# COLORADO DEPARTMENT OF REGULATORY AGENCIES

## Public Utilities Commission

### 4 *CODE OF COLORADO REGULATIONS* (CCR) 723-3

### PART 3
### RULES REGULATING ELECTRIC UTILITIES

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[signifies omission of unaffected rule sections]

## RENEWABLE ENERGY STANDARD

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**3651. Overview and Purpose.**

The purpose of these rules is to establish a process to implement the renewable energy standard for qualifying retail utilities in Colorado, pursuant to § 40-2-124, C.R.S.

Section 40-2-124, C.R.S., was enacted by the voters of the State of Colorado as 2004 Ballot Amendment 37 and was amended by the 2005 Colorado General Assembly by Senate Bill 05-143. Section 40-2-124 was further amended by the 2007 Colorado General Assembly by House Bill 07-1281. *The 2008 Colorado General Assembly amended, by House Bill 08-1160, provisions of § 40-2-124, C.R.S., and added § 40-9.5-118, C.R.S., to cause cooperative electric associations to come under the Commission's interconnection rules*. THE 2009 COLORADO GENERAL ASSEMBLY FURTHER AMENDED § 40-2-124, C.R.S., BY SENATE BILL 09-051.

Energy is critically important to Colorado's welfare and development, and its use has a profound impact on the economy and environment. Growth of the state's population and economic base will continue to create a need for new energy resources, and Colorado's renewable energy resources are currently underutilized.

Therefore, in order to save consumers and businesses money, attract new businesses and jobs, promote development of rural economies, minimize water use for electricity generation, diversify Colorado's energy resources, reduce the impact of volatile fuel prices, and improve the natural environment of the state, it is in the best interests of the citizens of Colorado to develop and utilize renewable energy resources to the maximum practicable extent.

It is the policy of this State to encourage local ownership of renewable energy generation facilities to improve the financial stability of rural communities.

**3652. Definitions.**

The following definitions apply only to rules 3650 – 3665. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Annual compliance report" means the report a QRU is required to file annually with the Commission pursuant to rule 3662 to demonstrate compliance with the Renewable Energy Standard.

(b) "Biomass" means nontoxic plant matter consisting of agricultural crops or their byproducts, urban wood waste, mill residue, slash, or brush; animal wastes and products of animal wastes; or methane produced at landfills or as a by-product of the treatment of wastewater residuals.

(c) "Community-based project" means a project located in Colorado and: (a) that is owned by individual residents of a community, a local nonprofit organization, a cooperative, a local government entity, or a tribal council; (b) whose generating capacity does not exceed thirty megawatts; and (c) for which there is a resolution of support adopted by the local governing body of each local jurisdiction in which the project is to be located.

(d) "Compliance plan" means the annual plan a QRU is required to file with the Commission pursuant to rule 3657.

(e) "Compliance year" means a calendar year for which the renewable energy standard is applicable.

(f) "Eligible energy" means renewable energy, recycled energy or RECs.

(g) "Eligible energy resources" are recycled energy or facilities that generate electricity by means of the following energy sources: solar radiation, wind, geothermal, biomass, hydropower, and fuel cells using hydrogen derived from eligible energy resources. Fossil and nuclear fuels and their derivatives are not eligible energy resources. Hydropower resources in existence on January 1, 2005 must have a nameplate rating of thirty megawatts or less. Hydropower resources not in existence on January 1, 2005 must have a nameplate rating of ten megawatts or less.

(h) "Off-grid on-site solar system" means an on-site solar system located on the premises of an end-use electric consumer located within the service territory of a QRU or an electric utility that is eligible to become a QRU pursuant to § 40-2-124(5)(b), C.R.S., that is not connected to, and operates completely independently from, the distribution system or transmission system facilities of any electric utility.

