

STATE OF KANSAS
STATE CORPORATION COMMISSION

Notice of Public Hearing on Proposed Administrative Regulations

November 17, 2016

The State Corporation Commission will conduct a public hearing at 10:00 a.m. on Thursday, January 19, 2017, in the First Floor Hearing Room at the office of the State Corporation Commission, 1500 SW Arrowhead Road, Topeka, Kansas, to consider the adoption of proposed rules and regulations of the State Corporation Commission of the State of Kansas on a permanent basis.

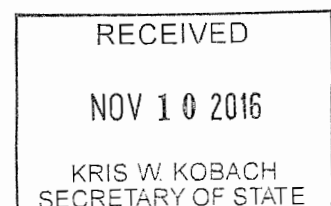
This notice exceeds the 60-day notice requirement of the pending public hearing and shall constitute the beginning of the public comment period for the purpose of receiving written public comments on the proposed rules and regulations. Copies of the regulations and associated economic impact statement may be obtained by contacting the Kansas Corporation Commission, Amber Smith, 1500 SW Arrowhead Road, Topeka, Kansas 66604 or (785) 271-3301, a.smith@kcc.ks.gov or by accessing the Commission's website at <http://www.kcc.ks.gov>. All interested parties may submit written comments prior to the hearing one of the following ways:

1. Click the "Your Opinion Matters" link on the home page of the KCC website. You will see a list of current matters open for public comment. Find the matter on which you wish to comment and select the "Submit a public comment" link underneath the description.
2. Send a written letter to the Kansas Corporation Commission, Office of Public Affairs and Consumer Protection, 1500 SW Arrowhead Road, Topeka, Kansas 66604-4027. Be sure to reference Docket No. 16-GIME-258-GIE.
3. Call the Commission's Public Affairs office at 1-800-662-0027 or (785) 271-3140.

When submitting your comment, please be mindful that all information submitted will be accessible on the KCC website for public viewing.

(Note: Public comment periods for proposed rules and regulations end at the conclusion of the public hearing. Public comments are made part of the record, considered by the Commission, while the proposal is pending and maintained for a minimum of three (3) years after the date of adoption.)

All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. To provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five (5) minutes.



Any individuals needing accommodations to participate in the public hearing should contact Gerrie Lippert at (785) 271-3289 or the Kansas Relay Center at 1-800-766-3777, at least five (5) working days before the hearing. Accommodations include providing the proposed regulations and economic impact statement in accessible formats. The main entrance located on the southwest side of the building is handicapped accessible. Accessible parking is located in the southwest side of the State Corporation Commission parking lot.

The proposed regulations as described below are necessary to update the existing Article 16 – Electric Utility Renewable Energy Standards to comport with recent changes to the Renewable Energy Standards Act.

The proposed regulations were drafted in consultation with interested stakeholders for the administration of the Renewable Energy Standards Act. Because there is no economic impact directly attributable to these proposed regulations, there is no less costly alternative to address this issue.

The implementation of these regulations does not create any direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

Summaries of the proposed regulations and the economic impact for each are as follows:

K.A.R. 82-16-1

The existing regulation defines the terms used in Article 16 – Electric Utility Renewable Energy Standards. The proposed amendments to this regulation include updates to definitions and citations to comport with amendments to Kansas' Renewable Energy Standards Act.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to this existing regulation.

K.A.R. 82-16-2

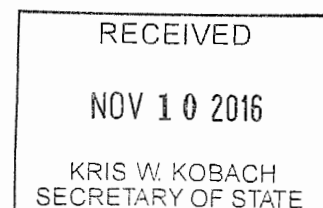
This existing regulation establishes the information to be reported to the Kansas Corporation Commission. The proposed amendments to this regulation include modification of the information to be reported following amendments to Kansas' Renewable Energy Standards Act.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to this existing regulation.

K.A.R. 82-16-3

This existing regulation sets out penalties against utilities for noncompliance. The proposed amendments to this regulation revoke this regulation as penalties for noncompliance are no longer contemplated following amendments to Kansas' Renewable Energy Standards Act.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to this existing regulation.



