Decision No. C10-1112

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO**

DOCKET NO. 10R-243E

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IN THE MATTER OF THE PROPOSED AMENDMENTS TO THE RULES IMPLEMENTING THE RENEWABLE ENERGY STANDARD PURSUANT TO STATUTORY CHANGES RESULTING FROM THE PASSAGE OF HOUSE BILL 10-1001.

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**ORDER ADDRESSING APPLICATIONS FOR REHEARING, REARGUMENT, OR RECONSIDERATION**

Mailed Date: October 14, 2010
Adopted Date: October 6, 2010

**TABLE OF CONTENTS**


I. BY THE COMMISSION ..... 1
A. Statement ..... 1
B. Discussion and Findings ..... 2
1. Public Service ..... 2
2. Black Hills ..... 3
3. GEO ..... 4
4. New Energy ..... 7
II. ORDER ..... 9


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## I. BY THE COMMISSION

### A. Statement

1. By Decision No. C10-0952, mailed on August 30, 2010, the Commission adopted new Renewable Energy Standard (RES) Rules to implement the statutory changes required by House Bill (HB) 10-1001 (codified at §§ 40-2-124 and 40-2-129, C.R.S.)

2. On September 20, 2010, Public Service Company of Colorado (Public Service), Black Hills/Colorado Electric Utility (Black Hills), the Colorado Governor's Energy Office (GEO), and New Energy Development (New Energy) each filed an application for rehearing, reargument, or Reconsideration (RRR) to Decision No. C10-0952. Being fully advised in the matter and consistent with the discussion below, we address each of the applications for RRR.

## B. Discussion and Findings

### 1. Public Service

3. Public Service explains that it is generally satisfied with the new RES Rules adopted by Decision No. C10-0952. Public Service suggests, however, that the Commission make two relatively minor modifications to "have workable rules that achieve the objectives of the General Assembly and the Commission" with respect to HB 10-1001.

4. First, with respect to Rule 3656 (Resource Acquisition), Public Service seeks a rule change that allows an investor owned Qualifying Retail Utility (QRU) to procure certain small eligible energy resources outside of a process approved in a RES compliance plan. Public Service explains that there may be good cause for acquiring such small eligible energy resources in response to unanticipated opportunities. Public Service therefore requests that the Commission modify paragraph 3656(a) to allow for small eligible energy resources to be acquired pursuant to "a separate application."

5. We find Public Service's recommended changes to paragraph 3656(a) to be reasonable, particularly since the "separate application" option would be generally available only for acquisitions of renewable distributed generation, which are defined in HB 10-1001 and the RES Rules as small eligible energy resources. We therefore adopt Public Service's proposed changes to paragraph 3656(a) as shown in the rules attached to this Order as Attachment A.

6. Second, Public Service argues that it would be burdensome to an investor owned QRU to list each installation of retail renewable distributed generation (*e.g.*, each on-site solar installation) whose annual on-going net incremental costs are proposed to be or have been locked down as required by Rule 3657. Public Service explains that it would be preferable for the QRUs to be able to aggregate retail renewable distributed generation installations for the purpose of locking down annual on-going net incremental costs. Public Service thus presents modifications to subparagraphs 3657(b)(I)(B) and (C) that accommodate such aggregation.

7. We agree with Public Service that it would be cumbersome and unnecessary to identify the locked-down annual on-going net incremental costs for each installation of retail renewable distributed generation and therefore we will adopt Public Service's proposed changes to paragraph 3657(b) as shown in the rules attached to this Order as Attachment A.

**2. Black Hills**

8. Black Hills also seeks two relatively minor changes to the RES Rules we adopted by Decision No. C10-0952. First, Black Hills states that, while it is satisfied with the transition from annual RES compliance plan filings to quadrennial filings coincident with the Electric Resource Plan (ERP) filings, the investor owned QRU should still have the ability "to respond to external factors by filing an interim RES compliance Plan as warranted." Black Hills thus suggests a new provision in Rule 3657 QRU Compliance Plan to accommodate interim plan filings.

9. We agree with Black Hills that changed circumstance may warrant a modified resource acquisition process or RES compliance strategy. We therefore adopt Black Hills' proposed subparagraph 3657(a)(V) as indicated in the rules attached to this Order as Attachment A.

10. Second, Black Hills takes an issue with a new provision under Rule 3664 (Net Metering) regarding the implementation of a surcharge for net metered customers intended to supplement their contributions to the investor owned QRU's Renewable Energy Standard Adjustment (RESA) accounts. Specifically, Black Hills explains that the specified calculation of the RESA surcharge for net metered customers as required by the new paragraph 3664(h) may not be appropriate given its own particular situation.

11. Black Hills explains that the typical on-site solar installations in its service area may differ from those used as the basis for the "hard wired" proxy values in paragraph 3664(h). Black Hills is also concerned its billing system may not be able to handle the implementation of the specific surcharges set forth in the new RES Rules. Black Hills therefore suggests additional rule language in paragraph 3664(h) to accommodate an alternative method for calculating the RESA surcharge.

12. We recognize that different types of on-site solar installations may require different proxy values or approaches for calculation a RESA surcharge. We also find that it is unreasonable to require an investor owned QRU to modify its billing system to implement paragraph 3664(h). We will therefore modify the language in paragraph 3664(h) to allow for alternative approaches for calculating and billing a RESA surcharge for net metered customers, although we decline to adopt Black Hills specific suggested rule provisions. The modified rule language is shown in the rules attached to this Order as Attachment A.

### 3. GEO

13. In its RRR, GEO argues that the RES Rules adopted by Decision No. C10-0952 fail to provide reasonable certainty to renewable distributed generation businesses regarding the

long-term viability of the market for small-scale renewable energy resources in Colorado. We disagree and will deny GEO's RRR on this ground.

14. For instance, GEO argues that the RES Rules fall short in providing reasonable transparency and stability for renewable distributed generation businesses regarding long-term market opportunities in the state. GEO would instead prefer that the Commission specify the standards it will use for changing renewable distributed generation requirements pursuant to § 40-2-124(1)(c)(2)(C), C.R.S., in this docket.

15. Similarly, GEO urges the Commission to specify, by adopting a rule, at least three metrics when determining whether a reduction in renewable distributed generation procurement requirements is in the public interest, including: (1) whether changes in renewable distributed generation requirements will improve employment and the long-term economic viability of Colorado communities; (2) whether such changes will allow for alternative resources to provide the same value as renewable distributed generation; and (3) whether the QRU has "advanced RESA funds to the extent necessary to accommodate current and future demand for distributed generation."

16. In Decision No. C10-0952, we signaled the Commission will devote considerable attention to the market for renewable distributed generation leading up to 2015 and beyond 2015. We also stated that the Commission will consider changes in renewable distributed generation requirements in future evidentiary proceedings in which the investor owned QRU will bear the burden of proof on whether the renewable distributed generation requirements are no longer in the public interest. We continue to find the Commission can best "discharge its responsibility and provide transparency to interested stakeholders" as requested by GEO in such proceedings.

17. Moreover, we fully considered such suggestions from GEO prior to adopting Decision No. C10-0952 and remain disinclined to limit the ability of the Commission to consider criteria beyond those specified in a rule. Instead, we find that criteria other than those advocated by GEO may be relevant to changes in distributed generation requirements.

18. GEO also recommends that Commission-sanctioned changes to required levels of renewable distributed generation should only be made in the context of a RES compliance plan proceeding. GEO thus suggests that the option for an investor owned QRU to file a separate application to change renewable distributed generation procurement obligations be eliminated from paragraph 3657(d).

19. We again decline to adopt GEO's suggestion. Decision No. C10-0952 clearly indicated our preference to address changes in renewable distributed generation requirements in the context of a joint ERP/RES compliance plan proceeding. However, when reaching that decision, we also understood that changes to renewable distributed generation requirements might, under certain circumstances, be properly addressed in a proceeding initiated by a separate application. GEO's request was fully considered when we adopted Decision No. C10-0952.

20. GEO further recommends modifications to Rule 3658 (Standard Rebate Offer) (SRO) in RRR. First, GEO argues that potential reductions in the SRO should be considered exclusively in the context of a joint ERP/RES Compliance Plan proceeding. Second, GEO urges the Commission to adopt a rule requiring reductions in SRO levels to be achieved in accordance with a "stepwise schedule." GEO argues that the Commission must address these two problems in order to enhance the transparency and predictability of changes in the SRO to the benefit of market participants.

21. We decline to limit consideration of potential changes in SRO levels to ERP/RES Compliance Plan proceedings. We already considered and rejected such restrictions prior to adopting the new RES Rules in Decision No. C10-0952. Although our strong preference is to consider changes in SRO levels in the context of joint ERP/RES Compliance Plan proceedings, we will continue to be open to the possibility that changes in SRO levels might, under certain circumstances, be properly addressed in a proceeding initiated by a separate application.

22. In addition, we also fully considered GEO's argument that changes in SRO levels should be made only by rule and in accordance with a pre-determined schedule. We reaffirm our preference for Rule 3658, as adopted by Decision No. C10-0952, because it provides us with the flexibility to respond to various factors that influence the overall cost of on-site solar systems to consumers. However, we note that nothing in Rule 3658 will preclude the Commission from adopting a framework in which changes in the SRO are accomplished in a stepwise fashion as suggested by GEO.

23. Finally, GEO restates its opposition to paragraph 3664(h), regarding imposition of a RESA surcharge for customers taking net metered service. We fully considered this position prior to adopting Decision No. C10-0452 and will not eliminate the provisions implementing that implement § 40-2-124(1)(g)(IV)(B), C.R.S.

**4. New Energy**

24. In RRR, New Energy asks the Commission to clarify (1) that retail renewable distributed generation projects involving new or planned loads and (2) that premises in which new end-user electric consumers arise as a result of subdivision and subsequent ownership changes may both participate in the QRU's RES-related programs "without discrimination" and "on an even footing with projects based on historic loads or pre-existing end-use electric

consumers." New Energy also asks for clarification from the Commission that new net metered projects may be "built out on a phased basis."

25. For example, New Energy recommends that the definition of "end-use electric consumer" in the RES Rules be modified to include new owners or lessors of premises. New Energy also recommends that the RES Rules include some parameters on permissible methods for calculating the electric loads and corresponding size of projects contemplating new or expanded end-uses.

26. New Energy further recommends the Commission state that projects with new loads or new end-use consumers may not be discriminated against in favor of existing loads and existing end-use consumers. New Energy suggests that the RES Rules should expressly permit new development or urban infill redevelopment to incorporate renewable energy projects, because such projects will "have more noticeable impact on employment and economic viability than projects limited to existing uses and existing users."

27. Lastly, New Energy requests that the Commission consider in this proceeding additional rule changes concerning large residential and commercial developments that will integrate large solar facilities "on land under development."

