

**JOHN A. "BERT" STEVENSON**  
DISTRICT 24  
MINIDOKA & JEROME  
COUNTIES

HOME ADDRESS  
1099 NORTH 400 WEST  
RUPERT, IDAHO 83350  
HOME (208) 532-4524  
OFFICE (208) 532-4105



*✓ Len Ack sent 3/14/02 to Int. Parkes list*  
RECEIVED  
2002 MAR 14 AM 8:47

COMMITTEES  
AGRICULTURAL AFFAIRS  
RESOURCES & CONSERVATION  
STATE AFFAIRS

**House of Representatives**  
**State of Idaho**  
March 14, 2002

Jean Jewell, Commission Secretary  
Idaho Public Utilities Commission  
P.O. Box 83720  
472 West Washington St.  
Boise, Idaho 83720-0074

Re: IN THE MATTER OF THE INVESTIGATION OF THE CONTINUED  
REASONABLENESS OF CURRENT SIZE LIMITATIONS FOR PURPA OF  
PUBLISHED RATE ELIGIBILITY (i.e., 1 MW) AND RESTRICTIONS ON  
CONTRACT LENGTH (i.e., 5 YEARS)  
Case No. GNR-E-02-01.

Dear Sir or Madam:

On behalf of the people of Legislative District 24, and myself, we recommend the PURPA qualified facility ("QF") contracts be increased not to exceed ten (10) megawatts, and the length of the contracts be extended for a period not to exceed twenty (20) years.

In the past few months, I have had many contacts telling us to legislatively make these changes. I was pleased to see the commission put this matter before the public. I feel it is more appropriate for the commission to take this action, than to put it in statute.

Thank you for your consideration in this matter.

Sincerely,  
*John A. Stevenson*  
Rep. John A. "Bert" Stevenson

cc: Avista Corporation  
PacificCorp  
Idaho Power Company

**SORENSEN ENGINEERING**

5203 South 11<sup>th</sup> East  
Idaho Falls, Idaho 83404

Phone: 208-522-8069  
Fax: 208-522-8223  
E-Mail: ted@tsorenson.net

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2002 MAR 19 AM 8:13

UTILITIES COMMISSION

March 15, 2002

Commission Secretary  
Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, ID 83720-0074  
FAX: (208) 334-3762

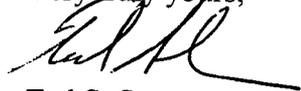
RE: Case No. GNR-E-02-01

Dear Secretary:

Thank you for allowing me the opportunity to comment. This letter is written in support of reinstatement of the 20-year contract for avoided costs for the QF Industry and increasing the size allowable to 10 megawatts. I have been in the small hydroelectric business now for 18 years. I have been the design engineer for 19 small hydroelectric projects; the majority of them here in the State of Idaho. Almost all of these have been for farmers, ranchers or canal companies utilizing an existing irrigation feature. The majority of these have been in 10 megawatt range. The income produced by these small hydro plants has been of benefit to the agricultural based community. Construction of a new hydroelectric plant is capital intensive. To try and amortize the plant over five years, I find impossible. All of the contracts associated with the plants that have been built have been 20 years or longer in length. Therefore, I support extending the contract length to 20 years.

I also support increasing the maximum size of the QF Facility up to 10 megawatts. This will allow the farmers, ranchers and canal companies to have access to the market for development of a clean renewable energy resource. In addition, this will have a benefit of increasing the supply of power here in Idaho in smaller increments.

Very truly yours,

  
Ted S. Sorenson, P.E.

TSS/ptj  
Word/T2002letter/CommSec.ltr



INTERMOUNTAIN  
FOREST  
ASSOCIATION

March 15, 2002

350 N. 9th Street, Suite 304E  
Boise, Idaho 83702  
208•342•3454  
Fax 208•424•0759  
www.intforest.org

Public Utilities Commission  
Po Box 83720  
Boise, Id 83720-0074

Dear Commissioners:

Over the past year, Idaho has experienced extreme fluctuations in the cost of electricity, adversely affecting the economic viability of many Idaho businesses. Development and investment in alternative new electric power generation facilities using Idaho's renewable resources, such as biomass, wood fiber and others materials could positively contribute to Idaho becoming more self-sufficient in electricity production, create jobs and increase tax revenues. Such development would also help provide ratepayers with electrical power at stable and predictable prices.

