

**Legislative Regulation
Review Committee**

2009-066

Department of Public Utility Control

BANKING RENEWABLE ENERGY CREDITS

IMPORTANT: Read instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.

STATE OF CONNECTICUT
REGULATION
OF

NAME OF AGENCY

DEPARTMENT OF PUBLIC UTILITY CONTROL

Concerning

SUBJECT MATTER OF REGULATION

Docket No. 08-09-01 – DPUC Promulgation of Regulations for Banking Renewable Energy Credits

SECTION _____

Notice of Intent to Adopt Regulations

Section 16-245a-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-245a-1. Reporting requirement. Operating rules. Renewable energy portfolio deficiencies.

(a) Annual Reporting Requirement. Each electric distribution company and each electric supplier shall submit an annual report demonstrating its compliance with the renewable energy portfolio standard requirements set forth in [section] sections 16-245a and 16-243g of the Connecticut General Statutes. The report shall indicate the percent of total electricity output or services generated from Class I and Class II renewable energy sources and obtained from Class III sources during the previous calendar year. Said report shall include all supporting calculations. [For purposes of this section, the percent of total electricity output or services may be represented by renewable energy power attribute certificates issued by a renewable energy trading program.] The annual compliance report for each calendar year shall be submitted not later than October 15 of the following year.

(b) Operating Rules. Certificates for renewable energy power generated within NEPOOL shall be accounted for in accordance with the current operating rules of the NEPOOL GIS.

(c) Required Documentation. [Renewable Energy Portfolio Deficiencies.] The annual report submitted pursuant to subsection (a) shall be based exclusively on certificates issued by the NEPOOL GIS, and shall include copies of all quarterly and annual reports issued to the electric distribution company or electric supplier by the NEPOOL GIS during the compliance period. [An electric distribution company or electric supplier that seeks to make up any renewable energy portfolio deficiency within the first three months of the succeeding calendar year shall specifically indicate the amount of renewable energy sources or attributes used within the first three months of the succeeding year to make up the previous year's deficiency. To ensure that such energy sources or attributes are not used to comply with the portfolio requirements of the succeeding calendar year, the electric distribution company or electric supplier's annual report for the succeeding year shall contain a calculation, supported by quarterly and annual reports issued by the NEPOOL GIS, demonstrating that such energy sources or attributes are not used to comply with the succeeding calendar year's portfolio requirements.]

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(NEW) (d) Renewable Energy Portfolio Deficiencies. An electric distribution company or electric supplier that seeks to make up any renewable energy portfolio deficiency within the first three months of the succeeding calendar year shall specifically indicate the amount of renewable energy sources or attributes used within the first three months of the succeeding year to make up the previous year's deficiency. To ensure that such energy sources or attributes are not used to comply with the portfolio requirements of the succeeding calendar year, the electric distribution company or electric supplier's annual report for the succeeding year shall include a calculation, supported by quarterly and annual reports issued by the NEPOOL GIS, demonstrating that such energy sources or attributes are not used to comply with the succeeding calendar year's portfolio requirements.

(NEW) (e) Banking of Renewable Energy Certificates. An electric distribution company or electric supplier may bank Class I, Class II and Class III renewable energy certificates generated in one year to comply with the renewable energy portfolio requirements in either of the two following years, provided the electric distribution company or electric supplier has complied with the renewable energy portfolio requirements each year by means of renewable energy certificates or has made the alternative payment permitted by section 16-245(k), section 16-245q(b) or section 16-245q(d) of the Connecticut General Statutes. In addition, the electric distribution company or electric supplier shall demonstrate to the satisfaction of the Department of Public Utility Control that:

- 1) The banked renewable energy certificates were in excess of the renewable energy certificates needed for compliance in the year they were generated, and the excess renewable energy certificates have not previously been used for compliance with section 16-245a(a) or section 16-243q(a) of the Connecticut General Statutes;
- 2) The banked Class I renewable energy certificates do not exceed thirty per cent of the Class I sources needed by the electric distribution company or electric supplier for compliance in the year the certificates were generated;
- 3) The banked Class II renewable energy certificates do not exceed thirty per cent of the Class II sources needed by the electric distribution company or electric supplier for compliance in the year the certificates were generated;
- 4) The banked Class III renewable energy certificates do not exceed thirty per cent of the Class III sources needed by the electric distribution company or electric supplier for compliance in the year the certificates were generated; and
- 5) The banked renewable energy certificates have not otherwise been, nor will be, sold, retired, claimed or represented as part of the total output or services, or used to satisfy obligations in jurisdictions other than Connecticut.