28. We are concerned that New Energy raises several issues regarding the RES Rules that were not examined during this rulemaking proceeding. We find that a RRR is procedurally improper and impractical to consider new issues such as those raised in New Energy's filing. We therefore deny the RRR filed by New Energy.

29. However, we note that the Commission has recently opened a new rulemaking in Docket No. 10R-674E to address issues surrounding community solar gardens. That rulemaking may provide New Energy with an opportunity to address large solar facilities that serve new

developments for residential and commercial customers. In addition, Decision No. C10-0952 encourages interested stakeholders to engage in a series of workshops and meetings that could lead to a proposal to initiate a new and separate rulemaking to update our interconnection rules. New Energy may find that some or all of the issues it raises in its RRR can properly be addressed in that new potential rulemaking.

## II. ORDER

### A. The Commission Orders That:

1. The application for rehearing, reargument, or reconsideration (RRR) of Decision No. C10-0952 filed by Public Service Company of Colorado on September 20, 2010 is granted, consistent with the discussion above.

2. The RRR of Decision No. C10-0952 filed by Black Hills/Colorado Electric Utility on September 20, 2010 is granted, in part, and denied, in part, consistent with the discussion above.

3. The RRR of Decision No. C10-0952 filed by the Colorado Governor's Energy Office on September 20, 2010 is denied, consistent with the discussion above.

4. The RRR of Decision No. C10-0952 filed by the New Energy Development on September 20, 2010 is denied, consistent with the discussion above.

5. The Commission adopts rules attached to this Order as Attachment A.

6. The rules shall be effective 20 days after publication in the Colorado Register by the Office of the Secretary of State.

7. The opinion of the Attorney General of the State of Colorado shall be obtained regarding the constitutionality and legality of the rules.

8. A copy of the rules adopted by the Order shall be filed with the Office of the Secretary of State for publication in the Colorado Register. The rules shall be submitted to the appropriate committee of the Colorado General Assembly if the General Assembly is in session at the time this Order becomes effective, or for an opinion as to whether the adopted rules conform with § 24-4-103, C.R.S.

9. This Order is effective on its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING October 6, 2010.**

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RONALD J. BINZ

JAMES K. TARPEY

MATT BAKER

Commissioners

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# COLORADO DEPARTMENT OF REGULATORY AGENCIES

## Public Utilities Commission

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

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

BASIS, PURPOSE, AND STATUTORY AUTHORITY. ..... 2

GENERAL PROVISIONS ..... 2

3000. Scope and Applicability. ..... 2

RENEWABLE ENERGY STANDARD ..... 4

3650. Applicability. ..... 4

3651. Overview and Purpose. ..... 5

3652. Definitions. ..... 5

3653. Municipal Utilities. ..... 8

3654. Renewable Energy Standard. ..... 9

3655. Renewable Distributed Generation. ..... 12

3656. Resource Acquisition. ..... 13

3657. QRU Compliance Plan. ..... 16

3658. Standard Rebate Offer. ..... 19

3659. Renewable Energy Credits. ..... 23

3660. Cost Recovery and Incentives. ..... 26

3661. Retail Rate Impact. ..... 29

3662. Annual Compliance Report. ..... 32

3663. Compliance Report Review. ..... 34

3664. Net Metering. ..... 37

3665. Small Generation Interconnection Procedures. ..... 39

3666. Environmental Impacts. ..... 40

3667. – 3699. [Reserved]..... 40

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## BASIS, PURPOSE, AND STATUTORY AUTHORITY.

The basis and purpose of these rules is to describe the electric service to be provided by jurisdictional utilities and master meter operators to their customers; to designate the manner of regulation over such utilities and master meter operators; and to describe the services these utilities and master meter operators shall provide. In addition, these rules identify the specific provisions applicable to public utilities or other persons over which the Commission has limited jurisdiction. These rules address a wide variety of subject areas including, but not limited to, service interruption, meter testing and accuracy, safety, customer information, customer deposits, rate schedules and tariffs, discontinuance of service, master meter operations, flexible regulation, procedures for administering the Low-Income Energy Assistance Act, cost allocation between regulated and unregulated operations, recovery of costs, the acquisition of renewable energy, small power producers and cogeneration facilities, and appeals regarding local government land use decisions. The statutory authority for these rules can be found at §§ 29-20-108, 40-1-103.5, 40-2-108, 40-2-124, 40-2-129, 40-3-102, 40-3-103, 40-3-104.3, 40-3-111, 40-3-114, 40-4-101, 40-4-106, 40-4-108, 40-4-109, 40-5-103, 40-8.7-105(5), 40-9.5-107(5), and 40-9.5-118, C.R.S.

## GENERAL PROVISIONS

**3000. Scope and Applicability.**

(a) Absent a specific statute, rule, or Commission Order which provides otherwise, all rules in this Part 3 (the 3000 series) shall apply to all jurisdictional electric utilities and electric master meter operators and to Commission proceedings concerning electric utilities or electric master meter operators providing electric service.

(b) The following rules in this Part 3 shall apply to cooperative electric associations which have elected to exempt themselves from the Public Utilities Law pursuant to § 40-9.5-103, C.R.S.:

(I) Rules 3002 (a)(I), (a)(II), (a)(IV), (a)(V), (a)(XVI), (b), and (c) concerning the filing of applications for certificate of public convenience and necessity for franchise or service territory, for certificate amendments, to merge or transfer, or for appeals of local land use decisions.

(II) Rules 3005 (a)(III) (IV), (d), (e), (g), and (h) concerning records under RUS accounting system and preservation of records.

(III) Rule 3006 (a) (b) (c) (d) and (e) concerning the filing of annual reports, designation for service of process, and election of applicability of Title 40, Article 8.5.

(IV) Rules 3008 (b) and (d) concerning incorporation by reference.

(V) Rules 3100 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to a franchise.

(VI) Rules 3101 and 3103 concerning application for and amendment of a certificate of public convenience and necessity relating to service territory.

(VII) Rule 3104 concerning application to transfer assets, to obtain a controlling interest, or to merge with another entity.

(VIII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.

(IX) Rule 3207 (a) and (b), concerning construction and expansion of distribution facilities.

(X) Rules 3250 through 3253 concerning major event reporting.

(XI) Rule 3411 concerning the Low-Income Energy Assistance Act unless the cooperative electric association has exempted themselves pursuant to rule 3411(c).

(XII) Rules 3650(b), 3651, 3652, 3654(b), (~~e~~d) through (~~j~~i) and (~~m~~l); 3659(a)(I) through (a)(V), (b), (d) through (~~k~~i), 3660(~~i~~l), 3661(b), (c), (g), and (~~j~~i), 3662(a)(I), (a)(II), (a)(IV) through (a)(X), (a)(XIII), (a)(XV), (b), (d) and (e), and 3665.

(XIII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

(c) The following rules in this Part 3 shall apply to **cooperative electric generation and transmission associations**:

(I) Rules 3002 (a)(III), (a)(XVI), (b), and (c) concerning the filing of applications for certificates of public convenience and necessity for facilities or for appeals of local land use decisions.

(II) Rule 3006(h) concerning the filing of least-cost planning reports.

(III) Rule 3102 concerning applications for certificates of public convenience and necessity for facilities.

(IV) Rule 3103 concerning amendments to certificates of public convenience and necessity for facilities.

(V) Rule 3104 concerning application to transfer, to obtain a controlling interest, or to merger with another entity.

(VI) Rule 3200 concerning construction, installation, maintenance, and operation of facilities.

(VII) Rule 3204 concerning incidents occurring in connection with the operation of facilities.

(VIII) Rule 3205 concerning construction or expansion of generating capacity.

(IX) Rule 3206 concerning construction or extension of transmission facilities.

(X) Rule 3253(a) concerning major event reporting.

(XI) Rules 3602, 3605, and 3614(a) concerning ~~least cost~~ electric resource planning.

(XII) Rules 3700 through 3707 concerning appeals of local governmental land use decisions actions.

(d) The following rules in this Part 3 shall apply to municipally owned utilities, which are qualifying retail utilities:

(I) Rules 3650(c), 3651, 3652, 3653, 3654(b), (c), (~~e~~d) through (~~j~~i) and (~~m~~l); 3659(a)(I) through (a)(V), (b), (d) through (~~k~~i).

(e) The following rules in this Part 3 shall apply to municipally owned utilities which are not qualifying retail utilities:

(I) Rules 3650(d).

* * *

[indicates omission of unaffected rules]

## RENEWABLE ENERGY STANDARD

**3650. Applicability.**

(a) Rules 3650 to 3665 shall apply to all investor owned jurisdictional electric utilities in the state of Colorado that are subject to the Commission's regulatory authority.

(b) Rules 3651, 3652, 3654(b), (~~e~~d) through (~~j~~i), and (~~m~~l), 3659(a)(I) through (a)(V), (b), (d) through (~~k~~i), 3660(~~i~~l), 3661(b), (c), (g),and (~~j~~i), 3662(a)(I), (a)(II), (a)(IV) through (a)(X), (a)(XIII), (a)(XV), (b), (d) and (e), and 3665 shall apply to cooperative electric associations in the state of Colorado.

(c) Rules 3651, 3652, 3653, 3654(b), (c), (~~e~~d) through (~~j~~i) and (~~m~~l), 3659(a)(I) through (a)(V), (b), (d) through (~~k~~i) shall apply to municipally owned electric utilities in the state of Colorado, which are QRUs.

(d) The board of directors of each municipally owned electric utility not subject to these rules may, at its option, submit the question of whether to be subject to these rules to its consumers on a one meter equals one vote basis. Approval by a majority of those voting in the election shall be required for such inclusion, providing that a minimum of 25 percent of eligible consumers participates in the election.

(I) Within 45 days of the conclusion of any vote to be subject to these rules, the municipally owned electric utility shall provide written notification of the outcome of the vote to the Director of the Commission.

(e) Nothing in these rules is intended to expand the Commission's regulatory oversight and powers over municipally owned electric utilities or cooperative electric associations.

**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, and the 2010 Colorado General Assembly again amended § 40-2-124, C.R.S., by House Bill 10-1001.

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~~3666. 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. With respect to nontoxic plant matter obtained from forests, both slash and brush shall mean products and materials derived from forest restoration and management, including, but not limited to, harvesting residues, precommercial thinnings, and materials removed as part of a federally recognized timber sale or removed to reduce hazardous fuels, to reduce or contain disease or insect infestation, or to restore ecosystem health.

(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 and recycled energy.

(g) "Eligible energy resources" are renewable energy resources or facilities that generate recycled energy.

~~(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~~h) "On-site solar system" means a solar renewable energy system that is retail renewable distributed generation~~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 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~~i) "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~~j) "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~~k) "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~~l) "Renewable distributed generation" means retail renewable distributed generation and wholesale renewable distributed generation.