In 1978, as part of the National Energy Act and other legislation designed to address the then prevailing national energy crisis, passed the Public Utility Regulatory Policies Act (PURPA). Its purpose was to promote the development of renewable energy technologies as alternatives to the use of fossil fuels and the construction of new generating facilities by electric utilities. Under PURPA electric utilities must offer to purchase power produced by co-generators or small power producers that obtain qualified facility (QF) status. The rates to be paid for QF power are not to exceed the "incremental" costs to the utility of alternative electric energy.

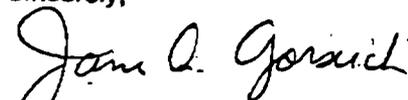
The Intermountain Forest Association (IFA) represents forestland owners and mill operators in the intermountain west. All of our member companies who own mills were negatively affected by the increase in energy costs last year and are interested in assisting in crafting public policy that encourages stable energy prices and encourages the use of renewable energy sources. As such we provide the following comments to the Idaho Public Utilities Commission (IPAC) for consideration under Case No. GNR-E-0201, in the matter of the investigation of the continued reasonableness of current size limitations for PURPA QF Published rate eligibility and restrictions on contract length.

IFA encourages the IPUC to do the following:

1. Expand entitlement to the Commission's published avoided cost rates to all QF's that are 10 MW or less in capacity; and;
2. Increase the standard PURPA contract length for all QF's 10 MW or less in capacity from 5 to 20 years, with the QF developer retaining the right to choose the term up to 20 years; and;
3. Reexamine rates to all QF's to ensure that current avoided cost rates are adequate to stimulate and support new generation facility development.

We believe that if the IPUC takes these steps, additional generating capacity will be created, increasing energy security and stability of energy markets in Idaho. Thank you for the opportunity to comment. We look forward to continued discussions on this matter.

Sincerely,



Jane A. Gorsuch  
VP Idaho Affairs

CC: Jim Yost, OGOV

✓ Ken Ack  
Sent by JJ  
✓ To AV for  
Int. Parties list  
GNR-E-02-01

**MIDDLE SNAKE REGIONAL  
WATER RESOURCE COMMISSION**

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FILED



**Lew Pence, Chairman**  
**Bob Muffley, Acting Executive Director**  
**122 5<sup>th</sup> Ave. West**  
**Gooding, Idaho 83330**  
**208-934-4781**  
**208-934-5648 fax**

2002 FEB 12 AM 8:34  
PUBLIC  
UTILITIES COMMISSION

February 8, 2002

Idaho Public Utilities Commission  
P.O. Box 83720  
Boise, Idaho 83720-0074

RE: Case # GNR-E-02-01

Commissioners:

I am writing to lend my commissions support to the P.U.C ruling on small generating projects fueled by animal waste. Anaerobic digesters have been used successfully in Europe for many years and it's time that our power generating companies start to look at these and other alternatives. It is our belief that Idaho Power has been blowing smoke on this issue for a very long time and because of their attitude the consumer will be the ultimate loser. Why should we allow Idaho Power to purchase high price power from the grid when there remains a huge potential for new generating sources right here in Idaho. It has been estimated that in south central Idaho alone, animal waste could generate as much as 50 megawatts. The power generated by this source would ultimately be far less expensive to the consumer than the construction of new gas fired facilities or purchasing power for peeks loads from the grid.

A byproduct of generating power from animal waste is the betterment of the environment. The use of anaerobic digesters will do much to reduce the nutrient loading to our regions above ground and underground water resource. Many areas of our region are already approaching the unacceptable level of 10 parts per million of nitrogen in ground water. This trend must be reversed in the near future.

If the dairy industry, which is a big chunk of our local economy, is going to expand within this region, anaerobic digesters must be made a tool for managing dairy waste. Before it can become a tool, however, the Idaho Power Company must purchase the power generated from this source at a price that makes sense to the producer. Our investigation indicates that producers could easily afford the cost of putting in anaerobic digesters if the power could be sold for as little as 5.5 cents per kilowatt and this is the rate that we would recommend.

Sincerely

Lew Pence, Chairman

Formed by a joint powers agreement between Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls counties in south central Idaho

To AV Parties  
Sent 3/6/02

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GNR-E-02-01

2002 MAR -5 PM 3:26

UTILITIES COMMISSION March 3, 2002

Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, Idaho 83720-0074

In the Matter of the Investigation of the  
Continued Reasonableness of Current  
Size Limitations for PURPA QF  
Published Rate Eligibility (i.e., 1 MW)  
and Restrictions on Contract Length  
(i.e., 5 Years)  
Case No. GNR-E-02-01

Commissioners,

I am a consulting engineer based in Boise. I was the owner's project manager during the construction of the 9.5 MW Horseshoe Bend Hydroelectric Project and continue as a consultant on operation and maintenance issues. Additionally, I am a member of Water Power LLC. In conjunction with the latter, I am trying to develop thirteen potential hydroelectric sites in the Magic Valley and the Treasure Valley, with a combined potential of approximately 15 MW and 66,287 million MW-hr.