(i) "On-site solar system" means a solar renewable energy system located on the premises of an end-use electric consumer located within the service territory of a QRU or an electric utility that is eligible to become a QRU pursuant to § 40-2-124(5)(b), C.R.S. For the purposes of this definition, the non-residential end-use electric customer, prior to the installation of the solar renewable energy system, shall not have its primary business being the generation of electricity for retail or wholesale sale from the same facility. In addition, at the time of the installation of the solar renewable energy system, the non-residential end-use electric customer must use its existing facility for a legitimate commercial, industrial, governmental, or educational purpose other than the generation of electricity. ~~*An On-site solar system is limited to a maximum size of two MW.*~~ AN ON-SITE SOLAR SYSTEM SHALL BE SIZED TO SUPPLY NO MORE THAN ONE HUNDRED TWENTY PERCENT OF THE AVERAGE ANNUAL CONSUMPTION OF ELECTRICITY BY THE CONSUMER AT THAT SITE. THE CONSUMER'S SITE SHALL INCLUDE ALL CONTIGUOUS PROPERTY OWNED OR LEASED BY THE CONSUMER, WITHOUT REGARD TO INTERRUPTIONS IN CONTIGUITY CAUSED BY EASEMENTS, PUBLIC THOROUGHFARES, TRANSPORTATION RIGHTS-OF-WAY, OR UTILITY RIGHTS-OF-WAY.

(j) "Person" means Commission staff or any individual, firm, partnership, corporation, company, association, cooperative association, joint stock association, joint venture, governmental entity, or other legal entity.

(k) "Qualifying retail utility" or "QRU" means any provider of retail electric service in the state of Colorado other than municipally owned electric utilities that serve 40,000 customers or fewer.

(l) "Recycled energy" means energy produced by a generation unit with a nameplate capacity of not more than fifteen megawatts that converts the otherwise lost energy from the heat from exhaust stacks or pipes to electricity and that does not combust additional fossil fuel. Recycled energy does not include energy produced by any system that uses energy, lost or otherwise, from a process whose primary purpose is the generation of electricity, including, without limitation, any process involving engine-driven generation or pumped hydroelectricity generation.

(m) "Renewable energy" means energy generated from eligible energy resources.

(n) "Renewable energy credit" or "REC" means a contractual right to the full set of non-energy attributes, including any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, directly attributable to a specific amount of electric energy generated from an eligible energy resource. One REC results from one megawatt-hour of electric energy generated from an eligible energy resource. For the purposes of these rules, RECs include, but are not limited to, S-RECs and SO-RECs.

(o) "Renewable energy credit contract" means a contract for the sale of renewable energy credits without the associated energy.

(p) "Renewable energy standard" means the electric resource standard for eligible renewable energy resources specified in § 40-2-124, C.R.S.

(q) "Renewable energy supply contract" means a contract for the sale of renewable energy and the RECs associated with such renewable energy. If the contract is silent as to renewable energy

credits, the renewable energy credits will be deemed to be combined with the energy transferred under the contract.

(r) "Solar electric generation technologies" means any technology that uses solar radiation energy to generate electricity.

(s) "Solar on-site renewable energy credit" or "SO-REC" means a REC created by an on-site solar system.

(t) "Solar renewable energy credit" or "S-REC" means a REC created by a solar renewable energy system. For the purposes of these rules, S-RECs include, but are not limited to, SO-RECs.

(u) "Solar renewable energy system" means a system that uses a solar electric generation technology to generate electricity.

(v) "Standard rebate offer" or "SRO" means a standardized incentive program offered by a QRU to its retail electric service customers for on-site solar systems ~~THAT DO NOT EXCEED 100 KW PER INSTALLATION~~ AS SET FORTH IN RULE 3658.

(w) "Watt" means a unit of measure of alternating current electric power at a point in time, as capacity or demand. For the purposes of measurement of output from solar renewable energy systems used in the solar program, the watts referenced herein mean those determined by a nationally accepted testing organization.