(m) "Renewable energy" means energy generated from renewable energy resources including renewable distributed generation.

(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 a renewable 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~~acquired from on-site solar systems before August 11, 2010 shall qualify as RECs from retail renewable distributed generation for purposes of demonstrating compliance with the renewable energy standard. RECs acquired from off-grid on-site solar systems prior to August 11, 2010 shall also qualify as RECs from retail renewable distributed generation for purposes of demonstrating compliance with the renewable energy standard.

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

(p) "Renewable energy resource" means 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 30 megawatts or less. Hydropower resources not in existence on January 1, 2005 must have a nameplate rating of ten megawatts or less.

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

(r) "Renewable energy standard adjustment" or "RESA" means a forward-looking cost recovery mechanism used by an investor owned QRU to provide funding for implementing the renewable energy standard.

(~~r~~s) "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.

(t) "Retail electricity sales" means electric energy sold to retail end-use electric consumers by a QRU or an electric utility that is eligible to become a QRU pursuant to § 40-2-124(5)(b), C.R.S,

(u) "Retail renewable distributed generation" means a renewable energy resource that is 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, and is interconnected on the end-use electric consumer's side of the QRU's meter. For the purposes of this definition, the non-residential end-use electric customer, prior to the installation of the renewable energy resource, 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 renewable energy resource, 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. Retail renewable distributed generation shall be sized to supply no more than one hundred twenty percent of the average annual consumption of electricity by the end-use electric consumer at that site. The end-use electric 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.

(~~s~~v) "Service entrance capacity" means the capacity of the QRU's electric service conductors that are physically connected to the customer's electric service entrance conductors.

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

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

~~(v) "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.~~

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

(x) "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 as set forth in rule 3658.

(y) "Wholesale renewable distributed generation" means a renewable energy resource located in Colorado with a nameplate rating of 30 megawatts or less that does not qualify as retail renewable distributed generation.

**3653. Municipal Utilities.**

(a) Each municipally owned QRU implementing a renewable energy standard substantially similar to the provisions of § 40-2-124, C.R.S., shall submit a statement to the Commission that demonstrates its renewable energy standard program, at a minimum, meets the following criteria:

(I) The eligible energy resources shall be limited to those identified in subsection § 40-2-124(1)(a);

(II) The percentage requirements shall be equal to or greater in the same years than those identified in subsection § 40-2-124(1)(c)(V) and counted in the manner allowed by rule 3654; and

(III) The utility must have an optional pricing program in effect that allows retail customers the option to support through utility rates emerging renewable energy technologies.

(b) The statement to be submitted by a municipally owned QRU is for information purposes only and is not subject to approval by the Commission. Upon filing of the certification statement, the municipally owned QRU shall have no further obligations under these rules.

(c) Nothing in this section prohibits a municipally owned electric utility from buying and selling RECs.

**3654. Renewable Energy Standard.**

(a) Each investor owned QRU shall generate or cause to be generated (through purchase or by providing rebates or other form of incentive) eligible energy, including the renewable distributed generation required under paragraphs 3655(a) and (b), in the following minimum amounts:

(I) Three percent of its retail electricity sales in Colorado for the compliance year 2007;

(II) Five percent of its retail electricity sales in Colorado for each of the compliance years 2008 through 2010;

(III) ~~Ten~~ Twelve percent of its retail electricity sales in Colorado for each of the compliance years 2011 through 2014;

(IV) ~~Fifteen~~ Twenty percent of its retail electricity sales in Colorado for each of the compliance years 2015 through 2019; and

(V) ~~Twenty~~ Thirty percent of its retail electricity sales in Colorado for each of the compliance years beginning in 2020 and continuing thereafter.

(b) Each cooperative electric association QRU and municipally owned QRU shall generate or cause to be generated eligible energy in the following minimum amounts:

(I) One percent of its retail electricity sales in Colorado for each of the compliance years 2008 through 2010;

(II) Three percent of its retail electricity sales in Colorado for each of the compliance years 2011 through 2014;

(III) Six percent of its retail electricity sales in Colorado for each of the compliance years 2015 through 2019; and

(IV) Ten percent of its retail electricity sales in Colorado for each of the compliance years beginning in 2020 and continuing thereafter.

(c) For municipal utilities that become ~~a~~ municipally owned QRUs after December 31, 2006, the minimum percentage requirements of eligible energy shall begin in the first calendar year following qualification as follows:

(I) Years one through three: One percent of retail electricity sales;

(II) Years four through seven: Three percent of retail electricity sales;

(III) Years eight through twelve: Six percent of retail electricity sales; and

(IV) Years thirteen and thereafter: Ten percent of retail electricity sales.

~~(d) Of the eligible energy amounts specified in paragraph 3654(a), each investor owned QRU shall derive at least four percent from solar electric generation technologies. At least one-half of this four percent shall be derived from on-site solar systems located at customers' facilities~~

(~~e~~d) For purposes of compliance with the renewable energy standard specified in rules 3654(b) and (c), for cooperative electric association QRUs and municipal QRUs, each kilowatt-hour of eligible energy generated from solar electric generation technology shall be counted as 3.0 kilowatt-hours of eligible energy, provided that the solar electric generation technology commenced producing electricity prior to July 1, 2015. For solar electric generation technology that commenced producing electricity on or after July 1, 2015, each kilowatt-hour of eligible energy generated from solar electric generation technology shall be counted as 1.0 kilowatt-hours of eligible energy for compliance purposes.

(~~f~~e) For purposes of compliance with the renewable energy standard, each kilowatt-hour of eligible energy generated in Colorado, other than retail renewable distributed generation, shall be counted as 1.25 kilowatt-hours of eligible energy. Eligible energy generated by retail renewable distributed generation for which a QRU has entered into a purchase transaction prior to August 11, 2010 shall also be counted as 1.25 kilowatt-hours of eligible energy.

(~~g~~f) For purposes of compliance with the renewable energy standard, each kilowatt-hour of eligible energy generated from a community-based project shall be counted as 1.5 kilowatt-hours of eligible energy.

(~~h~~g) For purposes of compliance with the renewable energy standard, each kilowatt-hour of eligible energy ~~may take advantage of~~shall be subject to only one of the compliance multipliers in rules 3654(~~e~~d), (~~f~~e) or (~~g~~f).

(~~i~~h) For purposes of compliance with the renewable energy standard, a QRU may generate, or cause to be generated, and count eligible energy or RECs for compliance:

(I) For the compliance year immediately preceding the compliance year during which they were generated, provided that such eligible energy and RECs are generated no later than July 1 of the calendar year immediately following the end of the compliance year for which they are being counted;

(II) For the compliance year during which they were generated; or

(III) For the five compliance years immediately following the compliance year during which they were generated.

(IV) Eligible energy or RECs generated on or after January 1, 2004 may be counted for compliance with this renewable energy standard. Eligible energy or RECs generated on or before December 31, 2003 shall not be eligible for, and shall not be counted for, compliance with this renewable energy standard. The eligibility for compliance of all eligible energy and RECs shall expire at the end of the fifth calendar year following the calendar year during which they were generated.

(~~j~~i) For purposes of compliance with this renewable energy standard, a QRU may substitute the equivalent RECs~~, S-RECs, or SO-RECs~~ for eligible energy.

(~~k~~j) For the first four compliance years, 2007 through 2010, the QRU may borrow forward eligible energy and RECs generated during the following two compliance years. Any borrowed eligible energy and RECs generated during a compliance year must be made up by actual eligible energy and RECs generated during that compliance year or borrowed from subsequent compliance years, provided that the fourth compliance year is the last compliance year that borrowing forward may occur pursuant to this rule. For purposes of this rule, the term "borrow forward" means that a QRU may count eligible energy and RECs that it has not yet generated or caused to be generated to satisfy its current year obligations toward compliance with the renewable energy standard and the term "made up" means that any counting of eligible energy and RECs by a QRU in a compliance year that it had not actually generated nor caused to be generated shall be actually generated or caused to be generated in a subsequent year.

(~~l~~k) For the first four compliance years, 2007 through 2010, no administrative penalties shall be assessed against an investor owned QRU if the failure to meet the renewable energy standard results from events beyond the reasonable control of the QRU which could not have reasonably been mitigated by the QRU.

(~~m~~l) For purposes of compliance with this renewable energy standard, there shall be no "double counting" of eligible energy or RECs. RECs shall be used for a single purpose only, and shall be retired upon use for that purpose. Notwithstanding the foregoing, eligible energy and RECs generated or acquired by a QRU and counted toward compliance with a federal renewable energy standard may also be counted by the QRU toward compliance with the renewable energy standard.

(~~n~~m) RECs associated with eligible energy sold by the investor owned QRU under an optional renewable energy pricing program shall be retired by the investor owned QRU and may not be counted by the investor owned QRU toward compliance with the renewable energy standard.

(~~o~~n) For purposes of compliance with this renewable energy standard, if a generation system uses a combination of fossil fuel and eligible energy resources to generate electricity, a QRU may count only as eligible energy the proportion of the total electric output of the generation system that results from the use of eligible energy resources. The QRU shall include in its annual compliance plan the method of calculation used to determine the proportion of eligible energy.

(~~p~~o) The QRU may generate, or cause to be generated, eligible energy without regard to economic dispatch procedures.

**3655. Renewable Distributed Generation.**

(a) In conjunction with the renewable energy standard set forth in paragraph 3654(a), each investor owned QRU shall generate or cause to be generated (through purchase or by providing rebates or other form of incentive) renewable distributed generation in the following minimum amounts, unless the Commission amends such minimum amounts under paragraph 3655(c):

(I) One percent of its retail electricity sales in Colorado for each of the compliance years 2011 through 2012;

(II) One and one-fourth percent of its retail electricity sales in Colorado for each of the compliance years 2013 through 2014;

(III) One and three-fourths percent of its retail electricity sales in Colorado for each of the compliance years 2015 through 2016;

(IV) Two percent of its retail electricity sales in Colorado for each of the compliance years 2017 through 2019;

(V) Three percent of its retail electricity sales in Colorado for each of the compliance years beginning in 2020 and continuing thereafter.

(b) Of the amounts of renewable distributed generation set forth in paragraph 3655(a), at least one-half shall be derived from retail renewable distributed generation unless modified by the Commission under paragraph 3655(c).

(c) The Commission may change the minimum amounts of retail renewable distributed generation and wholesale renewable distributed generation set forth in paragraphs 3655(a) and (b) pursuant to a filing under paragraph 3657(a). The Commission may reduce the minimum amounts of retail renewable distributed generation and wholesale renewable distributed generation set forth in paragraphs 3655(a) and (b) for effect after December 31, 2014 upon finding that those minimum amounts are no longer in the public interest. In the event that the Commission finds that the public interest requires an increase in such minimum amounts after December 31, 2014, the Commission shall report such findings to the Colorado General Assembly.