In response to the Notice of Investigation, Notice of Modified Procedure, and Notice of Comment/Protest Deadline, please consider the following comments in favor of raising the maximum capacity of a QF plant to 10 MW and extending the term of contract to 20 years:

1. The cost to design, permit and arrange the power sales agreement for a small power-generating project is relatively insensitive to the size of the proposed powerplant. These costs are high and completing all these arrangements is time consuming – and becoming more so all the time. Increasingly, public agencies choose to err on the side of more rather than less public access to the permitting process, all of which add to the time and cost of project development. The process was far simpler when PURPA was originally enacted in 1978. Therefore, for a project to be able to absorb these costs and remain a cost-effective project, it must be greater than 1 MW. Depending on project details, hydroelectric projects in the 1 to 10 MW range seem to be financially viable.

2. Under the best of circumstances, the rates available for QF power sales agreements are presently and likely will continue to be insufficient to amortize the construction costs of a power project in five years or less. Project financing is only available over a term equal to or less than the term of the power sales agreement. The currently estimated project revenues are not sufficient to amortize a project loan over the presently mandated term. Therefore, the term of the contract must be significantly longer than presently required. A typical finance term of 20 years would make many more projects financially feasible.
3. Many parties recognize a lack of transmission capacity throughout the country. This can be alleviated to some extent by, in effect, installing distributed generation, i.e., generating capacity near the load. A large number of small generating plants distributed throughout the service area is a good strategy for improving reliability and minimizing transmission costs. For example, the six sites we are presently considering in the Treasure Valley would add generating capacity in rapidly-developing Ada and Canyon Counties. Therefore, public policy should foster more PURPA projects, rather than render them infeasible. The record of construction of such projects in recent years speaks volumes: it has ground to a halt.
4. Virtually all new generation in Idaho is based on combustion turbine technology, requiring the delivery of natural gas, the emission of greenhouse gases, and further loading the gas and electricity transmission systems. The recent example of the Garnet Powerplant in Middleton demonstrates the public's acceptance of such projects, even though everyone recognizes the unprecedented growth in Idaho and the attendant growth in electricity demand.
5. The surplus electricity supply caused by the shutdown of the furnaces at the Astaris phosphate plant in eastern Idaho will soon be consumed by the growth in power demand from other customers. A process that allows the orderly addition of generating capacity, especially from renewable resources, will go a long way to satisfying the growth in demand.

For the reasons presented above, I urge you to approve the requested change to increase the size of the QF project to at least 10 MW and to extend the term of the power sales agreements to at least 20 years, with the actual term to be determined by the offeror.

Sincerely,

D. A. O'Day, P.E.

David A. O'Day, P.E.  
PO Box 603  
Boise, Idaho 83701-0603  
(208) 433-8098

Cc: Avista Corporation – Robert J. Lafferty  
Blair Strong  
PO Box 3727  
Spokane, WA 99220

Pacificorp - Gregory N. Duvall  
Jim Fell  
Pacificorp  
424 Public Service Building  
920 SW 6<sup>th</sup> Avenue  
Portland, OR 97204

John M. Erickson  
Utah Power & Light  
1407 West North Temple  
Salt Lake City, UT 84140

Idaho Power Company – Barton L. Kline, Senior Attorney  
Idaho Power Company  
PO Box 70  
Boise, ID 83707-0070

**John J. Straubhar, P.E.  
Water Power, LLC  
P. O. Box 5071  
Twin Falls, Idaho 83303-5071**

RECEIVED  
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2002 FEB 28 PM 5:03  
IDaho PUBLIC  
UTILITIES COMMISSION

February 27, 2002

Commission Secretary  
Idaho Public Utility Commission  
P. O. Box 83720  
Boise, Idaho 083720-0074

Re: Case No. GNR-E-02-01, PURPA QF's

Dear Commissioners:

I am the president of Shorock Hydro, Inc. which owns and operates two small hydroelectric Qualifying Facilities (QF) of 2.1 Mw and 975 Kw, near Twin Falls and Shoshone, Idaho, respectively. In addition, I am managing partner of a 1.5 Mw hydroelectric plant on the Milner-Gooding Canal that has operated since 1994. The Shorock plants were constructed in 1982 and 1981 respectively. I helped license, permit, design, construct, and currently operate and manage these plants. I have also worked on numerous other plants as a consulting engineer and project manager, and feel I understand the business.

