMAC apply to rural electric cooperatives.

**17.9.572.3 STATUTORY AUTHORITY:** Laws 2004, Chapter 65, Sections 7 and 9.

**17.9.572.4 DURATION:** Permanent.

**17.9.572.5 EFFECTIVE DATE:** January 1, 2005, unless a later date is cited at the end of a section.

**17.9.572.6 PURPOSE:** The purpose of this rule is to implement the Renewable Energy Act, Laws 2004, Chapter 65.

**17.9.572.7 DEFINITIONS:** In addition to the definitions in Laws 2004, Chapter 65, Section 3, as used in this rule:

**A. biomass** means fuels, such as agricultural or animal waste, small diameter timber, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico, landfill gas and anaerobically digested waste biomass; and

**B. procure** means to contract for the purchase of renewable energy for a period of at least ten (10) years.

**17.9.572.8 RENEWABLE PORTFOLIO STANDARD:**

**A.** A public utility must develop a least-cost energy portfolio appropriate to its suppliers and customers that meets the requirements of the Renewable Energy Act. Other factors being equal, a public utility shall give preference to renewable energy generated in New Mexico.

**B.** In determining the amount of the reduction specified in Section 4A(3) of the Renewable Energy Act, a public utility shall assume that electric rates in effect on the day of the procurement plan filing will be in effect for the year during which the procurement reduction will apply. A public utility with a fuel and purchased power cost adjustment clause (FPPCAC) shall also assume that FPPCAC charges to the customer during the year immediately preceding its procurement plan filing will be in effect, in identical amounts, during the year for which the procurement reduction will apply.

**C.** A public utility that, as of July 1, 2004, has an all-requirements contract that would not reasonably permit it to meet the renewable portfolio standard, may file with the commission no later than January 1, 2005 a petition for exemption from the renewable portfolio standard. The petition shall include a copy of the utility's all-requirements contract and testimony and exhibits demonstrating that the utility is unable, with due diligence, to procure or generate renewable energy needed to meet the renewable portfolio standard. The public utility shall serve the petition on staff, the attorney general, and all parties to the utility's last general rate case.

**17.9.572.9 REASONABLE COST THRESHOLD:** A public utility that believes its procurement or generation costs for renewable energy will exceed the reasonable cost threshold shall file a request for waiver of the renewable portfolio standard with the commission. The request shall explain in detail why the public utility cannot procure or generate renewable energy at a cost less than the reasonable cost threshold and shall include an explanation and evidence of all efforts the public utility undertook to procure or generate renewable energy at a cost within the reasonable cost threshold. Waiver requests shall also include a time period for which the waiver would apply. Waiver requests shall be deemed granted if not acted upon within sixty (60) days.

**17.9.572.10 COST RECOVERY FOR RENEWABLE ENERGY:** A public utility which is permitted to defer the recovery of its renewable energy costs pursuant to commission order may, through the ratemaking process, recover from customers the cumulative sum of those deferred limited amounts, plus carrying charges on those amounts, subject to the rate impact limitations of the Renewable Energy Act.

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**17.9.572.11 RENEWABLE ENERGY CERTIFICATES:**

**A.** A public utility that generates electricity from a renewable resource or purchases electricity generated from a renewable resource shall file with the commission for its prior approval a proposed form of renewable energy certificate to be used to document that renewable energy has been generated or purchased from a renewable energy resource connected to the western grid. The certificate shall contain:

(1) a unique alphanumeric identifier for each certificate comprised of the public utility's initials, the last 2 digits of the year in which the electricity was generated from renewable resources, and sequential numbers starting with the number 1;

(2) the public utility's name and address, and the telephone number and electronic mail address of a contact person;

(3) the dates and terms of each transaction involving either the certificate or the renewable energy;

(4) the quantity of renewable energy generated or purchased;

(5) the price of the renewable energy or certificate to the purchaser or transferee; and

(6) the type of renewable energy resource used to generate the renewable energy and its valuation pursuant to 17.9.572.12.

**B.** A public utility shall maintain records sufficient to meet the demonstration requirement in Section 5B(2) of the Renewable Energy Act.

**17.9.572.12 RENEWABLE ENERGY VALUATION:**

**A.** Each kilowatt-hour of electricity generated by wind or hydroelectric technologies, plants, or sources shall represent one (1) kilowatt-hour toward compliance with the renewable portfolio standard.