(d) The investor owned QRU may propose in a compliance plan filing under rule 3657, or by a separate application, that the Commission reduce the percentages set forth in paragraph 3655(a) and (b).

(e) Renewable energy credits associated with retail renewable distributed generation and wholesale renewable distributed generation will be used to comply with the renewable distributed generation requirements as set forth in this rule 3655. Eligible energy and RECs produced by renewable distributed generation shall be governed by rule 3659, unless otherwise exempt from those provisions, and by paragraphs 3654(e) through (i) and (l) through (o).

(f) In a final decision concerning the investor owned QRU's compliance plan, as between residential and nonresidential retail renewable distributed generation, the Commission shall direct the investor owned QRU to allocate its expenditures for the acquisition of retail renewable distributed generation according to the proportion of RESA revenues derived from each of these customer groups; except that the investor owned QRU may acquire retail renewable distribution generation at levels that differ from these group allocations based upon market response to the QRU's programs.

**~~3655~~3656. 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 Electric Resource Planning Rules shall apply to the acquisition of eligible energy resources by investor owned QRUs. Notwithstanding the exemptions in the Electric Resource Planning Rules, investor owned QRU shall acquire ~~SO-RECs from on-site solar systems~~ renewable distributed generation in accordance with a process set forth in a Commission-approved compliance plan or by separate application.

(b) When evaluating resource acquisitions to comply with the renewable energy standard, the Commission shall consider, on a qualitative basis, factors that affect employment and the long-term economic viability of Colorado communities, including best value employment metrics.

(c) For new eligible energy resources that the investor owned QRU acquires from third-party suppliers, the investor owned QRU shall request from the suppliers and provide to the Commission the following best value employment metrics:

(I) The availability of training programs, including training through apprenticeship programs registered with the United States Department of Labor, Office of Apprenticeship and Training;

(II) The employment of Colorado workers as compared to importation of out-of-state workers;

(III) Long-term career opportunities; and

(IV) Industry-standard wages, health care, and pension benefits.

(d) In the event that an investor owned QRU proposes in a resource acquisition plan to construct a new eligible energy resource, the investor owned QRU shall provide the Commission with the same best value employment metrics as set forth in paragraph 3656(c).

(~~b~~e) The investor owned QRU may apply to the Commission, at any time, for review and approval of renewable energy credit contracts of any size, and renewable energy supply contracts with ~~facilities no greater than 30 MW~~renewable distributed generation. The Commission will review and rule on these contracts within 90 days of 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.

(~~e~~f) 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.

(~~d~~g) 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 on-site solar systems of between 100 kilowatts and one megawatt may have a different term if mutually agreed to by the parties.

(~~e~~h) 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.

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

(I) In addition to the cost of the eligible 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, employment, the long-term economic viability of Colorado communities, best value employment metrics, and any other factor the investor owned QRU determines is relevant to the investor owned 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) An investor owned 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 investor owned 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 investor owned QRU shall include, as part of its compliance plan, a description of its methodology and price(s) it intends to use for this evaluation.

(~~g~~j) Within 15 days of the due date for bids in a competitive solicitation, the investor owned QRU shall notify respondents as to whether their bid has met the bid submission criteria.

(~~h~~k) 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.

(~~i~~l) For eligible energy resources greater than 250 kW, the owner shall provide, at the QRU's request, real time electronic access to the QRU to system operation data. In the event that an eligible energy resource greater than 250 kW also collects meteorological data, the owner shall provide, at the QRU's request, real time electronic access to the QRU to such meteorological data.

~~**3656. Environmental Impacts.**~~

~~(a) Eligible energy resources must meet all applicable federal, state, and local environmental permitting requirements.~~

~~(b) For eligible energy resources larger than two MW that are not net-metered or any wind turbine structures extending over 50 feet in height, the QRU shall require project developers to include in the bid package written documentation that consultation occurred with appropriate governmental agencies (for example, the Colorado Division of Wildlife or the U.S. Fish and Wildlife Service) responsible for reviewing potential project development impacts to state and federally listed wildlife species, as well as species, habitats, and ecosystems of concern.~~

~~(c) For eligible energy resources larger than two MW that are not net-metered or any wind turbine structures extending over 50 feet in height, the QRU renewable energy supply contract shall~~

~~require project developers to certify the following as a condition precedent to achieving commercial operation:~~

~~(I) The developer has performed site specific wildlife surveys (referred to herein as the Environmental Surveys) which are conducted on the facility's site prior to construction;~~

~~(II) The developer, with good faith effort, used the results of the Environmental Surveys and available monitoring in developing the design, construction plans, and management plans of the facilities to avoid, minimize, and/or mitigate any adverse environmental impacts to state and federally listed species, to species of special concern, to sites shown to be local bird migration pathways, to critical habitat, to important ecosystems, and to areas where birds or other wildlife are highly concentrated and are considered at risk;~~

~~(III) The results of the pre-construction Environmental Surveys shall be shared with the Colorado Division of Wildlife (CDOW) prior to project construction; and~~

~~(IV) A summary report of these results shall be made available to CDOW at the time the project achieves commercial operation.~~

**3657. QRU Compliance Plan.**

(a) Each investor owned QRU shall file for Commission approval, by application, a proposed plan detailing how the QRU intends to comply with these rules in accordance with the following schedule:

(I) On or before May 1, 2011, the investor owned QRU shall file a plan detailing how the QRU intends to comply with these rules during the 2012 compliance year.

(II) With the electric resource plan filed under rule 3603 on or before October 31, 2011, the investor owned QRU shall file a plan detailing how the QRU intends to comply with these rules during the resource acquisition period addressed in that rule 3603 filing.

(III) On or before October 31, 2013, the investor owned QRU shall file a plan detailing how the QRU intends to comply with these rules during a minimum compliance period extending from 2015 through 2017.

(IV) With the electric resource plan filed with the Commission under rule 3603 on or before October 31, 2015, and with each electric resource plan filed under rule 3603 thereafter, the investor owned QRU shall file a plan detailing how the QRU intends to comply with these rules during the resource acquisition period addressed in that rule 3603 filing.

(V) At any time after October 31, 2011, the investor owned QRU may file an interim plan by application at the Commission explaining the reasons and changed circumstances that justify the interim plan.

(b) ~~Every year on or before July 1, each investor owned QRU shall file with the Commission, by application, its proposed plan detailing how the QRU intends to comply with these rules during the next compliance year.~~ Each ~~annual~~ QRU compliance plan shall include:

(I) The investor owned QRU's:

(A) Determination of the retail rate impact pursuant to rule 3661 and a presentation of projected RESA revenues, surcharges collected under paragraph 3664(h), expenditures, and deferred account balances (both positive and negative) over a minimum of ten years;

(B) For each eligible energy resource other than retail renewable distributed generation, a listing of each eligible energy resource whose on-going annual net incremental costs have been locked down and the value of the locked down on-going annual net incremental costs for each listed eligible energy resource. For retail renewable distributed generation, the QRU shall set forth this information in the aggregate, listed by the year in which the resources were acquired.

(C) For each eligible energy resource other than retail renewable distributed generation, a listing of the eligible energy resources whose on-going annual net incremental costs are expected to be locked down during the period covered by the compliance plan and the current projection of the locked down on-going annual net incremental costs for each listed eligible energy resource. For retail renewable distributed generation, the QRU shall set forth this information in the aggregate, listed by the year in which the resources were acquired.

(~~B~~D) Estimate of its retail electricity sales over a minimum of ten years;

(~~C~~E) Estimate of the eligible energy and RECs that the QRU already has acquired and the QRU's estimate of the additional eligible energy and RECs that will be needed to meet both the renewable energy standard ~~sunder rule 3654 and the~~ requirements for renewable distributed generation under rule 3655;

(~~D~~F) Estimate of the funds that the QRU will have available to generate, or cause to be generated, additional eligible energy and RECs under the retail rate impact established in rule 3661, including, but not limited to, the RESA revenues collected from residential and nonresidential retail customers and other revenue resources;

(~~E~~G) Plan to acquire additional eligible energy and RECs given the constraints of the retail rate impact specified at rule 3661, including the allocation of the funds available under the retail rate impact rule to acquire eligible energy or RECs from each of the following: retail renewable distributed generation to be acquired under rule 3658 from residential retail customers; retail renewable distributed generation to be acquired under rule 3658 from nonresidential retail customers; wholesale renewable distributed generation~~on-site solar systems; solar renewable energy systems that are not on-site solar systems~~; and ~~non-solar~~ eligible energy resources with nameplate ratings of more than 30 megawatts to be acquired pursuant to the Commission's Electric Resource Planning Rules;

(~~F~~H) The standard offers the investor owned QRU intends to offer customers to purchase RECs from on-site solar systems that are no larger than 500 kW and a proposal, at the discretion of the QRU, to reduce the SRO based on market

conditions ~~and expected market changes under paragraph 3658(c) and Standard rebate offer and the QRU's estimate of the eligible energy that will be acquired under the standard rebate offer~~;

(~~G~~I) ~~Plan to~~ Proposal, at the discretion of the investor owned QRU, to advance funds from year to year to augment the amounts collected from retail customers through the RESA for the acquisition of more eligible energy resources;~~track how the QRU is responding to customers participating in the standard rebate offer program. The QRU shall track from the start of the application process to when the photovoltaic system commences generation.~~

~~(H) Plan to acquire the additional eligible energy and RECs, including the QRU's use of competitive acquisitions to obtain the additional SO-RECs it needs to meet the renewable energy standard;~~

(~~I~~J) ~~The proposed~~Proposed request for proposals including any standard contracts the investor owned QRU plans to use as part of a competitive acquisition process; and

(~~J~~K) Proposed ownership investment, if any, in eligible energy resources and estimate of whether its investment will provide net economic benefits to the QRU's customers, entitling the QRU to extra profit on its investment, pursuant to rule 3660.

(II) The acquisition process for eligible energy resources, pursuant to rule ~~3655~~3656;

~~(III) The establishment of the initial level and adjustments to the standard rebate offer for solar electric generation resources, pursuant to rule 3658;~~

(~~IV~~III) The treatment, tracking, counting and trading of RECs, pursuant to rule 3659;

~~(V) The establishment of a cost recovery mechanism, pursuant to rule 3660;~~

(~~VI~~IV) Rules, regulations, and tariffs for the net metering for renewable energy resources, pursuant to rule 3664; and

(V~~I~~I) Application forms, standard agreements, and general procedures for the investor owned QRU's SRO programs under rule 3658 and for the interconnection of renewable energy resources~~,~~ pursuant to rule 3665.

(~~b~~c) The Commission shall either approve the investor owned QRU's compliance plan or order modifications to the compliance plan. Investor owned QRU actions ~~consistent with~~ under an approved compliance plan ~~will be presumed prudent~~shall carry a rebuttable presumption of prudence.