I am the president of Water Power, LLC. We are currently working with the American Falls Reservoir District, Twin Falls Canal Company, North Side Canal Company, and Boise Project Board of Control to develop thirteen (13) small hydroelectric qualifying facilities, all on seasonal canals that operate typically from April through October. These plants represent some 15 Mw of capacity and 66,287 Mw hrs of production, all of which could be on line in 3 – 5 years.

The primary hindrance is a five-year contract and a 1 Mw limitation to the published SAR based avoided cost rates. The above facilities were available for development in 1995 when the Commission stopped QF development by the implementation of Order No. 25884 and No. 26576. In order to reinstate the PURPA Laws as intended, we need a contract term of at least twenty (20) years and a 10 Mw limitation to the published SAR based avoided cost rates. The aforementioned plants

could operate very effectively at an avoided cost rate of \$.06 seasonalized by the 1.2 factor currently being used. What the QF industry needs is the following:

Long term, fixed rate, contracts for projects up to ten megawatts.

Avoided cost rates determined over the term of the contract and equal to the life of Idaho Power's new resources.

Standardized contract terms.

Standardized interconnection terms and conditions.

Avoided cost rates determined using Idaho Power's actual new plan additions for avoided cost rate calculations.

It appears to me that deregulation will not happen and the regulated utilities fear of stranded costs due to QF facilities is unfounded.

QF facilities on seasonal canals are very environmentally benign and would greatly benefit the canal companies allowing them to better maintain and enhance their systems. An example of this is the Twin Falls Canal Company who owns QF facilities or receives income from existing QF's, they have made some excellent improvements to the irrigation systems and their stockholders have benefited greatly.

QF facilities are good for the local ratepayer as they can provide local economic stability with a fixed rate over a 20 year period.

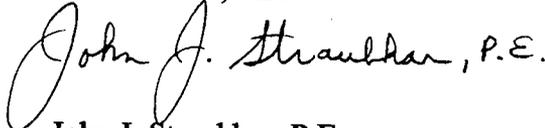
The QF industry is very reliable and competitive contrary to rumor and innuendo. Our existing plants typically run the entire irrigation season at an exceptionally high plant factor. The canal companies demand that the plants be run very efficiently with no impact on their system.

The QF industry is very positive for Idaho and power consumers. We need a level playing field and the IPUC is in a position to help us achieve this goal while also benefiting all of Idaho.

If I can be of further service or if you wish to discuss my comments I can be reached at 208-736-8255.

Sincerely,

Water Power, LLC

A handwritten signature in cursive script that reads "John J. Straubhar, P.E.".

John J. Straubhar, P.E.  
President

JJS/ss

Jean Jewell

*✓ To Adv. for Int. Parties list*  
*1/28/02 sent 2/28/02*

**From:** Ed Howell  
**Sent:** Wednesday, February 27, 2002 11:30 AM  
**To:** Jean Jewell; Ed Howell; Gene Fadness; Tonya Clark  
**Subject:** Comment acknowledgement

WWW Form Submission:

Wednesday, February 27, 2002  
11:30:23 AM

Case: GNR-E-02-01  
Name: Michael Jones  
Street Address: 811 S. Oneida  
City: Rupert  
State: ID  
ZIP: 83350  
Home Telephone: 208-736-3722  
E-Mail: rmjones@pmt.org  
Company: Idaho Power  
mailing\_list\_yes\_no yes  
Comment\_description: Dear Commissioners;

In Case GNR-E-02-01, you ask for comments from Qualifying Facility owners re: our thoughts on term and maximum size. As Director of Operations for a company that operates two QF's in Idaho and several others throughout the U.S. and with extensive waste-fueled facility experience, I offer the following:

Project term should preferably be a minimum of 10 years for combustion turbine-based facilities and, because they are more capital-intensive to design and construct, 15 years for waste-fueled facilities. These contract lengths allow reasonable debt amortization periods; lenders generally do not allow a QF's amortization to extend beyond firm contract length.

As for project size, limits should be high enough to allow for economies of scale. It is extremely difficult to earn a reasonable rate of return on any gas-fired project less than about 30 MW in size and waste-fueled project less than roughly 15 MW in size for the following reasons:

**Labor:** Because they have the same skill set, facility staff earn approximately the same per person whether they work at a 10 MW facility or a 100 MW facility. Staffing levels are likewise similar. Although equipment is physically smaller at a 10 MW facility, the number and complexity of the pieces is the same and so it takes similar staff size and expertise to operate and maintain. (By way of example, we employ six people for each 10 MW Idaho facility. We employ 9 at our 120 MW Denver combined-cycle facility. 1100% output increase, 50% staff size increase.)