K.A.R. 82-16-4

The existing regulation provides for the calculation of the retail revenue requirement attributable to attainment of the renewable energy goal. The proposed amendments to this regulation include updates to the calculation following amendments to Kansas' Renewable Energy Standards Act .

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to this existing regulation.

K.A.R. 82-16-5

The existing regulation sets out the instructions for a utility to obtain certification from the Commission relevant to renewable energy resources. The proposed amendments to this regulation revokes the regulation as such certification is no longer required following amendments to Kansas' Renewable Energy Standards Act.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to this existing regulation.

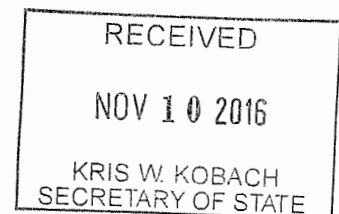
K.A.R. 82-16-6

The existing regulation describes the renewable energy credit program. The proposed amendments to this regulation include removal of provisions relevant to a mandatory standard following amendments to Kansas' Renewable Energy Standards Act.

The Commission does not anticipate an economic impact resulting from the adoption of the proposed edits to this existing regulation.

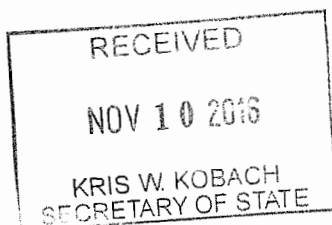
Respectfully,

Amy Green
Secretary to the Commission



82-16-1. Definitions. As used in these regulations, the following definitions shall apply:

- (a) "Act" means the renewable energy standards act (RESA), K.S.A. 66-1256 through ~~66-1262~~, 66-1257, and 66-1259 and amendments thereto.
- (b) "Auxiliary power" has the meaning assigned to "station power" in K.S.A. 66-1,170(~~4~~), and amendments thereto.
- (c) "Capacity from generation" means the net capacity of renewable ~~generation~~ energy resources owned or leased by a utility. Net capacity is the gross capacity minus auxiliary power required to operate the resource as determined in a test conducted as soon as possible after commercial operation begins. This test shall reflect operation of the resource over a four-hour period under conditions that do not limit performance due to ambient conditions, equipment, or operating or regulatory restrictions. The determination for a multiunit resource, including a wind farm, may be made through tests for a representative sample of at least 10% of the units. If the tests specified in this subsection are not practicable, the nameplate capacity of the resource minus the associated auxiliary power may be used as the net capacity unless there are factors that would prevent the resource from achieving nameplate capacity, other than ambient conditions, equipment, or operating or regulatory restrictions.
- (d) "Capacity from net metering systems" means the rated generating capacity of systems interconnected with a utility pursuant to the net metering and easy connection act, K.S.A. 66-1263 et seq., and amendments thereto.



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OCT 18 2016

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OCT 18 2016

DEPT. OF ADMINISTRATION

(e) "Capacity from purchased energy" means the capacity associated with energy purchased by a utility from renewable energy resources. ~~If the purchase is pursuant to a long-term contract of 10 years or more,~~ The capacity from purchased energy shall be the nameplate capacity of the resource minus auxiliary power, adjusted as appropriate to reflect the utility's share of the output of the resource. ~~Otherwise, the capacity from purchased energy shall be determined in the same manner as that used to calculate the capacity from RECs.~~

(f) "Capacity from RECs" means the capacity associated with the purchase of renewable energy ~~credit credits~~. For each source of RECs, this capacity shall be determined by ~~applying to the REC purchases the actual capacity factor of a utility's own renewable generation from the prior calendar year~~ according to the following formulas:

$$\text{Capacity (MWs)} = \frac{\text{Energy (MWhs) RECs}}{\text{Capacity Factor} \times 8760 \text{ hours}}$$

$$\text{Capacity Factor}_i = \frac{12}{n} \sum_{t=1}^n \frac{E_{i,t}}{8760 \times C_{i,t}}$$

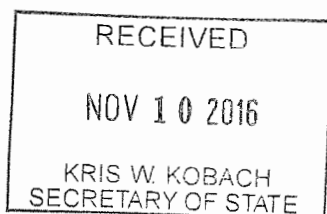
where

i = the individual renewable generation facility (source of the RECs)

n = the number of months the facility has been in operation over the past 24 months, with

n representing at least 12 months

$E_{i,t}$ = the total energy output (MWh) by renewable generation facility i during compliance period t