(~~c~~d) The investor owned QRU may apply to the Commission at any time for approval of amendments to an approved compliance plan.

**3658. Standard Rebate Offer.**

(a) Each investor owned QRU shall make available to its retail electricity customers a standard rebate offer (SRO) ~~of $2.00 per watt~~ expressed in terms of dollars per watt for on-site solar systems that become operational on or after December 1, 2004. The SRO shall be $2.00 per watt except that the Commission may set the SRO at a lower amount upon finding that market changes support such lower amount.

(b) The maximum rebate per site ~~as set forth under paragraph 3652(i)~~ shall be 100 kW times the SRO. At the investor owned QRU's option, the ~~standard rebate offer~~SRO 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 investor owned QRU of the ~~SO~~ RECs produced by the on-site solar system. Any ~~SO~~ RECs acquired by the investor owned 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 investor owned QRU for purposes of compliance with the renewable energy standard.

(c) When establishing an SRO below $2.00 per watt, the Commission shall target an amount such that the SRO, in combination with the investor owned QRU's standard offers to purchase RECs from on-site solar systems and with other financial incentives and tax benefits, results in reasonable overall levels of incentives to the customers participating in the investor owned QRU's SRO programs.

(d) With each compliance plan filed by the investor owned QRU under rule 3657, or by separate application, the investor owned QRU may propose that the Commission reduce the SRO in accordance with projected changes in the standard prices the investor owned QRU offers customers for RECs from on-site solar systems.

(~~b~~e) Investor owned QRUs may establish one or more standard offers to purchase ~~renewable energy credits~~ RECs from on-site solar systems that meet the definition of paragraph 3652(~~i~~h) so long as the on-site solar system is 500 kW or less in size. Subject to the retail rate impact in rule 3661~~,~~:

(I) ~~the~~ 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~~ SRO programs.

(II) The QRU shall have the discretion to determine, in a nondiscriminatory manner, the price it will pay for RECs from on-site solar systems that are no larger than 500 kW.

(~~c~~f) The SRO and the standard ~~rebate~~ offers to purchase RECs from on-site solar systems ~~of the investor owned QRUs shall be set forth at least annually and~~ shall meet the following requirements:

(I) The investor owned QRU need not offer a ~~rebate~~ SRO for or purchase RECs from an on-site solar system smaller than 500 watts.

(II) The ~~rebate~~ SRO and the standard offer to purchase RECs must be made available to all retail utility customers of the investor owned QRU on a non-discriminatory, first-come, first-served basis, based upon the date of contract execution.

(III) Applicants who are accepted for the 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 an SRO 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 paragraphs 3658(a) and (b), and ~~SO~~ REC payment, pursuant to subparagraph 3658(~~c~~f)(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(~~c~~f)(VII)(C).

(VI) Customers may contract to expand their on-site solar systems within program parameters and obtain a rebate for the expanded capacity up to the cap set forth in paragraph 3658(~~a~~b).

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

(A) A residential customer must enter into an agreement with the investor owned 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 investor owned QRU.

(B) A commercial customer may enter into an agreement with the investor owned 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 investor owned QRU; provided, however, that if the agreement is different than 20 years as permitted by subparagraph ~~3655(d)(III),~~ 3656(f)(III) the rebate shall be prorated to reflect the different term.

(C) Irrespective of the term of the ~~SO~~ REC transfer agreement between the commercial customer and the investor owned QRU, if the commercial customer is in a leased facility, the commercial customer must obtain the approval of the investor owned QRU, which shall not be unreasonably conditioned, delayed or withheld, and either permission from the commercial customer's landlord, or

other documentation evidencing the tenant's unequivocal right to install an on-site solar system. Such commercial tenant customer may relocate the on-site solar system to a substitute premise reasonably acceptable to the investor owned QRU at any time during the term of the agreement, provided that:

(i) Payment for all ~~SO-~~RECs shall be made by the investor owned QRU on a metered basis;

(ii) The new location is within the investor owned QRU's service territory;

(iii) The on-site solar system is not out of operation for more than 90 days due to such relocation;

(iv) The agreement is extended for the period of time the on-site solar system is out of operation; and

(v) The customer bears the cost of relocating the production meter, or the costs of setting a new production meter, at the new location.

(D) If the on-site solar system of a commercial customer is out of operation for more than 90 days, the investor owned 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(~~e~~f)(VII)(C), and except for solar facilities that are owned by entities other than the on-site consumer of the solar energy, for on-site solar systems, up to and including ten kW, that become operational on or after December 1, 2004, the investor owned 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 investor owned 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 investor owned 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 investor owned 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 investor owned 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 subparagraph 3658(~~e~~f)(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 an investor owned QRU's SRO program may be adjusted from time to time as needed to achieve compliance with the renewable energy standard.

(XII) Except for on-site solar systems of commercial tenants who opt for an agreement under subparagraph 3658(~~e~~f)(VII)(C), the on-site solar system installed must remain in place on the customer's premises for the duration of its contract life. However, all customer 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 any on-site solar system ineligible for participation and payments under the SRO program.

(XIII) 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.

(XIV) 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 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.

(~~d~~g) The investor owned QRU shall modify the standard contracts for its ~~standard offer~~ SRO programs to enable governmental entities to participate in such programs.

(~~e~~h) Sales of electricity may be made by an owner or operator of an on-site solar system to the end-use electric consumer located at the site of the 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.

**3659. Renewable Energy Credits.**

(a) Renewable energy credits and recycled energy will be used to comply with the renewable energy standard. Eligible RECs acquired by contracts or through a system of tradable renewable energy credits, exchanges, or brokers may also be used by QRUs to comply with this standard. In calculating compliance, the total RECs acquired from ~~eligible~~ renewable energy resources during a compliance year may include:

(I) RECs generated by renewable energy resources owned by the QRU or by a QRU affiliate;

(II) RECs acquired by the QRU pursuant to renewable energy supply contracts;

(III) RECs acquired by the QRU pursuant to renewable energy credit contracts;

(IV) RECs acquired by the QRU pursuant to a standard offer program;

(V) RECs acquired through a system of tradable renewable energy credits, from exchanges or from brokers

(VI) RECs carried forward from previous compliance years, pursuant to paragraph 3654(~~i~~h);

(VII) RECs borrowed forward from future compliance years, pursuant to paragraph 3654(~~k~~j).

(b) RECs representing electricity generated at renewable energy resources shall be counted for compliance purposes consistent with the compliance multipliers in paragraphs 3654(~~e~~d), (~~f~~e), and (~~g~~f).

(c) The Commission shall not restrict the investor owned QRU's ownership of RECs if the investor owned QRU complies with both the renewable energy standard established in rule 3654 and the requirements for renewable distributed generation established in rule 3655 and if the investor owned QRU complies with ~~does not exceed~~ the retail rate impact established in ~~rule~~ paragraph 3661(a).

(d) ~~Subject to the maximum retail rate impact in rule 3661, the QRU shall have the discretion to determine, in a nondiscriminatory manner, the price it will pay for SO-RECs under § 40-2-124(1)(e), C.R.S.~~

~~(e)~~ All contracts between QRUs and the owners of renewable energy resources entered into after the effective day of these rules shall clearly specify the entity who shall own the RECs associated with the energy generated by the facility.

(~~f~~e) A ~~renewable energy credit~~ REC shall expire at the end of the fifth calendar year following the calendar year during which it was generated.

~~(g) Renewable energy credits that are generated on or after January 1, 2004 may be counted for compliance with this renewable energy standard.~~

(~~h~~f) RECs shall be used for a single purpose only, and shall expire or be retired upon use for that purpose. All RECs utilized by the QRU to comply with the renewable energy standard:

(I) May not be sold or otherwise exchanged with any other party, or in any other state or jurisdiction;

(II) May not be included within a blended energy product certified to include a fixed percentage of renewable energy in any other state or jurisdiction;

(III) May be counted simultaneously toward compliance with a federal renewable portfolio standard and with the renewable energy standard.

(~~i~~g) RECs that are generated with fuel cell energy using hydrogen derived from an eligible energy resource are eligible for compliance purposes only to the extent that the energy used to generate the hydrogen did not create renewable energy credits.

(~~j~~h) If a renewable energy system uses a renewable energy resource in combination with a nonrenewable energy source to generate electricity, only the RECs associated with the proportion of the total electric output of the renewable energy system that results from the use of renewable energy resources shall be eligible to count toward compliance with the renewable energy standard.

(~~k~~i) If an on-site solar systems of ten kW or below has received a one-time REC payment from a QRU under rule 3658, the QRU shall be entitled to count the anticipated ~~SO-~~RECs purchased by the one-time REC payment for compliance with the renewable energy standard even if the on-site solar systems is removed or becomes inoperable.

~~(l) An investor owned QRU:~~

~~(I) Shall develop an auditable process to account for RECs using a central database. In the absence of a central third-party database, the QRU shall maintain its own REC internal database and shall make an extract of the REC information available on the utility's website.~~

~~(II) Shall designate within its database any REC sold to a wholesaler if the REC has been assigned to that wholesaler.~~

~~(III) Shall apply for the inclusion of any losses or gains from the purchase or sale of RECs through an appropriate adjustment clause mechanism.~~

~~(IV) Shall hire an independent auditor to verify the accuracy of the QRU internal database which tracks REC. The independent verification shall occur after two years then every three years thereafter.~~

~~(m) The investor owned QRU shall record REC information from eligible energy resources in a central database. The database shall include, but not be limited to, a list of all eligible energy resources the QRU intends to use for compliance with the renewable energy standard, including their type, location, owner, operator, start of operation, actual REC generation, ownership, transfer and retirement. A summary database shall be provided to the Commission Staff and be publicly viewable via the Commission's website. Owners of eligible energy resources with nameplate ratings of 100kW or below and larger eligible energy resources, at their option, shall have their name and address encoded for privacy. Systems that are encoded for privacy shall have a unique identifying number assigned, and will continue to have the zip code reported.~~

(~~n~~j) ~~In conjunction with the QRU compliance plans specified in rule 3657, a QRU may make a request that the Commission allow the use of a central third-party database to account for RECs. If a QRU proposes to use a central third-party database for the accounting of RECs, the QRU must show that the central third-party database can be readily audited by the Commission Staff to verify that the renewable energy standard is met and that the alternative system is cost effective.~~ All renewable energy resources located in the region covered by the Western Electricity Coordinating Council (WECC) that generate RECs used by an investor owned QRU for compliance with the renewable energy standard shall be registered with the Western Renewable Energy Generation Information System (WREGIS) and shall record their RECs in WREGIS, after August 11, 2010, with the exception of retail renewable distributed generation facilities less than one megawatt.

(k) All investor owned QRUs shall register in WREGIS. The investor owned QRU shall recover through its RESA the costs associated with WREGIS that are allocated to its retail customers.