**Original Plant Construction:** A 30 MW combined-cycle facility is roughly \$850 per installed kW, while for a 10 MW facility that cost is over \$1200/kW. The differences are similarly dramatic for waste-fueled facilities.

**Efficiency:** The heat rate of a 30 MW combined-cycle QF facility will be in the neighborhood of 8,250 Btu/kWh (using the Higher Heating Value-HHV-of natural gas fuel and meeting QF efficiency requirements) while for a 10 MW facility that value will be about 10,750 Btu/kWh. (This difference comes mainly from higher technology available in higher-output combustion turbines, which dramatically improves the efficiency of these units.) That 20%+ efficiency improvement represents sound energy policy, not to mention improved project viability. (Heat rate variations are not so pronounced for waste-fueled facilities of varying sizes.)

These factors of project term and facility size greatly affect a QF's ability to be viable on a lower electricity price, which should of course be a prime goal. All else being equal, a 30 MW combined-cycle QF is viable on a roughly 10-15% lower electricity price

**BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION**

**IN THE MATTER OF AN INQUIRY** )  
**INTO RENEWABLE ENERGY AS A** )  
**SOURCE OF ELECTRICITY,** )  
  
**UTILITY DIVISION STAFF OF THE** )  
**PUBLIC REGULATION COMMISSION,** )  
  
**Petitioner.** )  


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**Utility Case No. 3619**

**NOTICE OF PROPOSED RULEMAKING**

**NOTICE IS HEREBY GIVEN** that the New Mexico Public Regulation Commission ("NMPRC" or the "Commission") proposes to adopt a new Rule 572 to replace existing Rule 572 and a portion of Rule 591, and to encourage the development of renewable energy in New Mexico.

The proposed new Rule has two parts: In the first, public utilities are to provide to all customers an energy portfolio with a progressively greater percentage of service from renewable sources, on a least cost basis and preferably from generators in New Mexico. By September 1, 2003, the portfolio standard will be 2%. Then, the standard increases to 5% by September 1, 2005. Finally, the standard becomes 10% by September 1, 2007. A utility may satisfy some or all of these requirements through acquisition of certificates from any other New Mexico generator.

The second part of the proposed Rule specifies that every utility must provide electricity from renewable sources to any customer who requests it, and who is willing to purchase renewable energy, regardless of cost, based on availability. The price

charged for these voluntary programs is to be established in renewable energy tariffs filed with and approved by the Commission.

The proposed rule would be adopted under the authority granted the Commission by the New Mexico Constitution, Article XI, Section 2, and by the Legislature pursuant to NMSA 1978 *Sections 8-8-4; 8-8-15; 62-3-1; 62-3A-2; 62-3A-19; 62-3A-20; 62-6-4; and 62-6-19.*

A copy of the proposed rule to be promulgated as NMPRC Rule 572 is attached hereto as "Exhibit A". The rule has been formatted for inclusion in the New Mexico Administrative Code pursuant to NMSA 1978 Section 14-4-3 and, if adopted as proposed, would be cited as 17 NMAC 10.572.

The proposed Rule specifies an effective date of May 31, 2002. Any person wishing to comment on the proposed NMPRC Rule 572, 17 NMAC 10.572 may do so by submitting written comments no later than April 1, 2002. Any person wishing to respond to comments may do so by submitting written response comments no later than April 16, 2002. Comments suggesting changes to the rule as proposed shall state and discuss the particular reasons for the suggested changes and shall include all specific language necessary or appropriate to effectuate the changes being suggested.

All pleadings, including comments, shall bear the caption and case number contained at the top of this notice and must be served on all persons in the Commission official service list for this case. Additional copies of the proposed Rule can be obtained from, and comments on the proposed Rule shall be sent to:

Maria Brito, Records Manager  
NMPRC-Utility Division  
Marian Hall  
224 East Palace Avenue  
Santa Fe, New Mexico 87501  
Telephone: (505) 827-6940

Pursuant to NMSA 1978, Section 8-8-15(B), this notice, including Exhibit A, shall be mailed at least thirty days prior to the hearing date to all persons who have requested advance notice, and it must be published, without Exhibit A, in two newspapers of general circulation in the state and in the New Mexico Register.

A public hearing will begin at 10:00 on April 23, 2002 at the offices of the Commission at Marian Hall, 224 East Palace Avenue, Santa Fe, New Mexico, to receive oral comment.

Copies of any Final Order adopting the proposed Rule will be sent, along with copies of the particular rules adopted or amended, to all affected utilities, commentators in the case, and individuals requesting such copies.