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[signifies omission of unaffected rule sections]

**3655. Resource Acquisition.**

(a) It is the Commission's policy that utilities should meet the renewable energy standard in the most cost-effective manner. To this end, the *competitive acquisition provisions and exemptions of the Commission's Resource Planning Rules shall apply to the acquisition of* ~~*the investor owned QRU shall use competitive bidding for acquiring renewable energy from*~~ eligible energy resources *by investor owned QRUs*~~*using solar electric generation technologies with nameplate rating greater than 100 kW*~~*. Notwithstanding the exemptions in the Resource Planning Rules, investor owned QRUs shall acquire SO-RECs from on-site solar systems in accordance with a process set forth in a Commission-approved compliance plan.*

(b) INVESTOR OWNED QRUS MAY ESTABLISH ONE OR MORE STANDARD OFFERS TO PURCHASE RENEWABLE ENERGY CREDITS FROM ON-SITE SOLAR SYSTEMS THAT MEET THE DEFINITION OF SUBPARAGRAPH 3652(I) SO LONG AS THE ON-SITE SOLAR SYSTEMS IS 500 KW OR LESS IN SIZE. SUBJECT TO THE RETAIL RATE IMPACT IN RULE 3661, THE INVESTOR OWNED QRU SHALL DESIGN STANDARD OFFERS THAT ALLOW CONSUMERS OF ALL INCOME LEVELS TO OBTAIN THE BENEFITS OFFERED BY ON-SITE SOLAR SYSTEMS AND THAT EXTEND PARTICIPATION TO CONSUMERS IN ALL MARKET SEGMENTS ELIGIBLE FOR STANDARD OFFER PROGRAMS.

~~*(b) Competitive solicitations shall be conducted by each investor owned QRU to achieve the statutory policies contained in the legislative declaration of intent. Whenever a QRU acquires renewable energy and/or RECs by competitive acquisition, to the extent possible, the solicitations and evaluations of proposals should be coordinated to avoid redundancy and to minimize the cost of acquiring such renewable energy and/or RECs. A QRU may conduct, in its discretion, separate solicitations or combined solicitations, for any of the following:*~~

~~*(I) Renewable energy from on-site solar systems;*~~

~~*(II) Renewable energy from solar energy systems that are not on-site solar systems;*~~

~~*(III) Renewable energy from non-solar resources such as wind, geothermal, biomass, hydropower, fuel cells;*~~

~~*(IV) Renewable energy credits (RECs);*~~

~~*(V) Solar renewable energy credits (S-RECs); and*~~

~~(VI) Solar on-site renewable energy credits (SO-RECs).~~

(c) The investor owned QRU may apply to the Commission, at any time, for review and approval of ~~*renewable energy supply contracts and*~~ *(1)* renewable energy credit contracts *of any size, and (2) renewable energy supply contracts with facilities no greater than 30 MW*. The Commission will review and rule on these contracts within ~~*sixty*~~ *ninety* days of *the date that the application is deemed complete*~~*their filing*~~. The Commission may set the contract for expedited hearing, if appropriate, under the Commission's Rules of Practice and Procedure. If the QRU enters into a renewable energy supply contract or a renewable energy credit contract in a form substantially similar to the form of contract approved by the Commission as part of the investor owned QRU's compliance plan, that contract shall be deemed approved by the Commission under this rule.

(d) Renewable energy supply contracts entered into after July 2, 2006:

(I) Shall be for the acquisition of both renewable energy and the associated RECs;

(II) May reflect a fixed price, or a price that varies by year;

(III) Shall have a minimum term of 20 years (or shorter at the sole discretion of the seller); and

(IV) Shall require the seller to relinquish all REC ownership associated with contracted renewable energy to the buyer.