(l) To the extent that the investor owned QRU acquires RECs from renewable energy resources that are not recorded in WREGIS, the investor owned QRU shall record such RECs in a central

database. The database shall include, but not be limited to, a list of the renewable distributed generation whose RECs the investor owned QRU intends to use for compliance with the renewable energy standard under rule 3654 and the requirements for renewable distributed generation under rule 3655, including their type, location, owner, operator, and start of operation. The database shall also record the RECs generated and the ownership, transfer and retirement of those RECs.

(~~e~~m) An investor owned QRU may own and use for compliance with the renewable energy standard RECs generated by renewable energy resources that the Commission has designated as new energy technologies or demonstration projects under § 40-2-123(1), C.R.S., and that are therefore not subject to the retail rate impact established in rule 3661.

(~~p~~n) The investor owned QRU shall have the discretion to sell or trade RECs at any time as long as the investor owned QRU obtains and retires sufficient levels of RECs~~, SO-RECs, and S-RECs~~ to comply with the renewable energy standard under rule 3654 and the requirements for renewable distributed generation under rule 3655. Proceeds from the sales of RECs shall be credited to the account associated with the ~~forward-looking rider used by the QRU under paragraph 3660(b)~~RESA. The investor owned QRU may seek approval in an annual compliance plan filing under ~~subparagraph~~ rule 3657~~(a)(I)(D)~~ or by separate application to retain as earnings a percentage of the funds from REC sales that the investor owned QRU expects to have available to acquire eligible energy and RECs under the retail rate impact in rule 3661 for the compliance year. In considering the percentage of funds to be retained as earnings by the investor owned QRU, the Commission shall take into account the development of the REC market and the expected value added by the investor owned QRU in marketing and trading the RECs.

**3660. Cost Recovery and Incentives.**

(a) The investor owned QRU shall be entitled to timely cost recovery through retail rate mechanisms for all funds prudently expended to comply with these rules, including the costs the QRU incurs to administer the standard rebate offer and the acquisitions of eligible energy and RECs. The QRU shall be entitled to recover its investment and expenses associated with these rules through appropriate adjustment clauses, including the RESA, that allow recovery of expenditures without the full resetting of electric rates.

(b) ~~An investor owned QRU may use a forward-looking cost recovery mechanism to provide funding for implementing the renewable energy standard.~~ In its compliance plans and reports, the investor owned QRU must demonstrate that the ~~funding mechanism proposed~~ RESA satisfies ~~will not exceed~~ the retail rate impact ~~test~~ established in paragraph 3661(a).

(c) So long as the ~~funding mechanism~~ RESA does not exceed the retail rate impact under paragraph 3661(a) ~~test~~ and in accordance with either an approved resource plan under the Commission's Electric Resource Planning Rules or an approved compliance plan under rule 3657, ~~the QRU~~ the investor owned QRU ~~shall be entitled~~ may:

(I) ~~to c~~Collect and bank funds in the RESA account for acquiring eligible energy in future periods ~~in accordance with either an approved resource plan under rule 3613 or an approved compliance plan under rule 3657~~.

(II) Advance funds from compliance year to compliance year to augment the amounts collected from the RESA for the acquisition of more eligible energy resources.

(d) Each QRU ~~with a forward-looking cost recovery mechanism~~ shall separately identify the ~~forward-looking cost recovery mechanism~~ RESA on its customers' bills.

(e) ~~(I)~~ Interest shall accrue on the deferred balance (positive or negative) of the RESA account ~~associated with the forward-looking rider. The interest rate shall be at the average of the Commission's customer deposit interest rate and the Commission-approved weighted average cost of capital at the time of the rider~~ at the investor owned QRU's most recent authorized after-tax weighted average cost of capital, so long as the RESA does not exceed two percent of the total annual electric bill for each customer.

(~~e~~f) If the investor owned QRU incurs costs in acquiring eligible energy to meet the renewable energy standard ~~that exceed the maximum retail rate impact~~, the QRU shall be entitled to carry forward these costs to a future year for cost recovery so long as the investor owned QRU complies with limit on the retail rate impact under paragraph 3661(a). ~~These carried forward amounts shall not increase the amounts that a QRU may charge customers under the retail rate impact rule.~~

(~~d~~g) The investor owned QRU shall be entitled to earn an extra profit on the QRU's ownership investment in a specific eligible energy resource if that eligible energy resource provides net economic benefits to customers. For these investments, the QRU shall be entitled to a return equal to the QRU's most recent authorized rate of return on rate base plus a bonus limited to 50 percent of the of the net economic benefit as long as the QRU is in compliance with these rules implementing the renewable energy standard. If the QRU's investment in a specific eligible renewable energy resource does not provide a net economic benefit to customers, the QRU shall be entitled to a return equal to the QRU's most recent authorized rate of return on rate base.

(I) For the purposes of this rule 3660, net economic benefit shall mean that the specific eligible energy resource in which the QRU has made an ownership investment results in an average retail rate impact less than the rate impact that would have resulted from the acquisition of the alternative eligible energy resource meeting the same component of the renewable energy standard that would have been selected absent the QRU's investment. The QRU shall set forth its calculation of the proposed net economic benefit either at the time of a compliance plan filing, an annual compliance report filing, a QRU rate filing or by application. The Commission shall determine the level of the net economic benefit and the level of the bonus after review of the utility's filing. The Commission may set the matter for hearing if appropriate under the Commission's Rules of Practice and Procedure.

(II) To the extent that a QRU uses computer modeling in its analysis of net economic benefit, the QRU shall use the same methodologies and assumptions it used in its most recently approved ~~least-cost~~electric resource planning case, except as otherwise approved by the Commission. Confidential information may be protected in accordance with rules 1100 through 1102 of the Commission's Rules of Practice and Procedure.

(III) Any net economic benefit for which the QRU qualifies to receive a bonus shall be ~~included in the calculation of the retail rate impact rule pursuant to rule 3661~~charged against the RESA account.

(~~e~~h) An investor- owned QRU may propose to develop and own, in whole or in part, a new eligible energy resource by filing an application with the Commission. The Commission may set the matter for hearing, if appropriate, under the Commission's Rules of Practice and Procedure. For the purpose of this paragraph 3660~~(e)~~(h):

(I) A QRU shall be allowed to develop and own as utility rate-based property, without being required to comply with the competitive bidding requirements in rule ~~3655~~3656, up to twenty-five percent of the total new eligible energy resources that the QRU acquires from entering into power purchase agreements and from developing and owning resources after March 27, 2007 if the Commission determines that the QRU-owned new eligible energy resource can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market.

(II) A QRU shall be allowed to develop and own as utility rate-based property, without being required to comply with the competitive bidding requirements in rule ~~3655~~3656, up to fifty percent of the total new eligible energy resources that the QRU acquires from entering into power purchase agreements and from developing and owning resources after March 27, 2007 if the Commission determines that the QRU-owned new eligible energy resource can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market and that the proposed new eligible energy resource would provide significant economic development, employment, energy security, or other benefits to the state of Colorado.

(III) The QRU shall be allowed to develop and own as utility rate-based property more than the percentages of total new eligible energy resources set forth in rules 3660~~(e)~~(h)(I) and ~~(e)~~(h)(II), if the QRU bids to own the new eligible energy resources in a competitive solicitation and is selected as a winning bidder in that competitive solicitation.

(IV) The QRU may develop and own new eligible energy resources either solely or jointly with other owners. If the QRU owns the new eligible energy resource jointly, the entire jointly owned resource shall count toward the percentage limitations set forth in paragraph 3660~~(e)~~(h). For purposes of this rule, participation by any parent, affiliate or subsidiary of a QRU in a QRU's owned new eligible energy resource shall count towards the percentage limitations. The QRU's rate base portion of any new eligible energy resource is limited to only the QRU's ownership percentage in the new eligible energy resource.

(V) If the QRU intends to develop and own new eligible energy resources as provided for under subparagraphs 3660~~(e)~~(h)(I) or ~~(e)~~(h)(II), it shall propose for Commission approval, in advance of filing its application under this rule, the name of the independent evaluator whom the utility intends to hire to conduct an assessment of whether the proposed new eligible energy resources can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market. The independent evaluator will develop a report to the Commission on its assessment of whether the proposed new eligible energy resources can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market. The independent evaluator 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 evaluator 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 evaluator under these rules. The independent evaluator shall not participate in, or advise the utility with respect to, any decisions relating to the proposed new eligible energy resource. The utility shall conduct any additional modeling requested by the independent evaluator to test the assumptions and results of the cost analyses. The independent evaluator's report shall be filed with the utility's application for approval of the proposed new eligible energy resource. The evaluator's report shall contain the evaluator's views on whether the proposed new eligible energy project can be constructed at a reasonable cost compared to the cost of similar eligible energy resources available in the market.

(VI) Nothing in paragraph 3660~~(e)~~(h) shall prevent the Commission from waiving, repealing, or revising any Commission rule in a manner otherwise consistent with applicable law.

(~~f~~i) When an investor owned QRU applies for a certificate of public convenience and necessity, the Commission shall consider rate recovery mechanisms that provide for earlier and timely recovery of costs prudently and reasonably incurred by the QRU in developing, constructing, and operating the eligible energy resource, including: (a) rate adjustment clauses until the costs of the eligible energy resource can be included in the utility's base rates; and (b) a current return on the utility's capital expenditures during construction at the utility's most recently authorized weighted average cost of capital, including its cost of debt and its most recently authorized rate of return on equity, during the construction, startup, and operation phases of the eligible energy resource.

(~~g~~j) The utility is entitled to recover through rates, its prudently incurred expenditures. While not the exclusive method for establishing prudence, if the Commission approves a renewable energy supply contract or a renewable energy credit contract, the expenditures of the investor owned QRU under the contract shall be deemed to be prudent expenditures.

(~~h~~k) If the investor owned QRU recovers fuel and purchased energy expense through an incentive adjustment clause, the QRU shall not receive a benefit from the incentive adjustment clause for the energy generated from QRU-owned eligible renewable energy resources, but the QRU shall be entitled to recover all the fuel and purchased energy costs associated with the eligible energy resource.

(~~i~~l) Each wholesale energy provider shall offer to its wholesale customers that are cooperative electric associations the opportunity to purchase their load ratio share of the wholesale energy provider's electricity from eligible energy resources. If a wholesale customer agrees to pay the full costs associated with the acquisition of eligible energy resources and associated renewable energy credits by its wholesale provider by providing notice of its intent to pay the full costs within sixty days after the wholesale provider extends the offer, the wholesale customer shall be entitled to receive the appropriate credit toward the renewable energy standard as well as any associated renewable energy credits. To the extent that the full costs are not recovered from wholesale customers, a qualifying retail utility shall be entitled to recover those costs from retail customers.

