



STATE OF CONNECTICUT

PUBLIC UTILITIES REGULATORY AUTHORITY

November 7, 2022

In reply, please refer to:

Docket No. 19-10-26

LRRC Regulation No. 2022-10

eRegulations System Tracking

Number: PR2021-006

The Honorable James J. Maroney, Co-Chairperson
The Honorable Nicole Klarides-Ditria, Co-Chairperson
Legislative Regulation Review Committee
State Capitol, Room 011
Hartford, Connecticut 06106

Re: Docket No. 19-10-26, Regulations for Renewable Portfolio Standards
LRRC Regulation No. 2022-10
eRegulations Tracking No. PR PR2021-006

Dear Senator Maroney, Representative Klarides-Ditria and Members of the Committee:

Pursuant to Section 4-170 of the General Statutes of Connecticut (Conn. Gen. Stat.), the Public Utilities Regulatory Authority (Authority or PURA) resubmits for the consideration and approval of the Legislative Regulation Review Committee (LRRC) the proposal to amend regulations concerning renewable portfolio standards (RPS). This resubmission addresses substantive concerns and technical corrections identified by the Legislative Commissioners' Office in its memorandum dated September 15, 2022, as accepted by the LRRC at its September meeting. The attached document explains the Authority's response to those concerns and shows the language that was updated since the last submission to the LRRC. The Office of the Attorney General approved the updated version of the proposed regulation (Proposed Regulation) as legally sufficient on November 2, 2022.

As you may recall, the Proposed Regulation amends existing regulations that implement Conn. Gen. Stat. § 16-245a. Specifically, the Proposed Regulation amends § 16-245-1 of the Regulations of Connecticut State Agencies (Conn. Agencies Reg.) by adding terms to the list of definitions in that section, including the definitions of "Class III sources" and "total output or services." The Proposed Regulation also amends Conn. Agencies Reg. § 16-245a-1 to:

- (1) reflect changes made to Conn. Gen. Stat. § 16-245a pursuant to Public Act 17-186, An Act Concerning Renewable Portfolio Standard Compliance Requirements (Public Act 17-186). Public Act 17-186 amended Conn. Gen. Stat. § 16-245a by eliminating the provisions that allowed electric distribution companies (EDCs) and electric suppliers to make up a deficiency in an annual RPS obligation in the first

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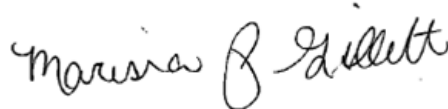
three months of the following calendar year. To effectuate this change, subsection (d) was deleted;

- (2) require that EDCs and electric suppliers be responsible for independently managing their New England Power Pool (NEPOOL) generation information system (GIS) renewable energy certificate (REC) accounts and prohibiting the Authority from accepting or reviewing requests from EDCs and electric suppliers to reallocate RECs into or out of their NEPOOL GIS accounts or subaccounts;
- (3) require electric suppliers to maintain a security with the Authority to cover the shortfalls in situations where electric suppliers amass large RPS obligations and file for bankruptcy or leave the market without meeting those RPS obligations;
- (4) require EDCs to provide final load settlement data to the Authority and electric suppliers on or before the date published by PURA in its annual notice of the renewable energy portfolio compliance docket, which electric suppliers will use to determine RPS obligations; and
- (5) remove subsection (f) regarding renewable energy trading program emissions attributes, as it is not needed. All RECs are required to go through NEPOOL GIS, which determines ownership of such RECs, and all RPS obligations are required to be based exclusively on RECs issued by NEPOOL GIS.

Thank you for your attention to this matter. If you have any questions or require additional information, please contact Kathryn Keenan, Staff Attorney, at (860) 827-2823 or kathryn.keenan@ct.gov.