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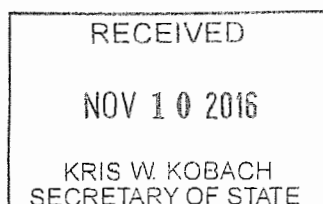
$C_{i,t}$ = the average total generator capacity (MW) by renewable generation facility i during compliance period t

The capacity factor shall be calculated for the source of the RECs, if possible. If the utility is unable to calculate the capacity factor for the source of the RECs, the actual capacity factor shall be that of the capacity factor of the utility's own renewable generation from the prior calendar year for the same or similar type of resource as the source of the REC RECs, if known. If the utility has multiple installations of the same or similar type of resource, the capacity factor shall be the average of the facilities. If the utility did not have ~~this~~ the same or similar type of resource as the source of the REC RECs or if the source is unknown, the overall capacity factor of ~~its~~ the utility's total renewable generation shall be used. In the absence of renewable resource generation, a default capacity factor of 34% shall be used.

(g) "Data year" means the calendar year that occurred before the due date of the utility's report to the commission specified in K.A.R. 82-16-2.

(h) "Electric distribution cooperative" means a cooperative as defined by K.S.A. 17-4603, and amendments thereto, that is engaged in the retail sale and distribution of electricity and does not own or operate any generation or wholesale transmission facilities within the state of Kansas.

~~(h)~~(i) "Electric utility" and "utility" mean any "affected utility," as defined by K.S.A. 66-1257 and amendments thereto.



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OCT 18 2016

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DEPT. OF ADMINISTRATION

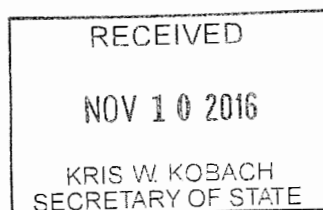
(i) “Generation and transmission cooperative” means a cooperative as defined by K.S.A. 17-4603, and amendments thereto, that does not engage in the retail distribution and sale of electricity and operates generation facilities and transmission facilities solely for the wholesale distribution and sale of electricity.

(k) “Nameplate capacity” means the maximum rated output of a generator under specific conditions designated by the manufacturer, generally indicated in units of kilovolt-amperes (kVA) and in kilowatts (kW) on a nameplate attached to the generator.

(l) “REC” means “renewable energy credit,” as defined in K.S.A. 66-1257 and amendments thereto which means a credit representing energy produced by renewable energy resources and issued as part of a program that has been approved by the commission. For purposes of these regulations, this term is reflected on a certificate representing the attributes associated with one megawatt-hour (MWh) of energy generated by a renewable energy resource that is located in Kansas or serves ratepayers in the state.

(m) “Renewable energy resources” has the meaning specified in K.S.A. 66-1257, and amendments thereto. For the purposes of K.S.A. ~~66-1257(f)(9)(A)~~ 66-1257(d)(9)(A) and (B) and amendments thereto, the following shall apply:

- (1) “Existing hydropower” shall mean hydropower that existed on or before May 27, 2009.
- (2) “New hydropower” shall mean hydropower that existed after May 27, 2009.



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OCT 18 2016

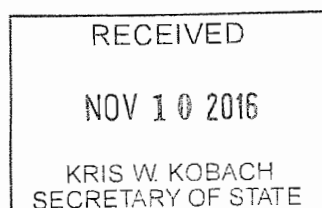
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DEPT. OF ADMINISTRATION

(m)(n) "Renewable energy standards goal" means the standards goal established by K.S.A. 66-1256 through ~~66-1262~~, and amendments thereto, for energy and energy portfolios of each utility subject to the provisions of the act. (Authorized by ~~and~~ K.S.A. 2016 Supp. 66-106; implementing K.S.A. ~~2009~~ 2016 Supp. 66-1261 66-1257 and 66-1259; effective Nov. 19, 2010; amended P-_____.)