**3661. Retail Rate Impact.**

(a) The net retail rate impact of actions taken by an investor owned QRU to comply with the renewable energy standard shall not exceed two percent of the total electric bill annually for each customer of that QRU. However, a retail customer who installs renewable distributed generation

may pay a RESA charge under paragraph 3664(h) that exceeds two percent of that customer's annual electric bill.

(b) The net retail rate impact of actions taken by a cooperative electric association QRU to comply with the renewable energy standard shall not exceed one percent of the total electric bill annually for each customer of that QRU.

(c) The net retail rate impact shall include the prudently incurred direct and indirect costs of all actions by a QRU to meet the renewable energy standard, including, but not limited to, program administration, rebates and performance-based incentives, payments under renewable energy supply contracts, payments under renewable energy credit contracts, payments made for RECs purchased through brokers or exchanges, computer modeling and analysis time, and QRU investment in and return on investment for eligible energy resources.

(d) The administrative costs of a QRU to implement these rules ~~is~~are capped at ten percent per year of the total annual collection. A QRU may include in its compliance plan a waiver request of this rule during the initial ramp-up stage of the QRU's program.

(e) For purposes of calculating the retail rate impact, the investor owned QRU shall use the same ~~methodologies~~ methods and assumptions it used in its most recently approved electric resource plan under ~~rule 3613~~the Commission's Electric Resource Planning Rules, unless otherwise approved by the Commission. Confidential information may be protected in accordance with rules 1100 through 1102 of the Commission's Rules of Practice and Procedure.

(f) In its compliance plan filed under rule 3657, the investor owned QRU shall estimate the retail rate impact of its plan to comply with the renewable energy standard at the time of the beginning of the compliance period year and for a minimum of the ten years thereafter (the "RES planning period") and shall submit a report detailing the development of the retail rate impact estimate. The compliance plan shall identify the funds that need to be made available to the QRU, including RESA account balances over the RES planning period and any carried-forward deferred account balances from before the RES planning period, to comply with the renewable energy standard under rule 3654, the requirements for renewable distributed generation under rule 3655, and the retail rate impact under this rule 3661.

(g) The retail rate impact shall be determined net of new alternative sources of electricity supply from non-eligible energy resources that are reasonably available at the time of the determination.

(h) The basic method for investor owned QRUs for performing the estimate of the retail rate impact cap is as follows:

(I) The QRU shall determine all commercially available resources to the QRU, either through ownership or by contract, for the "RES planning period. The projected costs of these available resources shall be reflected in both of the scenarios analyzed under this paragraph.

(II) The QRU shall determine the QRU's capacity and energy requirements over the RES planning period. The QRU shall develop two scenarios to estimate the resource composition of the QRU's future electric system and the cost and benefits of that system over the RES planning period. The first scenario, a renewable energy standard plan or

"RES plan" should reflect the QRU's plans and actions to acquire new eligible energy resources necessary to meet the renewable energy standard. The second scenario, a "No RES plan" should reflect the QRU's resource plan that replaces the new eligible energy resources in the RES plan with new nonrenewable resources reasonably available.

(III) Eligible energy resources whose acquisition commenced prior to July 2, 2006 shall be included in both the RES and No RES plans. Eligible energy resources acquired pursuant to a Commission-approved electric resource plan as new energy technologies or demonstration projects under § 40-2-123, C.R.S., shall be included in both the RES and No RES plans.

(IV) The QRU shall compare the costs and benefits of the two plans to project the estimated annual net retail rate impact for the RES planning period. The maximum retail rate impact shall not exceed two percent of the total retail bill annually for each customer. To the extent the RES plan exceeds this maximum retail rate impact over the RES planning period, the investor owned QRU shall modify the RES plan to limit the acquisition of eligible energy resources so as not to exceed the maximum retail rate impact for the RES planning period. In calculating the net retail rate impact, the QRU shall take into account the projected net retail rate impact of the new eligible energy resources and the sum of the on-going annual net incremental costs of all eligible energy resources that the investor owned QRU has contracted to acquire under the ~~standard rebate offer~~SRO programs under rule 3658 and all eligible energy from resources that were constructed by the investor owned QRU or contracted for by the investor owned QRU after July 2, 2006.

(V) The on-going annual net incremental costs used in the retail rate impact calculation under subparagraph 3661(h)(IV) shall be established in ~~a~~ each compliance plan filed under rule 3657 ~~for that compliance year~~. These costs shall then be locked down ~~for the following four~~ until the Commission issues a final decision regarding the investor owned QRU's next ~~annual~~ compliance plan filings ~~(for the second through fifth years)~~ when such costs shall be unlocked and reset to reflect changes in methods and assumptions used by the investor owned QRU under the Commission's Electric Resource Planning Rules, unless otherwise approved by the Commission~~. In the sixth year, the costs shall be unlocked and reset for that year's compliance plan and the following four compliance plans to reflect changes in methodologies and assumptions in the investor owned QRU's most recently approved resource plan under rule 3613~~. On-going annual net incremental costs locked down before October 31, 2015 shall not be reset until the Commission issues a final decision regarding the investor owned QRU's compliance plan filed on or before October 31, 2015.

(VI) If, in a compliance plan filed under rule 3657, the Commission approves a calculation of the retail rate impact that differs from a calculation in an earlier approved plan, the Commission shall allow the investor owned QRU to fully recover the costs of eligible energy resources and RECs already acquired by the investor owned QRU through one or more adjustment clauses.

(i) If the retail rate impact does not exceed the maximum percent level, a QRU may acquire more than the minimum amount of eligible energy resources and RECs required under the renewable energy standard.

**3662. Annual Compliance Report.**

(a) Each investor owned and cooperative electric association QRU shall file an annual compliance report no later than June 1 to report on the status of the QRU's compliance with the renewable energy standard for the most recently completed compliance year. Unless expressly noted otherwise, the annual compliance report of each investor owned and cooperative electric association QRU shall provide the following information for the most recently completed compliance year:

(I) The total megawatt-hours sold by the QRU to its retail customers in Colorado and the associated eligible energy required for compliance with ~~each component of~~ the renewable energy standard, including the requirements for retail renewable distributed generation and wholesale renewable distributed generation, as applicable;

(II) The total amount and source of eligible energy and RECs acquired by the QRU during the compliance year for ~~each component of~~ to meet the renewable energy standard, including the requirements for retail renewable distributed generation and wholesale renewable distributed generation, as applicable. The QRU shall separately identify amounts of eligible energy and RECs by each type of resource, including residential retail renewable distributed generation and nonresidential renewable distributed generation, as applicable;

(III) The total amount of ~~non-solar~~ RECs~~, S-RECs, and SO-RECs~~ by category acquired by the investor owned QRU during the compliance year and the total amount and source of eligible energy generated by the QRU-owned eligible energy resources;

(IV) The total amount of eligible energy and RECs borrowed forward, pursuant to paragraph 3654(~~k~~j), in previous compliance ~~years that was~~years that were made up during the compliance year to achieve compliance with each component of the renewable energy standard;

(V) The total amount of eligible energy and RECs borrowed forward, pursuant to paragraph 3654(~~k~~j), from future compliance years to achieve compliance with each component of the renewable energy standard in the compliance year;

(VI) The total amount and source of eligible energy and RECs the QRU is carrying back from the year following the compliance year under subparagraph 3654(~~i~~h)(I) to achieve compliance with each component of the renewable energy standard in the compliance year;

(VII) The total amount of eligible energy and RECs the QRU has carried forward from prior calendar years under subparagraph 3654(~~i~~h)(III) to apply in the compliance year for each component of the renewable energy standard.

(VIII) The total amount of eligible energy and RECs the QRU has acquired in the compliance year that the QRU proposes to carry forward under subparagraph 3654(~~i~~h)(III) to future years for each component of the renewable energy standard;

(IX) The total amount of eligible energy and RECs the QRU has counted toward compliance with ~~each component of~~ the renewable energy standard, including the requirements for retail renewable distributed generation and wholesale renewable distributed generation, as applicable, in the compliance year. The QRU shall separately identify amounts of renewable energy by each type of resource;

(X) The total amount of renewable energy or RECs acquired by the QRU during the compliance year pursuant to the ~~standard rebate offer~~SRO program;

(XI) The total amount of RECs retired by the investor owned QRU during the compliance year pursuant to a voluntary green pricing program;

(XII) The total amount of RECs sold or traded by the investor owned QRU during the compliance year along with the profit and losses of such transactions and the method for calculating these margins;

(XIII) Whether the QRU has invested in any eligible energy resource and whether that resource is under construction or in operation; and

(XIV) The funds expended from the RESA account and other revenue sources and the retail rate impact of the eligible energy and RECs acquired by the investor owned QRU. If the investor owned QRU has not acquired sufficient eligible energy and RECs to meet the renewable energy standard under rule 3654 or the requirements for renewable distributed generation under rule 3655 due to the retail rate impact cap under rule 3661, the retail rate impact cap shall be recalculated based on the actual compliance year values. To the extent the recalculation of the retail rate impact cap demonstrates that additional funds are available based on actual compliance year values, the investor owned QRU shall use those additional funds to acquire RECs, to the extent necessary, to achieve the compliance levels set forth in rules 3654~~(a)~~ and ~~(d)~~ 3655 or until the additional funds have been spent if the investor owned QRU intends to claim that the retail rate impact cap prevented it from achieving compliance with the standard.

(XV) A description of the method used to develop the retail rate impact calculation.

(XVI) The proposed calculation of on-going annual net incremental costs for eligible energy resources that will come on line prior to the end of the following compliance year that have not been locked down pursuant to an investor owned QRU's compliance plan filing.

(XVII) The funds advanced by the investor owned QRU during the compliance year, if any, to augment the amounts collected from retail customers through the RESA.

(b) In the annual compliance report, the QRU must explain whether it achieved compliance with ~~each component of~~ the renewable energy standard, including the requirements for retail renewable distributed generation and wholesale renewable distributed generation, as applicable, during the most recently completed compliance year, or explain why the QRU had difficulty meeting the renewable energy standard or the requirements for retail renewable distributed generation and wholesale renewable distributed generation, as applicable.

(c) If, in its annual compliance report, the QRU did not comply with its renewable energy standard ~~for each of the RES components~~ as a direct result of absolute limitations within a requirements contract from a wholesale electric supplier, then the QRU must explain whether it acquired a sufficient amount of either eligible RECs or documented and verified energy savings through energy efficiency and/or conservation programs, or both to rectify the noncompliance so as to excuse the investor owned QRU from any administrative fine or other administrative action.

(d) On the same date that the QRU files its annual compliance report, the QRU shall post an electronic copy of its annual compliance report excluding confidential material on its website to facilitate public access and review.

(e) On the same date that the QRU files its annual compliance report, it shall provide the Commission with an electronic copy of its annual compliance report excluding confidential material. The Commission may place the non-confidential portion of each QRU's annual compliance report on the Commission's website in order to facilitate public review.