**EXHIBIT A**

**TITLE 17            PUBLIC UTILITIES AND UTILITY SERVICES**  
**CHAPTER 10        ELECTRIC UTILITIES**  
**PART 572           RENEWABLE ENERGY AS A SOURCE OF ELECTRICITY**

- 1    **ISSUING AGENCY:** New Mexico Public Regulation Commission ("Commission"), Utility Division, 224 East Palace Avenue, Santa Fe, NM 87501-2013. [5-31-2002]
  
- 2    **SCOPE:** This rule applies to every person generating or selling electric energy for ultimate consumption in New Mexico that is subject to the jurisdiction of the New Mexico Public Regulation Commission as provided by the Public Utility Act. [5-31-2002]
  
- 3    **STATUTORY AUTHORITY:** The New Mexico Constitution, Article XI, Section 2; NMSA 1978 *Sections 8-8-4; 8-8-15; 62-3-1; 62-3A-2; 62-3A-19; 62-3A-20; 62-6-4; and 62-6-19.* [5-31-2002]
  
- 4    **DURATION:** . This rule shall remain in effect until amended by the Commission. [5-31-2002]
  
- 5    **EFFECTIVE DATE:** This Rule shall become effective on May 31, 2002, unless a later date is cited at the end of a section or paragraph. [5-31-2002]
  
- 6    **OBJECTIVE:** The purpose of this rule is to the maximum extent practical encourage the development of renewable energy in New Mexico in order to (1) increase energy efficiency and conservation of non-renewable resources; (2) increase energy supply diversity in a volatile energy market place in order to assure just and reasonable rates; (3) increase the

likelihood of long-term energy price stability for consumers in order to insure just and reasonable rates on a long term basis; (4) stimulate economic development and water conservation and enhancement; (5) reduce potential pollution emission from fossil fuels; (6) decrease dependency on fossil fuels; and (7) improve the public health and potentially protect against wild fire occurrence. [5-31-2002]

**7 DEFINITIONS:** Unless otherwise specified, as used in this rule: [5-31-2002]

**7.1 certified source** means a generator or seller of renewable energy who self certifies that its output or energy supplies will comply or complies with the definition of "renewable energy" as set forth in Section 7.7 of this Rule; [5-31-2002]

**7.2 Certified Generator or Seller** means a certified source located within the geographic boundaries of New Mexico or doing business in New Mexico or a certified source located in another state who accepts all of New Mexico's generated renewable energy from generation located in New Mexico for purposes of satisfying that states' renewable energy portfolio standards; [5-31-2002]

**7.3 person** is defined as set forth in Section 62-3-3 of the New Mexico Public Utility Act; [5-31-2002]

**7.4 portfolio standard** is the percentage amount of total energy generated or procured and distributed by a public utility from renewable energy required by the Rule; [5-31-2002]

**7.5 procure** means to contract for renewable energy from a certified source for a period of ten years or greater; [5-31-2002]

**7.6 public utility** means a utility operating in New Mexico that is subject to the jurisdiction of the New Mexico Public Regulation Commission as provided by the Public Utility Act; [5-31-2002]

**7.7 renewable energy** means electrical energy generated by means of a low- or zero-emissions generation technology that has substantial long-term production potential and may include, without limitation, solar, wind, hydropower, geothermal, biomass, including but not limited to agriculture 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, anaerobically digested waste biomass or fuel cells that are not fossil fueled. "Renewable energy" does not include fossil fuel or nuclear energy; provided however a renewable energy source shall qualify as renewable energy for purposes of this Rule if it is developed in combination with a fossil fuel source. However, only the amount of energy from the renewable resource shall qualify for purposes of meeting the portfolio standard of this Rule; [5-31-2002]

**7.8 renewable energy certificate** means the documentation issued by the Commission that certifies that the certified source has established the quantity of renewable energy available for generation or sale in New Mexico; and [5-31-2002]

**7.9 trading credit** means a mechanism whereby one public utility can fulfill its portfolio standard requirement through the purchase of renewable energy certificates from another public utility or renewable energy generator or seller; each credit represents one kilowatt-hour (kWh) of renewable energy at the point of output of the renewable energy facility or point of sale; [5-31-2002]

**8 LIBERAL CONSTRUCTION:** This rule shall be liberally construed to carry out its intended purposes. If any provision of this rule, or the application thereof to any person or circumstance, is held invalid, the remainder of the rule, or the application of such provision to other persons or circumstances, shall not be affected thereby. [5-31-2002]