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OCT 18 2016

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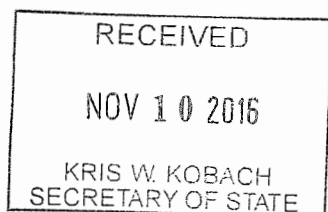
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DEPT. OF ADMINISTRATION

82-16-2. Renewable energy standards goal and report. (a) ~~Each~~ Any utility shall ~~meet~~ may ~~attain~~ the ~~portfolio requirement~~ renewable energy goal in K.S.A. ~~66-1258~~ 66-1256, and amendments thereto, by maintaining a portfolio of renewable capacity from generation, purchased energy, RECs, or net metering systems.

(b) Each utility planning to seek commission approval for recovery of reasonable costs incurred under RESA and either related to the previous mandatory requirement or due to attaining the renewable energy goal, pursuant to K.S.A. 66-1259 and amendments thereto, shall submit a report to the commission detailing that utility's ~~compliance with the portfolio standards established by the act~~ efforts related to attainment of the renewable energy goal. A generation and transmission cooperative may submit a collective report on behalf of the electric distribution cooperatives it represents. If this collective report is submitted, the electric distribution cooperatives shall not be required to file their own reports as required by this subsection. The report shall specify the renewable generation that has been put into service or the portion of the utility's portfolio of renewable generation resources served from purchased energy, RECs, or net metering systems on or before ~~July 1~~ December 31 of each ~~calendar~~ data year. ~~The first report shall be due on or before August 1, 2011 for the year 2011.~~ An annual report shall be due on or before ~~August 1~~ March 31 of each subsequent year. Each report shall contain the following information:

(1) A description of each type of renewable energy resource that ~~has been~~ was purchased or put into service on or before ~~July 1~~ December 31 of ~~that year, along with a narrative supporting the rationale for selecting the capacity resource;~~



ATTORNEY GENERAL

OCT 18 2016

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MAY 05 2016

DEPT. OF ADMINISTRATION

(2) ~~a description of each renewable energy resource that was in operation the~~
~~previous calendar year~~ the data year, including type, location, owner, operator, date of
commencement of operations, nameplate capacity, and for the ~~previous calendar year~~ data year,
the monthly capacity factor, monthly availability factor, and monthly ~~amount~~ and annual
amounts of energy generated;

(2) a narrative supporting the rationale for selecting each capacity resource that was
purchased or put into service and each purchased power contract that was executed during the
data year;

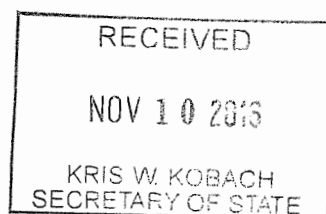
(3) a description of the utility's plans for ~~meeting~~ attaining the renewable energy
~~standard requirements~~ goal for the ~~next~~ current calendar year, including the utility's assessment
of the expected impact to revenue requirements and ~~any limitations that the one percent revenue~~
~~requirement cap could impose on the utility's ability to comply with these regulations~~;

(4) the Kansas retail one-hour peak demand for each of the ~~previous~~ three calendar
years before the data year and the average for these three years, with supporting data and
calculations if the demand differs from the information reported on the federal energy regulatory
commission's FERC form 1. Each electric distribution cooperative that does not file FERC form
1 with the commission shall file a Kansas electric cooperative utility annual report with the
commission;

(5) the amount of renewable energy capacity that will qualify as a portion of the
year's peak demand as calculated pursuant to paragraph (b)(4), broken down by capacity from
generation, purchased energy, RECs, and net metering systems;

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OCT 18 2016

MAY 05 2016

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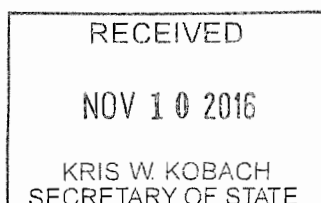
DEPT. OF ADMINISTRATION

(6) the renewable energy capacity identified in paragraph (b)(5) from a facility constructed in Kansas after January 1, 2000; and

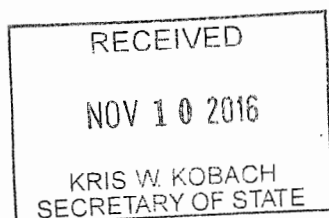
(7) total retail energy sales, as measured in kilowatt-hours (kWh), in Kansas for the data year. ~~if capacity from RECs is identified and necessary to meet the act's portfolio requirements in years other than 2011, 2016, and 2020, information on why the utility was unable to or did not acquire other renewable energy resources to meet the requirements;~~