**3663. Compliance Report Review.**

(a) Compliance reporting for investor owned QRUs.

(I) In the annual compliance report, the QRU must explain whether it complied with its renewable energy standard ~~for the solar, on-site solar and non-solar components~~ and whether it satisfied the requirements for renewable distributed generation during the most recently completed compliance year.

(II) Upon receipt of the QRU annual compliance report, the Commission will provide notice to interested persons. Interested persons will have 30 days within which to provide comment to the Commission on the content of the annual compliance report. The QRU shall have the opportunity to reply to all comments on or before 45 days following the filing of the annual compliance report.

(III) The Staff of the Commission shall review the annual compliance report and any comments received and within 60 days of the filing of the annual compliance report make a recommendation to the Commission as to whether:

(A) ~~the~~ No action should be taken by the Commission because the QRU has met the renewable energy standard and the requirements for renewable distributed generation and has correctly calculated the on-going annual net incremental costs for new eligible energy resources under subparagraph 3662(a)(XVI); ~~no action should be taken by the Commission, whether any~~

(B) ~~changes~~ Changes are needed to the compliance report;~~,~~ or ~~whether~~

(C) A~~a~~ hearing is necessary.

(IV) Upon review of the QRU's annual compliance report, the Staff recommendation and all comments filed, the Commission will issue an order stating whether:

(A) ~~the~~ The QRU complied with ~~the components of its~~ the renewable energy standard during the most recently completed compliance year;

(B) The QRU satisfied the requirements for renewable distributed generation during the most recently completed compliance year;

(C) The QRU has correctly calculated the on-going annual net incremental costs for new eligible energy resources under subparagraph 3662(a)(XVI); and ~~state whether~~

(D) ~~a~~ A hearing is necessary.

(V) If the Commission determines that the total number of RECs which the QRU generated or acquired from renewable energy systems during the most recently completed compliance year exceeded the total number of RECs which the QRU needed to comply with ~~each component of~~ its renewable energy standard or with its requirements for renewable distributed generation for the recently completed compliance year:

(A) The Commission will state in its order the number of excess ~~solar, on-site solar and/or non-solar~~ RECs which the QRU has available to carry forward from that compliance year or use for any other legal purpose.

(B) The QRU may use those excess ~~solar, on-site solar and/or non-solar~~ RECs to comply with its renewable energy standard or with its requirements for renewable distributed generation for the five compliance years immediately following that compliance year.

(b) Compliance report hearing for investor owned QRUs.

(I) If the Commission determines that the QRU did not comply with ~~the solar, on-site solar or non-solar components of~~ its renewable energy standard or with its requirements for renewable distributed generation during the most recently completed compliance year, the Commission will determine whether the QRU failed to meet the renewable energy standard because of the retail rate impact limit. The Commission will:

(A) State in its order the number of RECs by which the QRU failed to comply with ~~each of the solar, on-site solar and non-solar components of~~ its renewable energy standard or with its requirements for renewable distributed generation; and

(B) State whether the Commission is satisfied that the failure to meet the renewable energy standard or the requirements for renewable distributed generation was due to the retail rate impact limit. If the Commission is not satisfied on this issue, the Commission will issue a notice of possible noncompliance and schedule an evidentiary hearing on the matter.

(II) At the evidentiary hearing, if the QRU asserts that the renewable energy standard or the requirements for renewable distributed generation was not met due to the retail rate impact, it will have the burden of proof that it failed to comply with ~~the solar, on-site solar and non-solar components of~~ its renewable energy standard or its requirements for renewable distributed generation during the most recently completed compliance year because of the retail rate impact.

(III) At the evidentiary hearing, any party that advocates that the QRU failed to comply with the ~~components of the~~ QRU's renewable energy standard or its requirements for renewable distributed generation during the most recently completed compliance year is the proponent of a Commission order finding non-compliance, and that party shall have the burden of proof that the QRU failed to comply with the ~~solar, on-site solar and non-solar components of its~~ renewable energy standard or the requirements for renewable distributed generation during the most recently completed compliance year. The QRU may assert that the renewable energy standard or the requirements for renewable distributed generation was not met due to events beyond the reasonable control of the QRU that could not have been reasonably mitigated.

(IV) If the Commission determines that the QRU did not correctly calculate the on-going annual net incremental costs for new eligible energy resources under subparagraph 3662(a)(XVI), the Commission will determine the correct on-going annual net incremental costs to be applied in the retail rate impact calculation.

(c) Compliance penalties for investor owned QRUs.

(I) After notice and hearing, if the Commission determines that the QRU did not fully comply with ~~any of the solar, on-site solar and non-solar components of~~ its renewable energy standard or with its requirements for renewable distributed generation during the most recently completed compliance year, the Commission shall determine what, if any, administrative penalties should be assessed against the QRU for its failure to meet the renewable energy standard or the requirements for renewable distributed generation. In assessing penalties, the Commission may take one or more of the following actions:

(A) Determine ~~for each component for which there was noncompliance~~ the cost that would have been incurred by the QRU to fully comply with ~~such component~~ the renewable energy standard or the requirements for renewable distributed generation through the acquisition of RECs and assess all or part of this amount as part of an administrative penalty.

(B) No administrative penalties shall be assessed against a QRU if the amount of the shortfall is attributable to the retail rate impact limit.

(C) Assess no administrative penalties against a QRU if the failure to meet the renewable energy standard or the requirements for renewable distributed generation results from events beyond the reasonable control of the QRU that could not have been reasonably mitigated including, but not limited to, failures to perform by counterparties to renewable energy supply contracts and renewable energy credit contracts, events that delay the construction or commercial operation of QRU-owned eligible renewable energy resources, and lack of customer interest in the ~~standard rebate offer~~SRO.

(II) The cost of such administrative penalties shall not be recovered from retail customers through the QRU's rates.

**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~~retail renewable distributed generation, provided that the generating capacity of the customer's facility meets the following two criteria:

(I) The ~~generator~~ retail renewable distributed generation shall be sized to supply no more than 120 percent of the customer's average annual electricity consumption at that site, where the site includes 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; and

(II) The rated capacity of the ~~generator~~ retail renewable distributed generation does not exceed the customer's service entrance capacity.

(b) If a customer ~~of an investor owned QRU~~ with retail renewable distributed generation ~~an eligible energy resource~~ generates renewable energy pursuant to paragraph ~~subsection (a) of rule~~ 3664(a) 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 investor owned QRU shall compensate the customer for any accrued excess kilowatt-hour credits, at the investor owned 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, on or before the end of a calendar year, 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 investor owned QRU, at which time no payment shall be required from the investor owned QRU for any remaining excess kilowatt hour credits supplied by the customer.

(c) The investor owned 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~~retail renewable distributed generation shall be equipped with metering equipment that can measure the flow of electric energy in both directions. The investor owned 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 investor owned 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 investor owned 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.

(III) If the on-site solar system is not owned by the electric consumer, the owner or operator of the on-site solar system shall pay the cost of installing the production meter.

(g) An investor owned QRU shall provide net metering service at non-discriminatory rates to customers with ~~eligible energy resources~~retail renewable distributed generation. 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~~retail renewable distributed generation. Nothing in this rule shall prohibit an investor owned QRU from requesting changes in rates at any time.

(h) Unless the Commission approves under § 40-2-124(1)(g)(IV)(B), C.R.S., an alternative surcharge for net metered customers served by an investor owned QRU, the investor owned QRU shall bill a retail customer receiving net metering service a surcharge to supplement that customer's contribution toward the investor owned QRU's RESA account.

(I) For retail renewable distributed generation that is production metered, the surcharge shall increase the customer's total contribution to the investor owned QRU's RESA account to the calculated level it would have been had all of the customer's consumption been billed at the investor owned QRU's applicable rates.

(II) For retail renewable distributed generation that is not production metered, the surcharge shall increase the customer's total contribution to the investor owned QRU's RESA account as follows, based upon the size of the customer's system.

(A) For customers with a system that is from 500 watts to 5 kW, a 500 kWh volume proxy shall be used. The 500 kWh volume proxy will be multiplied by the current monthly per kWh effective residential energy rate and effective riders. That product will then be multiplied by two percent to obtain the customer's RESA contribution amount.

(B) For customers with a system that is from 5 kW up to 10 kW, a 1,000 kWh volume proxy shall be used. The 1,000 kWh volume proxy will be multiplied by the current monthly per kWh effective residential energy rate and effective riders. That product will then be multiplied by two percent to obtain the customer's RESA contribution amount.

**3665. Small Generation Interconnection Procedures.**

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[indicates omission of unaffected rules]

(e) Provisions that apply to all interconnection requests.

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[indicates omission of unaffected rules]

(IX) Coordination with affected systems. The utility shall coordinate the conduct of any studies required to determine the impact of the interconnection request on affected systems with affected system operators and, if possible, include those results (if available) in its applicable interconnection study within the time frame specified in these procedures. The utility will include such affected system operators in all meetings held with the IC as required by these procedures. The IC will cooperate with the utility in all matters related to the conduct of studies and the determination of modifications to affected systems. A utility which may be an affected system shall cooperate with the utility with ~~whom~~ which interconnection has been requested in all matters related to the conduct of studies and the determination of modifications to affected systems.

* * *

[indicates omission of unaffected rules]

**~~3656~~3666. Environmental Impacts.**

(a) Eligible energy resources must meet all applicable federal, state, and local environmental permitting requirements.

(b) For eligible energy resources larger than two MW that are not net-metered or any wind turbine structures extending over 50 feet in height, the QRU shall require project developers to include in the bid package written documentation that consultation occurred with appropriate governmental agencies (for example, the Colorado Division of Wildlife or the U.S. Fish and Wildlife Service) responsible for reviewing potential project development impacts to state and federally listed wildlife species, as well as species, habitats, and ecosystems of concern.

(c) For eligible energy resources larger than two MW that are not net-metered or any wind turbine structures extending over 50 feet in height, the QRU renewable energy supply contract shall require project developers to certify the following as a condition precedent to achieving commercial operation:

(I) The developer has performed site specific wildlife surveys (referred to herein as the Environmental Surveys) which are conducted on the facility's site prior to construction;

(II) The developer, with good faith effort, used the results of the Environmental Surveys and available monitoring in developing the design, construction plans, and management plans of the facilities to avoid, minimize, and/or mitigate any adverse environmental impacts to state and federally listed species, to species of special concern, to sites shown to be local bird migration pathways, to critical habitat, to important ecosystems, and to areas where birds or other wildlife are highly concentrated and are considered at risk;

(III) The results of the pre-construction Environmental Surveys shall be shared with the Colorado Division of Wildlife (CDOW) prior to project construction; and

(IV) A summary report of these results shall be made available to CDOW at the time the project achieves commercial operation.

**~~3666~~3667. – 3699. [Reserved]**

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[indicates omission of unaffected rules]