**B.** Each kilowatt-hour of electricity generated by biomass, geothermal, landfill gas, or fuel cell technologies, plants, or sources shall represent two (2) kilowatt-hours toward compliance with the renewable portfolio standard.

**C.** Each kilowatt-hour of electricity generated by solar technologies, plants or sources shall represent three (3) kilowatt-hours toward compliance with the renewable portfolio standard.

**17.9.572.13 VOLUNTARY RENEWABLE TARIFFS:**

**A.** A public utility shall offer a voluntary renewable energy tariff for those customers who want to purchase additional renewable energy. The tariff must set out any applicable conditions as to price, allocable costs of any interconnection or transmission costs, and the quantity and term of the agreement.

**B.** The voluntary renewable tariff may also include provisions to enable consumers to purchase renewable energy within certain energy blocks and by source of renewable energy. Additionally, each public utility must develop an educational program on the benefits and availability of its voluntary renewable energy program. The tariff, along with the details of the consumer educational program, shall be on file with the commission.

**17.9.572.14 ANNUAL PORTFOLIO PROCUREMENT PLAN:**

**A.** In addition to the matters required by Section 4D of the Renewable Energy Act, a public utility shall include in its annual portfolio procurement plan:

(1) its projected total amount of renewable energy needed to meet the requirement for the next calendar year of the renewable portfolio standard. That amount shall equal the amount of renewable energy the public utility plans to provide in the calendar year commencing 16 months later to satisfy the percentages specified in the Renewable Energy Act, less any reductions required by the act or this rule; and

(2) an explanation and exhibits demonstrating how the amount specified in Paragraph (1) of this subsection was determined.

**B.** A public utility shall provide notice and a copy of its annual portfolio procurement plan filing by first class mail to all interested persons, including renewable resource providers requesting such notice from the commission, the attorney general, and the intervenors in the public utility's most recent rate case. A public utility shall also post the plan on its website.

**17.9.572.15 CONTENTS OF ANNUAL PORTFOLIO REPORT:** The annual report on generation or purchases of renewable energy required by section 4D of the Renewable Energy Act shall:

**A.** itemize all renewable energy purchases and sales;

**B.** list, and include copies of, all renewable energy certificates;

C. state, for each purchase or sale of a renewable energy certificate, including those to be applied in future years:

- (1) the seller's name, address, telephone number, and electronic mail address;
- (2) the purchaser's name, address, telephone number, and electronic mail address;
- (3) the dates and terms of each transaction involving either the certificate or the renewable energy;
- (4) the quantity of renewable energy purchased or sold;
- (5) the purchase price;
- (6) the type of renewable energy resource used to generate the renewable energy and its valuation pursuant to 17.9.572.12; and

(7) other data useful to the commission in evaluating the public utility's efforts to acquire renewable energy at the lowest reasonable price consistent with reliability, availability, and portfolio requirements, including renewable resource diversity; and

D. describe and quantify the implementation of the voluntary renewable tariff requirements in 17.9.572.13 NMAC.

**17.9.572.16 EXEMPTION AND VARIANCE:** Any interested person may file an application for an exemption or a variance from the requirements of this rule. Such application shall:

- A. identify the section of this rule for which the exemption or variance is requested;
- B. describe the situation that necessitates the exemption or variance;
- C. set out the effect of complying with this rule on the public utility and its customers if the exemption or variance is not granted;
- D. describe the result the request will have if granted;
- E. state how the exemption or variance will achieve the purposes of this rule;
- F. state why no other reasonable alternative is available; and
- G. state why the proposed alternative is in the public interest and is a better alternative than that provided by this rule.

**17.9.572.17 COMPLAINTS:** Any interested person may file a complaint with the commission against any person who is alleged to be in violation of this rule or any public utility that allegedly refuses to negotiate in good faith regarding an offer of sale of renewable energy.

**17.9.572.18 RURAL ELECTRIC COOPERATIVES:** Rural electric cooperatives must offer a voluntary renewable energy tariff to the extent that their suppliers under their all-requirements contracts make such renewable resources available. Rural electric cooperatives must report to the commission by April 30 of each year concerning the availability to them of renewable energy and the annual demand for renewable energy pursuant to their voluntary tariff.

**HISTORY OF 17.9.572 NMAC:  
Pre-NMAC history.**

**History of repealed material.**