(8) ~~the calculated percentage increase in the utility's revenue requirements and retail utility rates that would be caused by compliance with the act's portfolio requirement for the year, as determined pursuant to K.A.R. 82-16-4. Supporting documentation for the determination shall be included with the report; and~~

(9) ~~if the utility does not meet the act's portfolio requirement of renewable energy resources for 2011 or 2012, evidence of good faith efforts to comply with the portfolio requirements for 2011 or 2012, evidence of mitigating circumstances, and information regarding the factors specified in subsection (b) of K.A.R. 82-16-3. (Authorized by K.S.A. 2009 2016 Supp. 66-1261 66-106; implementing K.S.A. 2009 2016 Supp. 66-1258 and 66-1261 66-1259; effective Nov. 19, 2010; amended P-_____.)~~



82-16-3. (Authorized by and implementing K.S.A. 2009 Supp. 66-1261; effective Nov. 19, 2010; revoked P-_____.)



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OCT 18 2016

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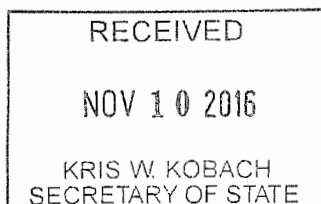
DEPT. OF ADMINISTRATION

82-16-4. Retail revenue requirement. The retail revenue requirement attributable to ~~compliance~~ with attainment of the renewable energy standards requirement goal shall be calculated as follows for each utility:

(a) In conjunction with the reports required by K.A.R. 82-16-2, each affected utility shall ~~file a separate~~ calculate the retail revenue requirement calculation for each new capacity resource, ~~whether renewable or nonrenewable, added during the year and also for renewable resources that were not added but were required used to meet attain the portfolio requirement of the act~~ renewable energy goal. A capacity resource may result from new generation resources, purchased energy, RECs, or net metering systems. ~~For purposes of complying with the act,~~ “retail rate impact” shall mean the retail revenue requirement resulting from the determination of the retail revenue requirement specified in this regulation.

(b) Each determination of the retail revenue requirement shall reflect the total revenues required to allow the utility the opportunity to do the following:

- (1) Earn a return on rate base items;
- (2) earn a return on plant investments through depreciation;
- (3) recover taxes other than income taxes;
- (4) recover fuel and purchased power costs, including incremental fuel expense resulting from the inefficient dispatch of power generation if this expense is known;
- (5) recover operating and maintenance costs;
- (6) recover administrative and general expenses; and
- (7) recover income taxes, including current deferred income taxes.



ATTORNEY GENERAL

OCT 18 2016

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MAY 05 2016

DEPT. OF ADMINISTRATION

(c) In order to calculate a return on rate base items, each utility shall use the overall rate of return authorized by the commission from its last litigated rate case or specified in a stipulation and agreement authorized by the commission. If an overall rate of return was not specified in a utility's last rate case, then the average of the utility's proposed rate of return and the rate of return proposed by commission staff shall be used.

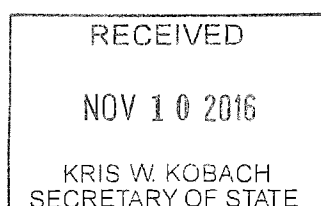
~~(d) The determination of the percentage increase to a utility's total retail revenue requirement shall consist of two separate calculations.~~

~~(1) The first calculation shall include the results from the addition of renewable capacity resources and shall be calculated as follows:~~

~~(A) The cumulative retail revenue requirement for all renewable capacity resources added during the year shall be the numerator.~~

~~(B) The cumulative retail revenue requirement for all nonrenewable capacity resources added during the year shall be added to the total retail revenues authorized by the commission in the utility's last rate case. The total retail revenues resulting from a utility's last rate case shall consist of all commission authorized revenues used to determine base rates as well as all retail revenues recovered through any riders, surcharges, and other mechanisms. The cumulative amount of the retail revenues associated with nonrenewable capacity resources added during the year and the total retail revenues authorized by the commission in the utility's last rate case shall be the denominator.~~

~~(C) The numerator divided by the denominator shall result in the percentage increase to a utility's total retail revenue requirement resulting from the addition of renewable capacity~~



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OCT 18 2016

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MAY 05 2016

DEPT. OF ADMINISTRATION

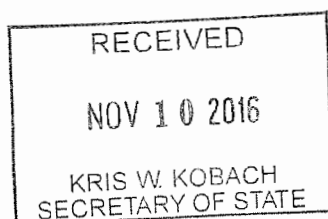
resources.