(e) Renewable energy credit contracts entered into after July 2, 2006:

(I) Shall be for the acquisition of RECs only;

(II) May reflect a fixed price, or a price that varies by time period; and

(III) Shall have a minimum term of 20 years if the REC is from an on-site solar system, EXCEPT THAT SUCH CONTRACTS FOR SYSTEMS OF BETWEEN 100 KILOWATTS AND ONE MEGAWATT MAY HAVE A SHORTER TERM IF MUTUALLY AGREED BY THE PARTIES.

~~*(f) Competitive solicitations for eligible energy from on-site solar systems that provide SO-RECs shall be conducted at least two times per year by each investor owned QRU in 2006 and 2007 and thereafter as necessary to comply with the renewable energy standard.*~~

~~*(I) The treatment of any solar-generated electricity generated on-site in excess of the consumption of the host facility will be governed by the net metering provisions pursuant to rule 3664.*~~

~~*(g) Competitive solicitations for the acquisition of S-RECs may be conducted by each investor owned QRU as needed to comply with the renewable energy standard.*~~

~~*(h) Competitive solicitations for renewable energy or RECs from eligible energy resources other than on-site solar systems shall be conducted by each investor owned QRU in a timeframe that takes into account the projected needs of the QRU.*~~

~~*(i) Each competitive solicitation pursuant to these rules shall be targeted toward acquiring the amount of eligible energy required for compliance with each component of the renewable energy standard, and taking into account:*~~

~~*(I) The retail rate impact, and*~~

~~*(II) The estimated number of SO-RECs procured under and expected to be procured under the standing standard rebate offer.*~~

~~*(j) Each investor owned QRU shall provide all parties to the bid process timely notice of bidding procedure.*~~

~~*(k) Each investor owned QRU shall disclose, at the Commission's request, all information that will be used in the acquisition process, including but not limited to, interconnection and transmission studies, and methods for modeling or otherwise analyzing bids. Confidential information may be protected in accordance with rules 1100 through 1102 of the Commission's Rules of Practice and Procedure.*~~

(f)~~(l)~~ If the investor owned QRU intends to accept proposals *as part of a competitive solicitation* for eligible energy resources from the QRU or from an affiliate of the QRU, it shall include a written separation policy and name an independent auditor whom the utility proposes to hire to review and report to the Commission on the fairness of the competitive acquisition process. The independent auditor shall have at least five years' experience conducting and/or reviewing the conduct of competitive electric utility resource acquisition, including computerized portfolio costing analysis. The independent auditor shall be unaffiliated with the utility; and shall not, directly or indirectly, have benefited from employment or contracts with the utility in the preceding five years, except as an independent auditor under these rules. The independent auditor shall not participate in, or advise the utility with respect to, any decisions in the bid-solicitation or bid-evaluation process. The independent auditor shall conduct an audit of the utility's bid solicitation

and evaluation process to determine whether it was conducted fairly. For purposes of such audit, the utility shall provide the independent auditor immediate and continuing access to all documents and data reviewed, used or produced by the utility in its bid solicitation and evaluation process. The utility shall make all its personnel, agents and contractors involved in the bid solicitation and evaluation available for interview by the auditor. The utility shall conduct any additional modeling requested by the independent auditor to test the assumptions and results of the bid evaluation analyses. Within 60 days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported. After the filing of the independent auditor's report, the utility, other bidders in the resource acquisition process and other interested parties shall be given the opportunity to review and comment on the independent auditor's report.

(g)~~(m)~~ Responses to competitive solicitations shall be evaluated and ranked by the investor owned QRU.

(I) In addition to the cost of the renewable energy and RECs, the QRU may take into consideration the characteristics of the underlying eligible energy resource that may impact the ability of the bidder to fulfill the terms of the bid including, but not limited to project in-service date, resource reliability, viability, economic development benefits, energy security benefits, amount of water used, fuel cost savings, environmental impacts including tradable emissions allowances savings, load reduction during higher cost hours, transmission capacity and scheduling, and any other factor the QRU determines is relevant to the QRU's needs.