Sincerely,

PUBLIC UTILITIES REGULATORY AUTHORITY



Marissa P. Gillett, Chairman

Attachment

cc: service list

ATTACHMENT

Responses to the Legislative Commissioners' Office Report on LRRC Regulation No. 2022-10 eRegulations System Tracking No. PR2021-006

A. Substantive Concerns:

1. On page 2, section 16-245a-1(a) requires electric suppliers to submit to the Authority an annual report demonstrating compliance with the renewable energy portfolio standard requirements "and any other applicable law". A similar provision as to electric distribution companies appears on page 4, in subsection (e) of said section. It is unclear what laws the Authority may deem "applicable", and thus electric suppliers and electric distribution companies may not be aware of the laws with which they need to demonstrate compliance. This should be clarified.

To address this concern, the Public Utilities Regulatory Authority (Authority) added the word "in" before "any other applicable law" to clarify that the other applicable law is a law applicable to renewable portfolio standards. Accordingly, the first sentence of section 16-245a-1(a) now states: "...annual report is required to demonstrate the electric supplier's compliance with renewable portfolio standards set forth in Conn. Gen. Stat. §§ 15-245a and 16-245q and in any other applicable law, ..."

2. On page 3, section 16-245a-1(b) sets forth a means of measuring forecast load year, for purposes of calculating the renewable energy portfolio standards security an electric supplier is required to maintain with the Authority. Said subsection, however, also provides an exception allowing the Authority to determine "for good cause shown" that forecast load year should be measured differently. This provision is ambiguous, and examples of what would constitute "good cause" and under what circumstances an electric supplier would need to maintain a different amount of security should be added to resolve such ambiguity.

To address this concern, the Authority removed the sentence authorizing it to measure the forecast year load differently "for good cause shown" and added language that requires the electric supplier's forecast year load to be the full load served by the electric supplier during the previous calendar year, as adjusted to account for changes in the type or quantity of customers to be served in the forecast year. Therefore, if, for example, an electric supplier who previously only served residential customers will serve commercial customers in the forecast year, in addition to the residential customers it currently serves, the electric supplier is required to adjust the full load served by it during the previous calendar year to reflect the change in the type and quantity of customers to be served in the forecast year.

3. On pages 4 and 5, in section 16-245a-1(g), existing language allows electric distribution companies and electric suppliers to bank renewable energy certificates as of right. However, the proposed regulation amends that language to state that "[t]he Authority may permit" such banking. There appears to be no articulated standards for a determination by the Authority of whether to permit such banking. Accordingly, uneven granting of such permission may result, and this should be addressed.

To address this concern, the Authority is no longer amending the existing language and is instead keeping the existing language.

Further, subsection (g) provides for banking of renewable energy certificates in the amounts subsequently set forth. However, said subsection also states that "[i]f the Authority, after conducting a proceeding, determines it is in the public interest, it may increase or reduce the amount of allowable banking . . . in future compliance years or terminate banking altogether." First, it is unclear what type of process is contemplated by the phrase "a proceeding", and this should be clarified. Second, such a provision would seem to allow the Authority to modify the amounts indicated in subdivisions (1) through (5) of said subsection without formally amending its regulations in accordance with the Uniform Administrative Procedure Act, which appears to be beyond the scope of the statutory authorization for such regulations.

To address this concern, the Authority has removed this provision.

B. Technical Corrections:

1. The pages of the proposed regulation should be numbered sequentially, for proper form.

The Authority made this change as requested.

2. Throughout the proposed regulation, the terms "renewable energy portfolio standards", "renewable portfolio standards", "renewable portfolio standard requirements", "renewable energy portfolio standard requirements" and "renewable energy portfolio standard obligation" are used. To the extent these terms refer to the same thing, one such term should be used, for consistency.

The Authority made this change as requested. Accordingly, the term "renewable energy portfolio standards" is used throughout.

3. On page 1, above the catchline for section 16-245-1, the following should be inserted as introductory language, for proper form: "Section 1. Section 16-245-1 of the Regulations of Connecticut State Agencies is amended to read as follows:"

The Authority made this change as requested.

4. On page 1, in section 16-245-1(1), "sections 16-245(k) and 16-244c(h)(1)" should be "section 16-245(k) or 16-244c(h)(1)", for accuracy.

The Authority made this change as requested.

5. On page 1, in section 16-245-1(4), in the first line, the space between "source" and the closing quotation mark should be deleted, for proper form. Also, in the second line, the space between "Source" and the closing quotation mark should be deleted, for proper form.