(2) ~~The second calculation shall include the results from the addition of renewable capacity resources added during the year and renewable energy resources that were not added but were required to meet the portfolio requirement of the act. The basis for the costs of resources not added shall be specified, including whether the costs come from responses to a request for proposal, negotiations, or any other process. The calculation shall be made as follows:~~

(A) ~~The cumulative retail revenue requirement for all renewable capacity resources added during the year and renewable resources that were not added but were required to meet the portfolio requirement shall be the numerator.~~

(B) ~~The cumulative retail revenue requirement for all nonrenewable capacity resources added during the year shall be added to the total retail revenues authorized by the commission in the utility's last rate case. The total retail revenues resulting from a utility's last rate case shall consist of all commission authorized revenues used to determine base rates as well as all retail revenues recovered through any riders, surcharges, and other mechanisms. The cumulative amount of the retail revenues associated with nonrenewable capacity resources added during the year and the total retail revenues authorized by the commission in the utility's last rate case shall be the denominator.~~

(C) ~~The numerator divided by the denominator shall result in the percentage increase to a utility's total retail revenue requirement resulting from the addition of renewable capacity resources.~~ (Authorized by K.S.A. 2009 2016 Supp. 66-1261 66-106; implementing K.S.A. 2009 2016 Supp. 66-1259 and 66-1260; effective Nov. 19, 2010; amended P-_____.)



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OCT 18 2016

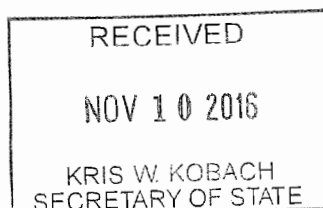
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OCT 18 2016

DEPT. OF ADMINISTRATION

82-16-5. (Authorized by K.S.A. 2009 Supp. 66-1261; implementing K.S.A. 2009 Supp. 66-1257 and 66-1262; effective Nov. 19, 2010; revoked P-_____.)



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OCT 18 2016

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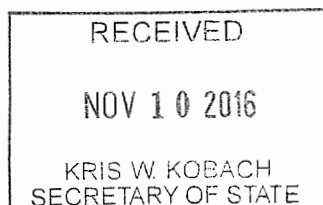
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82-16-6. Renewable energy credit program. (a) Renewable energy credits intended to be used to meet the portfolio requirements in K.S.A. 66-1258, and amendments thereto, shall be issued and used as part of a REC program either established or approved by the commission. Each application for approval of any program not approved by the commission in any prior year shall be submitted on or before January 1 of the calendar year in which the RECs are proposed to be included in the portfolio.

(b) Any utility may purchase or sell RECs without commission approval. However, each renewable energy credit shall be counted only once. A REC or any attributes associated with renewable energy generation sold by a utility or intended for any purpose other than attainment of the renewable energy goal shall not be included in the portfolio of the utility that sold the renewable energy credit. No utility shall include any REC in its portfolio that is included in the portfolio of any other utility, whether or not the utility is subject to the provisions of the act. Therefore, utilities and customer generators shall not create, register, or sell RECs from energy produced from generation, purchased energy, or net metering system capacity if the energy is used by a utility to comply with the portfolio requirements of the act. For capacity that is only partially used for compliance, RECs may be created, registered, and sold for the pro rata portion of the energy produced by the unused portion of the resource applied toward attainment of the renewable energy goal.