(II) Bids with prices that vary by year will be evaluated by discounting the yearly prices at the utility discount rate.

(III) A QRU is not required to accept any bid and may reject any and all bids offered. However, each solicitation shall culminate in a report detailing the outcome of the solicitation and identifying which bids were selected, which were rejected, and why.

(IV) For purposes of comparing bids for RECs only with bids for electricity and RECs, the QRU shall assign a value for the electricity and subtract this value from the electricity and RECs bid, and evaluate bids on the basis of RECs only. The QRU shall include, as part of its Compliance Plan, a description of its methodology and price(s) it intends to use for this evaluation.

(h)~~(n)~~ Within 15 days *of the receipt of bids to a competitive solicitation*, the investor owned QRU shall notify respondents as to whether their bid has met the bid submission criteria.

(i)~~(o)~~ Upon ranking of eligible bids *to a competitive solicitation*, each investor owned QRU shall within 15 days indicate to all respondents with which proposals it intends to pursue a contract

(j)~~(p)~~ If there is a dispute between a bidder and the investor owned QRU, either party may refer the dispute to the Commission for resolution.

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[signifies omission of unaffected rule sections]

**3658. Standard Rebate Offer.**

THE PROVISIONS OF THIS RULE 3658 APPLY TO INVESTOR-OWNED QRUS AND DO NOT APPLY TO A MUNICIPALLY-OWNED UTILITY OR TO A COOPERATIVE ELECTRIC ASSOCIATION.

(a) Each investor owned QRU shall make available to its retail electricity customers a standard rebate offer (SRO) of $2.00 per watt for on-site solar systems, up to a maximum of 100 kW per system, that become operational on or after December 1, 2004. At the QRU's option, the standard rebate offer may be paid based upon the direct current (DC) watts produced by the on-site solar systems. THE SRO SHALL BE CONTINGENT UPON THE TRANSFER TO THE QRU OF THE SO-RECS PRODUCED BY THE ON-SITE SOLAR SYSTEM. THE OFFERS TO PURCHASE SO-RECS SHALL COMPLY WITH THE PROVISIONS OF RULE 3655 AND THIS RULE 3658. Any SO-RECs acquired by the QRU pursuant to such SRO program, regardless of whether the associated renewable energy is specifically metered or contractually specified without specific metering, may be counted by the QRU for purposes of compliance with the renewable energy standard.

~~*(b) On or before June 1, 2006, each QRU shall make a one-time offer to purchase, under a renewable energy credit contract, the SO-RECs associated with on-site solar systems, up to a maximum of ten kW per system existing prior to December 1, 2004, and off-grid on-site solar systems, up to a maximum of ten kW per system. The purchase price offered by the QRU for such SO-RECs shall be no less than the QRU's then current standard offer payment rate for SO-RECs, exclusive of the standard rebate payment, associated with the QRU's standard rebate offer and established pursuant to rule 3658. Subsequent offers shall be made at the discretion of the QRU. SO-RECs purchased by a QRU pursuant to this rule may be counted for purposes of compliance with the renewable energy standard.*~~

(b)~~(c)~~ The standard rebate offer of the investor owned QRUs shall be set forth at least annually and shall meet the following requirements:

(I) The QRU need not offer a rebate for an on-site solar system smaller than 500 watts.

(II) The rebate must be made available to all retail utility customers of the QRU on a non-discriminatory, first-come, first-served basis, based upon the date of contract execution.

(III) Applicants who are accepted for SRO rebates shall have one year from the date of contract execution to demonstrate substantial completion of their proposed on-site solar system. Substantial completion means the purchase and installation on the customer's premises of all major system components of the on-site solar system. Customers who do not achieve substantial completion within one year will not receive a rebate, unless the substantial completion date is extended. When substantial completion of an on-site solar system has been achieved by an applicant pursuant to this rule the SO-RECs may be counted for purposes of compliance with the renewable energy standard. Within 30 days of substantial completion, the SRO rebate, pursuant to rule 3658(a), and SO-REC payment, pursuant to rule 3658(c)(VIII), shall be paid to the applicant.