**9 RELATIONSHIP TO OTHER COMMISSION RULES:** This rule replaces a portion of NMPRC Rule 591, whose implementation has been delayed by Laws 2001, Chapter 5. This rule repeals NMPRC Rule 572. Unless otherwise specified, this rule does not supersede any other rule of the Commission but supplements rules applying to public utilities, including, but not limited to, NMPRC Rules 570 and 571. In the case of conflict, the provisions of this rule shall apply. [5-31-2002]

## 10 RENEWABLE ENERGY PROCUREMENT:

**10.1** Each public utility or person supplying power to New Mexico Customers shall procure and commence distribution of renewable energy or renewable energy credits as a minimum percentage of its total annual energy supplies according to the following portfolio standards:  
[5-31-2002]

September 1, 2003: 2%

September 1, 2005: 5%

September 1, 2007 and thereafter: 10%

**10.2** A public utility may apply to the Commission for approval of "trading credits" as a means of satisfying its portfolio standard requirements;  
[5-31-2002]

**10.3** The application shall include the following information: (1) the source of renewable resources; (2) the selling utility or certified generator or seller; (3) the terms and conditions of the credit; (4) an explanation of why the approval of the trading credit is in the public interest. Notice of the application shall be served on NMPRC Staff, the Attorney General and persons listed on the Commission's approved renewable resource certificate list. The application shall be deemed approved thirty days after filing unless the Commission finds probable cause to suspend the filing;  
[5-31-2002]

**10.4 Purchases:** In procuring renewable energy to meet the portfolio standards of this Rule, a public utility or certified generator or seller supplying power to New Mexico customers may purchase renewable energy on a competitive bid or direct negotiation basis. The public utility in making its purchase decisions shall consider the following factors: availability of transmission capacity, location and reasonable transmission access to the renewable energy resources, the long term and short term marginal costs of the renewable energy, the benefit of a diversified

portfolio of renewable and non-renewable energy sources, the dispatch flexibility of the renewable energy, reliability, availability and load factor of the renewable energy source, and the economic, health, safety and environmental benefits to be derived by the public from the procurement. Because of the diversity of renewable energy resources in New Mexico and the Commission's intent to encourage the maximum development of New Mexico renewable energy resources, no more than fifty percent of a public utility's renewable energy resources portfolio shall be from any single type of renewable energy resource for purposes of complying with the portfolio standard of this Rule. However, for purposes of qualifying for a reward under this Rule, the total amount of energy procured from all renewable energy resources shall be counted. A public utility's purchase of renewable energy resources which does not raise the utility's total cost of energy above .08 cents per kwh of the utility's last three years average cost of overhead residential rates on a fully allocated basis shall be deemed prudent and subject to assured costs and reward recovery; [5-31-2002]

**10.5** Each public utility shall offer a voluntary renewable energy tariff for those customers who want the option to purchase renewable energy in excess of the utility's average energy costs including the renewable energy portfolio standard based on availability. The tariff shall set out any applicable conditions as to price, quantity and term of agreement. The tariff may also include provisions which enables consumers to purchase renewable energy within certain energy blocks and by source of renewable energy and provides consumer lease-purchase options or low interest loans for renewable energy facilities such as photovoltaic systems. Additionally, each public utility shall 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 filed with the Commission not later than sixty days after the effective date of this Rule; [5-31-2002]

**10.6 Interconnection:** A public utility shall develop a standard form interconnection agreement for renewable energy sources less than 250Kw consistent with achieving the maximum amount of renewable energy and avoiding any harm to the operation or safety of the utility's electrical system. The cost of interconnection shall be the sole responsibility of the renewable energy provider. Provided, however, for renewable energy sources of 250Kw or less the utility shall provide a reasonable long term payment schedule to cover interconnection costs including reasonable interest and non-payment remedies; [5-31-2002]

**10.7 Net Metering:** In submitting tariffs to implement this rule, a utility shall offer to renewable energy sources generating less than 250Kw a reasonable net metering option which avoids any harm to the operation and safety of the utility electrical system; [5-31-2002]

**10.8 Penalty:** Any utility that fails to procure its renewable energy portfolio or adequate credits in accordance with the time frame in this rule shall be fined the maximum amount allowed by law under the PUA, unless a variance has been granted by the Commission pursuant to Sections 12.1 or 12.2 of this Rule; [5-31-2002]

**10.9 Reward:** Any utility which procures and distributes in excess of the portfolio standard contained in this Rule shall be allowed to mark-up its costs for the renewable energy in excess of the then prevailing renewable standard by .008 cents per kwh of renewable energy delivered and shall be allowed to retain the mark-up revenues as a reward; Additionally, a public utility may in its discretion file a tariff to promote small scale renewable energy development within its service territory by offering low-interest loans or lease-purchase options to customers to install distributed renewable energy facilities. The public utility may seek an appropriate reward for making this offering by the Commission. The utility may include these small scale facilities in meeting or exceeding the portfolio standard of this Rule and for purposes of obtaining an additional reward; [5-31-2002]