ATTORNEY GENERAL

OCT 18 2016

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MAY 05 2016

DEPT. OF ADMINISTRATION

(c) For purposes ~~the purpose~~ of complying with the act, any REC may be used only ~~once~~. RESA, unused RECs shall remain valid for up to two years from the ~~date that~~ end of the calendar year in which the associated electricity is was generated and shall be permanently retired ~~at the end of two years or when used for compliance, whichever is earlier~~. A utility shall ~~not sell RECs or the attributes associated with renewable energy generation or purchased energy used to comply with the requirements of the act to the utility's customers under a voluntary program established to let certain customers pay different rates to cover the cost of renewable energy, which is sometimes referred to as a "green pricing" program~~ attainment of the renewable energy goal prescribed by the act. To the extent that RECs ~~from the renewable energy resources or attributes associated with renewable energy generation~~ are sold ~~to customers~~ or used for any purpose other than attainment of the renewable energy goal, the utilities shall reduce the capacity used ~~to comply with the act~~ for attainment of the renewable energy goal according to the formula specified in this subsection. ~~Each utility shall retire any RECs sold under such a program.~~

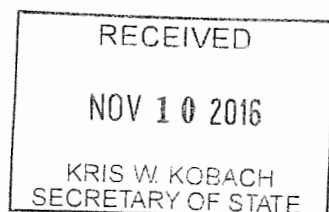
Total Renewable Capacity for ~~Compliance~~ Voluntary Attainment = $TRC - C_{GP\ OP}$

where

$$C_{GP\ OP} = \frac{E_{GP\ OP}}{CF \times 8760}$$

TRC = total renewable capacity

$C_{GP\ OP}$ = renewable capacity used for green pricing sold or used for any other purpose than attainment of the renewable energy goal



ATTORNEY GENERAL

OCT 18 2016

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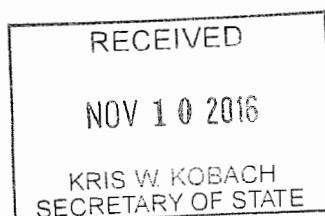
MAY 05 2016

DEPT. OF ADMINISTRATION

E_{GPO} = energy from RECs or renewable energy attributes sold for green pricing or used for any other purpose than attainment of the renewable energy goal

CF = capacity factor for source of ~~the energy sold as green energy~~ E_{OP}

(d) Each REC created, sold, or purchased by any Kansas utility shall be reported in an approved registry that documents and verifies attributes and other compliance conditions as well as tracks the creation, sale, retirement, and other transactions regarding the REC to prevent double counting and misuse, in accordance with these regulations and commission direction. (Authorized by ~~and implementing~~ K.S.A. 2009 2016 Supp. ~~66-1258~~ 66-106; implementing K.S.A. 2016 Supp. 66-1259; effective Nov. 19, 2010; amended P-_____.)



ATTORNEY GENERAL

OCT 18 2016

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OCT 18 2016

DEPT. OF ADMINISTRATION

**KANSAS CORPORATION COMMISSION
ECONOMIC IMPACT STATEMENT**

**K.A.R. 82-16-1, K.A.R. 82-16-2, K.A.R. 82-16-3, K.A.R. 82-16-4, K.A.R. 82-16-5, and
K.A.R. 82-16-6**

I. Summary of Proposed Regulation(s), Including Purpose

These proposed amendments to the existing regulations provide guidance for the administration of the Renewable Energy Standards Act, K.S.A. 66-1256, 66-1257, and 66-1259.

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or not the Regulation is Mandated by Federal Law

These proposed regulations are necessary to update the existing Article 16 regulations to comport with recent changes to the Renewable Energy Standards Act. These regulations are not mandated by federal law.

III. Anticipated Economic Impact

There is no anticipated economic impact relative to the implementation of these proposed regulations. These regulations are necessary for the administration of the Renewable Energy Standards Act, and there are not any notable additional costs on the agency or other affected persons beyond that of the Renewable Energy Standards Act itself.

IV. Description of Less Costly Methods Considered Addressing this Issue

The proposed regulations were drafted in consultation with interested stakeholders for the administration of the Renewable Energy Standards Act. Because there is no economic impact directly attributable to these proposed regulations, there is no less costly alternative to address this issue.

V. Environmental Benefit Statement

The implementation of these regulations does not create any direct environmental benefit on the industry, agency, other governmental agencies, or the general public.