(IV) With the exception of batteries, all on-site solar systems eligible for SRO rebates shall be covered by a minimum five-year warranty. Contracts will require customers to maintain the on-site solar system so that it remains operational for the term of the contract.

(V) On-site solar systems must consist of equipment that is commercially available and factory new when installed on the original customer's premises to be eligible for the SRO rebate. Rebuilt, used, or refurbished equipment is not eligible to receive the rebate *unless the equipment is transferred by a commercial tenant from another premise as permitted by subparagraph 3658(b)(VII)(ii)*.

(VI) Customers may contract to expand their on-site solar systems *within program parameters* and obtain a rebate for the expanded capacity.

(VII) In order to receive the SRO rebate payment:~~,~~

*(i)* ~~*the*~~ *A residential* customer must enter into an agreement with the QRU, with a minimum term of 20 years, that transfers the SO-RECs generated by the on-site solar system during the term of the agreement from the customer to the QRU.

*(ii)* *A commercial customer may enter into an agreement with the QRU, with a minimum term of 20 years, that transfers the SO-RECs generated by the on-site solar system during the term of the agreement from the customer to the QRU;* PROVIDED, HOWEVER, THAT IF THE AGREEMENT IS FOR LESS THAN 20 YEARS AS PERMITTED BY RULE 3655(E)(III), THE REBATE SHALL BE PRORATED TO REFLECT THE SHORTER TERM. IRRESPECTIVE OF THE TERM OF THE AGREEMENT BETWEEN THE CUSTOMER AND THE QRU, IF *the customer is in a leased facility,* PAYMENT FOR SO-RECS SHALL BE MADE BY THE QRU ON A METERED BASIS AND *the customer must obtain the approval of the QRU, which shall not be unreasonably conditioned, delayed or withheld, and either (i) permission from the customer's landlord, or (ii) other documentation evidencing the tenant's unequivocal right to install an on-site solar system. The customer may relocate the on-site solar system to a substitute premise reasonably acceptable to the QRU at any time during the term of the agreement, provided that (i)* THE NEW LOCATION IS WITHIN THE QRU'S SERVICE TERRITORY; (II) *the on-site solar system is not out of operation for more than 90 days due to such relocation; and* (III) *the agreement is extended for the period of time the on-site solar system is out of operation. If the on-site solar system is out of operation for more than 90 days, the QRU may terminate the agreement and upon such termination the customer must repay the pro rata share of the rebate based on the number of years remaining in the term of the agreement.*

(VIII) *Except for on-site solar systems of commercial tenants who opt for an agreement under subparagraph 3658(b)(VII)(ii), and except for solar facilities that are owned by entities other than the on-site consumer of the solar energy,* ~~*For*~~ *for* on-site solar systems, up to and including ten kW, that become operational on or after December 1, 2004, the QRU shall offer to make a one-time payment, in addition to the standard rebate payment, for the SO-RECs contracted to be transferred from the customer to the QRU. Any customer that receives the rebate payment and one-time SO-REC payment under this program shall not be entitled to any other compensation for the SO-RECs contracted to be transferred to the QRU. To facilitate installation of these small systems, all procedures, forms, and requirements shall be clear, simple, and straightforward to minimize the time and effort of homeowners and small businesses.

(IX) For on-site solar systems greater than ten kW that become operational on or after December 1, 2004, *and for all on-site solar systems of whatever size that are owned by an entity other than the on-site consumer of the solar energy,* the QRU, in addition to the standard rebate payment, shall offer to pay for the SO-RECs contracted to be transferred from the customer to the QRU. Such SO-RECs and the associated payments shall be determined by the specifically metered renewable energy output from the on-site solar system.