**10.10 Renewable Energy Preference:** In procuring, acquiring or constructing facilities for its electric energy supply, a public utility shall prefer renewable energy over non-renewable sources if the life cycle costs of the renewable energy are similar to non-renewable sources on a net present value cost basis; [5-31-2002]

**10.11 Transmission Access:** Subject to federal law, a public utility or electric generator or other seller of energy shall reserve at least ten percent of its firm transmission capacity imports and or rights for renewable energy resources on both a system wide and point to point transmission basis. All existing and future transmission agreements shall be modified within ninety days of the effective date of this Rule to insure compliance. In the event a selling entity refuses to amend its agreement, the public utility shall only distribute ninety percent of the selling entities energy to New Mexico consumers; [5-31-2002]

## **11. CERTIFIED SOURCES & PORTFOLIO STANDARDS DATA SUBMITTAL:**

**11.1 Certification of Sources.** Every generator or seller selling energy for ultimate consumption in New Mexico shall self certify as to the quantity of electricity generated that is from a source meeting the definition of "renewable energy". [5-31-2002]

**11.2 Self Certification Procedures:** All renewable energy generators or sellers shall submit the self certification form attached to this Rule as FORM 11.2 prior to commencement of energy deliveries to a public utility, publish public notice of its submittal in a newspaper of general circulation in New Mexico, and serve a copy of its self generation certification to the New Mexico Attorney General, the Staff, and any other person contained on a Commission approved renewable energy certificate list. The generation will be deemed a certified source within thirty days of its submittal unless the Commission determines that there is probable cause to investigate the self certification. Such investigation and any Commission final ruling on the matter shall be concluded within forty-five days from the date of the probable cause order. [5-31-2002]

**11.3 Portfolio Filing.** The utility shall certify the amount of energy from renewable energy certified sources it intends to purchase for the reporting period and certify that its procurement of energy from renewable energy certified resources will comply with the applicable portfolio standard. Within ninety days of the effective date of this Rule and by December 31 of each year, each public utility shall file with the Commission its proposed portfolio of power supply, including anticipated power, energy, and ancillary services requirements and power, energy, and ancillary services resources anticipated to be relied upon, including estimated costs, for the following 36 months and a computation of any rewards to be collected pursuant to this Rule. The portfolio shall be updated as necessary to reflect any changes in the utility's projected portfolio standard and reward entitlement. [5-31-2002]

**11.4 Annual Portfolio Review.** By March 31 of each year, the public utility shall file with the Commission a report on its power supply for the previous calendar year. This report shall include an itemization of all power and energy purchases and sales from certified sources, and all purchases and sales of renewable energy certificates to be applied as trading credits, including the seller's name, term of each transaction,

quantity purchased, the purchase price, and other data useful to the Commission in evaluating the public utility's compliance with this Rule. This report shall also include a reconciliation of the public utility's monthly purchased power adjustment factor, if any and a computation of rewards allowed by this Rule. [5-31-2002]

## **12. EXEMPTION, VARIANCE AND COMPLAINTS.**

**12.1** Any interested person may file an application for an exemption or a variance from the procedural requirements of this rule. Such application shall:

**12.1.1** identify the section(s) of this rule for which the exemption or variance is requested;

**12.1.2** describe the situation which necessitates the exemption or variance;

**12.1.3** set out the effect of complying with this rule on the public utility and its customers if the exemption or variance is not granted;

**12.1.4** define the result which the request will have if granted;

**12.1.5** state how the exemption or variance will achieve the purposes of this rule;

**12.1.6** state why no other reasonable alternative is available; and

**12.1.7** state why the proposed alternative is in the public interest and is a better alternative than that provided by the existing rule. [5-31-2002]

**12.2** A public utility may file an application for an exemption or variance from the Portfolio Requirements of this Rule if it can demonstrate the unavailability of renewable energy resources or credits to meet the portfolio standard or if the renewable energy resources available to it will result in an increase of .08 cents kwh to its overhead residential rates on fully allocated basis. The filing shall comply with applicable provisions of Section 12.1 above. [5-31-2002]

**12.3 Complaints:** Any interested person may file a complaint against any person who is alleged to be in violation of this rule or the generators or sellers self certification. Complaints will be governed pursuant the rule of the Commission. [5-31-2002]