[(d)] (f) Renewable Energy Trading Program Emissions Attributes. Any electric distribution company or electric supplier that seeks to demonstrate renewable energy portfolio standard compliance by participating in a renewable energy trading program

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shall have exclusive ownership of all renewable energy and environmental attributes from such trading program that are associated with its renewable energy sources.

STATEMENT OF PURPOSE:

- (A) Purpose of the Regulation - Electric suppliers and electric distribution companies meet renewable energy portfolio standards by obtaining renewable energy certificates (RECs). RECs are issued and tracked by the New England Power Pool generation information system. Excess REC supply can quickly drive down REC prices. Banking of RECs allows electric suppliers and electric distribution companies to bank excess compliance for use in a subsequent period essentially transferring excess RECs into future years. Massachusetts, Rhode Island and Maine have established uniform standards for banking RECs, with uniform restrictions. The proposed regulations would establish the same banking provisions, including the same restrictions, as used in other New England states. The establishment of uniform REC banking provisions throughout New England promotes investment in renewable energy generation by ameliorating REC price fluctuations. The regulations also include minor conforming changes to accommodate Class III REC compliance reporting.
- (B) Summary of the Main Provisions – New subsection (e) would permit banking of RECs for two additional compliance years, subject to three limitations. First, the obligated entity must have historically complied with the renewable portfolio standards by either (1) obtaining RECs, or (2) through payments to the Renewable Energy Investment Fund, as provided for in section 16-245(k) of the Connecticut General Statutes. Second, the obligated entities must have excess RECs beyond their compliance needs. Third, compliance through banked RECs in any year is limited to no more than 30% of the obligated entity's total REC obligation.
- (C) Legal Effects of the Regulation – Currently, the only flexibility afforded to electric suppliers and electric distribution companies to enable them to comply with renewable energy portfolio standards is through a concept called "borrowing," which is permitted by General Statutes of Connecticut § 16-245a(e)(1). This borrowing provision allows an electric supplier or electric distribution company to borrow RECs from the first quarter of Year 2 to comply with the REC requirement in Year 1. Banking is a different concept that is not yet legally permitted in Connecticut. These regulations would establish the legal permission for banking of RECs for the first time in Connecticut.

CERTIFICATION

R-39 REV. 1/77

Be it known that the foregoing:

Regulations Emergency Regulations

Are:

Adopted Amended as hereinabove stated Repealed

the aforesaid agency pursuant to:

Section 16-245a-1 of the General Statutes.

Section _____ of the General Statutes, as amended by Public Act No. _____ of the _____ Public Acts.

Public Act No. _____ of the Public Acts.

After publication in the Connecticut Law Journal on June 16, 2009, of the notice of the proposal to:

Adopt Amend Repeal such regulations

(If applicable): And the holding of an advertised public hearing on _____ day of _____

WHEREFORE, the foregoing regulations are hereby:

Adopted Amended as hereinabove stated Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The _____ day of _____ 19 _____

In Witness Whereof:	DATE August 19, 2009	SIGNED (Head of Board, Agency or Commission) <i>[Signature]</i>	OFFICIAL TITLE, DULY AUTHORIZED Chairperson
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Approved by the Attorney General as to legal sufficiency in accordance with Sec. 4-169, as amended, C.G.S.:	SIGNED <i>[Signature]</i> 10/7/09	OFFICIAL TITLE, DULY AUTHORIZED ASSOC. ATTY. GENERAL
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- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice.

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.	DATE	SIGNED (Clerk of the Legislative Regulation Review Committee)
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Two certified copies received and filed, and one such copy forwarded to the Commission on Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes

DATE	SIGNED (Secretary of the State)	BY
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INSTRUCTIONS

- One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. section 4-169 of the General Statutes.
- Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
- Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-2 of the General Statutes.
- Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.