(X) The customer or its representative shall provide a calculation of the annual expected kilowatt-hour production from the customer's on-site solar system. The customer or its representative shall provide the following documentation to back up the customer's calculation:

(A) Tilt of the system in degrees (horizontal = 0 degrees);

(B) Orientation of the system in degrees (south = 180 degrees);

(C) A representation that the orientation of the system is free of trees, buildings and or other obstructions that might shade the system measured from the center point of the solar array through a horizontal angle plus or minus 60 degrees and a through vertical angle between 15 degrees and 90 degrees above the horizontal plane.

(D) A calculation of the annual expected kWh of electricity produced by the system. For PV systems, the calculation of annual expected kWh of electricity will be based on the public domain solar calculator PVWatts Version 1 (or equivalent upgrade).

(i) The weather station that is either nearest to or most similar in weather to the installation site;

(ii) The system output rating which equals the module rating times the inverter efficiency times the number of modules;

(iii) Array type: fixed tilt, single axis tracking, or 2 axis tracking; For variable tilt systems, the PVWatts calculations can be run multiple times corresponding to the number of times per year that the system tilt is expected to be changed using those months corresponding to the specific tilt angle used;

(iv) Array tilt (degrees); and

(v) Array azimuth (degrees).

(E) In the event PVWatts is no longer available, an equivalent tool shall be established.

(F) For on-site solar systems up to and including ten kW, the REC payment may be adjusted, either up or down, based on the calculation of expected kWh of electric output derived from rule 3658*(b)*(X)(D) as compared with an optimally oriented fixed, i.e. non-tracking, system at the customer's location, but only if the calculated system output differs from the optimally oriented system output by more than ten percent.

(XI) The level of SO-REC payments for systems of ten kW and smaller offered in connection with a QRU's SRO program may be adjusted from time to time as needed to achieve compliance with the renewable energy standard.

(XII) The on-site solar system installed must remain in place on the customer's premises for the duration of its ~~*useful*~~ *contract* life. The customer's equipment must have electrical connections in accordance with industry practice for permanently installed equipment, and it must be secured to a permanent surface (e.g., foundation, roof, etc.). Any indication of portability, including, but not limited to, wheels, carrying handles, dolly, trailer or platform, will render the system ineligible for participation and payments under the SRO program.

(XIII) *The SRO program shall be available to all retail electricity consumers.*

(XIV) *On-site solar systems installed on an apartment building must either be owned and operated by the owner of the building or the owner of the facility must provide documentation of the right to install and maintain the solar panels on the apartment building premises for 20 years. Each on-site solar system must be dedicated to a specific meter and the load at the meter must meet the size limits for net metering of on-site solar systems.*

(XV) *On-site solar systems installed on condominiums must be owned by the condominium owner*, OR BY A THIRD PARTY ON BEHALF OF THE CONDOMINIUM OWNER, *and metered to that owner's unit. The owner must provide documentation that the owner has the legal right to install and maintain the solar panels at the site for the term of the 20 year agreement. If the on-site solar system serves a* GENERAL COMMON ELEMENT *common area, the contract will be with* ~~THE DEVELOPER OR~~ *the condominium* OWNERS' *association*. IF THE ON-SITE SOLAR SYSTEM SERVES A LIMITED COMMON ELEMENT COMMON AREA, THE CONTRACT WILL BE WITH THE CONDOMINIUM UNIT OWNER OR OWNERS. *If the condominium unit is sold,* either (1) *the on-site solar system* OWNED BY THE CONDOMINIUM OWNER *shall become the property of the new owner who is responsible for the net metered electric bill* OR (2) THE NEW OWNER SHALL CONTINUE THE AGREEMENT WITH THE THIRD PARTY WHO OWNS THE ON-SITE SYSTEM ON BEHALF OF THE CONDOMINIUM OWNER.