The Authority made this change as requested.

6. On page 1, in section 16-245-1(6), the second instance of "of the Connecticut" should be "General Statutes", for accuracy.

The Authority made this change as requested.

7. On page 2, above the catchline for section 16-245-1a, the following should be inserted as introductory language, for proper form: "Sec. 2. Section 16-245-1a of the Regulations of Connecticut State Agencies is amended to read as follows:"

The Authority made this change as requested.

8. On page 2, in section 16-245a-1(a), in the second line, "supplier" should be "supplier", to accurately reflect the text of the existing regulation; in the fourth line, "its" should be "[its] such electric supplier's", for clarity; in the tenth line, "the" should be inserted before "NEPOOL GIS", for consistency; and in the eleventh line, "or not" should be deleted as unnecessary.

The Authority made these changes as requested.

9. On page 2, in section 16-245a-1(a)(5), "percent" should be "per cent", for consistency. This same change should be made on page 4, in subsection (e)(5) of said section.

The Authority made these changes as requested.

10. On page 2, section 16-245a-1(a)(8) should be rewritten as follows, for clarity: "(8) An attestation that the electric supplier is in compliance with the requirement in subsection (b) of this section to maintain a security, except that no such attestation shall be necessary for any such electric supplier exempt from such requirement pursuant to subdivision (5) of said subsection; and"

The Authority made this change as requested.

11. On page 3, in section 16-245a-1(a)(9), the period should not be underlined, for proper form.

The Authority made this change as requested.

12. On page 3, in section 16-245a-1(b), the period at the end of the subsection catchline should be bolded, for consistency. This same change should be made in subsections (c) and (d) of said section.

The Authority made these changes as requested.

13. On page 3, in section 16-245a-1(b)(1), in the tenth line, "twenty five" should be "twenty-five", for proper form.

The Authority made this change as requested.

14. On page 3, in section 16-245a-1(b)(1)(C), in the fourth line, "sections" should be "section", for proper form.

The Authority made this change as requested.

15. On page 3, in section 16-245a-1(b)(2), in the second line, "the electric supplier's full" should be "the full", for clarity; in the seventh line, "will" should be "shall", in accordance with the committee's directive regarding mandates; and in the eighth line, "section" should be "subsection", for accuracy.

The Authority made these changes as requested.

16. On page 3, in section 16-245a-1(b)(4), in the first line, "section" should be "subsection", for accuracy. Also in said subdivision, designators "(a)" and "(b)" should be "(A)" and "(B)", respectively, for proper form.

The Authority made these changes as requested.

17. On page 4, in section 16-245a-1(e), in the third line, "its" should be "such electric distribution company's", for clarity.

The Authority made this change as requested.

18. On page 4, in section 16-245a-1(e)(6), "supplier's" should be "distribution company's", for accuracy.

The Authority made this change as requested.

19. On page 4, in section 16-245a-1(f), "then current" should be bracketed, for clarity.

The Authority made this change as requested.

20. On page 5, in section 16-245a-1(g), in the eighth line, "it may" should be "the Authority may", in the eleventh line, "the current year" should be "one year", in the thirteenth line, "respectively" should be "as applicable", and in the fourteenth line, "it" should be "the electric distribution company or electric supplier", for clarity.

The Authority removed the sentence in the eighth line of section 16-245a-1(g) containing the first technical change. The Authority made the other changes as requested.

21. On page 5, in section 16-245a-1(g)(1), in the second line, "they" should be "[they] such banked renewable energy certificates", for clarity.

The Authority made this change as requested.

22. On page 5, in section 16-245a-1(g)(6), "website" should be "web site", for consistency.

The Authority made this change as requested.

23. On page 5, the first sentence of section 16-245a-1(h) should be rewritten as follows, for clarity:

"The Authority may review an electric supplier's or electric distribution company's compliance filings at any time after such electric supplier or electric distribution company submits to the Authority the annual report required under subsection (a) or (e), as applicable, of this section."

The Authority made this change as requested.