*(c) No agreement between a QRU and a governmental entity shall require the governmental entity to violate the state constitution nor any state statute, rule, or regulation to participate in the SRO program or to interconnect under rule 3665. Such disallowed contract requirements include requiring mutual or unilateral indemnification, financial obligations beyond the then-current fiscal year unless subject to annual appropriation, forfeiture of governmental immunity, third-party insurance, and performance penalties beyond avoided costs accumulated in any current fiscal year.*

*(d) Sales of electricity may be made directly to an end-use electric consumer by an owner or operator of an on-site solar system. If the on-site solar system is not owned by the electric consumer, the investor owned QRU shall pay for the SO-RECs on a metered basis. The owner or operator of the on-site solar system shall pay the cost of installing the production meter.*

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[signifies omission of unaffected rule sections]

**3664. Net Metering.**

(a) All investor owned QRUs shall allow the customer's retail electricity consumption to be offset by the electricity generated from eligible energy resources on the customer's side of the meter that are interconnected with the QRU, provided that the generating capacity of the customer's facility meets the following two criteria:

(I) The ~~*rated capacity of the*~~ generator *shall be sized to supply no more than 120 percent of the customer's average annual electricity consumption* AT THAT SITE ~~*does not exceed 2000 kW*~~; and

(II) The rated capacity of the generator does not exceed the customer's service entrance capacity**.**

(b) If a customer OF AN INVESTOR OWNED QRU with an eligible energy resource generates renewable energy pursuant to subsection (a) of rule 3664 in excess of the customer's consumption, the excess kilowatt-hours shall be carried forward from month to month and credited at a ratio of 1:1 against the customer's retail kilowatt-hour consumption in subsequent months. Within 60 days of the end of each calendar year, or within 60 days of when the customer terminates its retail service, the QRU shall compensate the customer for any accrued excess kilowatt-hour credits, at the QRU's average hourly incremental cost of electricity supply over the most recent calendar year. HOWEVER, THE CUSTOMER MAY MAKE A ONE-TIME ELECTION, IN WRITING, TO REQUEST THAT THE EXCESS KILOWATT HOURS BE CARRIED FORWARD AS A CREDIT FROM MONTH TO MONTH INDEFINITELY UNTIL THE CUSTOMER TERMINATES SERVICE WITH THE QRU, AT WHICH TIME NO PAYMENT SHALL BE REQUIRED FROM THE QRU FOR ANY REMAINING EXCESS KILOWATT HOUR CREDITS SUPPLIED BY THE CUSTOMER.

(c) The QRU shall file tariffs that comply with these rules within 30 days of the effective date of these rules.

(d) A customer's facility that generates renewable energy from an eligible energy resource shall be equipped with metering equipment that can measure the flow of electric energy in both directions. The QRU shall utilize a single bi-directional electric revenue meter.

(e) If the customer's existing electric revenue meter does not meet the requirements of these rules, the QRU shall install and maintain a new revenue meter for the customer, at the company's expense. Any subsequent revenue meter change necessitated by the customer shall be paid for by the customer.

(f) The QRU shall not require more than one meter per customer to comply with this rule 3664. Nothing in this rule 3664 shall preclude the QRU from placing a second meter to measure the output of a solar renewable energy system for the counting of RECs subject to the following conditions:

(I) For customer facilities over ten kW, a second meter shall be required to measure the solar renewable energy system output for the counting of RECs.

(II) For systems ten kW and smaller, an additional meter may be installed under either of the following circumstances:

(A) The QRU may install an additional production meter on the solar renewable energy system output at its own expense if the customer consents; or

(B) The customer may request that the QRU install a production meter on the solar renewable energy system output in addition to the revenue meter at the customer's expense.

(g) A QRU shall provide net metering service at non-discriminatory rates to customers with eligible energy resources. A customer shall not be required to change the rate under which the customer received retail service in order for the customer to install an eligible energy resource. Nothing in this rule shall prohibit a QRU from requesting changes in rates at any time.

[Rule 3665 – 3699 omitted, unaffected rule sections]

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