ASU Energy Policy Innovation Council

I. State survey of Renewable Energy Credits (REC) ownership policies

Most states have not explicitly addressed REC ownership from distributed generation (DG) sources in their policies.[1] The general presumption, however, is that customers own the RECs produced from their DG systems.[2]

Customer-owned RECs

Among the states that have explicitly addressed REC ownership for DG, most states award RECs to the customer/generator:

Arizona, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Illinois, Kentucky, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, Pennsylvania, Utah, Virginia, and Washington.

Utility-owned RECs

Kansas[3] and New Mexico[4] award the RECs from DG systems to the interconnecting utilities.

North Carolina's regulated utilities own all DG-associated RECs unless the customer/generator chooses to net-meter under an "unfavorable demand tariff." In that instance, the customer owns the REC. Prior to 2009, customer/generators who used net-metering were required to take service under a time-of-use (TOU) demand tariff. Those customers also owned their load-associated RECs and any net excess generation (NEG) RECs were apportioned to the utilities. In Docket E-100 Sub-83,[5] the North Carolina Utilities Commission (NCUC) determined that this method of REC-apportionment rendered the RECs worthless to customer/generators interested in selling them in a REC market because it created too much uncertainty as to how many RECs a customer actually

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[1] Each state's REC ownership policy can be found on its net metering policy page on DSIRE.org.

[2] Holt, Edward A., Ryan Wiser, Mark Bolinger. Lawrence Berkeley National Laboratory. April 5, 2006. *Who Owns Renewable Energy Certificates? An Exploration of Policy Options and Practice*. Retrieved from http://escholarship.org/uc/item/1dq025gb

[3] See K.S.A. 66-1271 "The estimated generating capacity of all net metered facilities operating under the provisions of this act shall count toward the affected utility's compliance with the renewable energy standards act in K.S.A. 2009 Supp. 66-1256 through 66-1262, and amendments thereto." http://kansasstatutes.lesterama.org/Chapter_66/Article_12/#66-1263

[4] DSIRE.org says utilities in New Mexico own the RECs. http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=NM01R&re=0&ee=0

[5] March 31, 2009. North Carolina Utilities Commission, Order Amending Net Metering Policy. Retrieved from http://ncuc.commerce.state.nc.us/cgi-bin/webview/senddoc.pgm?dispfmt=&itype=Q&authorization=&parm2=PAAAAA09090B&parm3=000113520

owned each month. The CPUC awarded ownership of all RECs to the utilities, but allowed customer/generators who elected to take service under a TOU-demand tariff to retain ownership of all of their generated RECs.

Customer-owned RECs, with exceptions

REC-ownership split

In California,[6] the customer owns the customer-load associated RECs generated by their DG system.[7] If the customer receives compensation for any NEG at the end of their billing year from the connecting utility, that utility owns the RECs associated with the NEG.[8] North Dakota has a similar REC- splitting policy.

In Decision 07-01-018, the CPUC rejected apportioning RECs among the DG owners and ratepayers based on whether subsidies were given to support the installation of the DG system. (Parties on both sides of the issue largely agreed with this decision). The CPUC determined that DG subsidies RECs have the potential to be significantly valuable, and, on a related note, that solar rooftop system owners use RECs to support "green" claims. REC values may encourage more solar rooftop installations. The CPUC also stated that:

> Allowing solar DG system owners to retain the RECs produced by their facilities is also consistent with the long-term goal of transitioning the solar industry away from ratepayer incentives to a self-sustaining model in which no such incentives are necessary. To the extent that RECs may prove to have any value, whether explicitly or implicitly as discussed above, they could supplement and eventually, in combination with other elements of economic value, replace altogether ratepayer incentives as these incentives are phased out.[9]

REC-ownership dependant on subsidy

In Nevada, RECs from net-metered DG systems are owned by the utility if the utility provided the installer with subsidies. If the customer/generator did not use subsidies to install the DG system, the RECs belong to the customer/generator.[10]

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[6] In California, a customer must affirmatively elect to be compensated for the excess electricity their DG system generates; without that affirmative election, utilities are not required to compensate customers for the excess electricity released onto the grid. Cal. Pub. Util. Code §2827(h)(3)

[7] See Opinion Adopting Methods to Determine the Renewable Energy Credits from Renewable Distributed Generation, Decision 07-01-018, Proceedings on Rulemaking 06-03-004, 30 (Cal. Pub. Util. Comm'n Jan 11, 2007). Retrieved from http://docs.cpuc.ca.gov/PublishedDocs/PUBLISHED/FINAL_DECISION/63678-03.htm#P130_24344

[8] Cal. Pub. Util. Code §2827(h)(6)(A).

[9] See Decision 07-01-018, B. Should RECs Be Apportioned? Subsection 3. Discussion *retrieved from* http://docs.cpuc.ca.gov/PublishedDocs/PUBLISHED/FINAL_DECISION/63678-03.htm#P130_24344

[10] See http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=NV04R&re=0&ee=0

Similarly, in Oregon, if a DG installation is subsidized by funds from the nonprofit Energy Trust (which operates in partnership with the State of Oregon), then Energy Trust owns the RECs "proportional to its share of the above-market costs and in relation to the market value of those RECs"[11]

REC-ownership dependant on REC market

In South Carolina, the Public Service Commission (PSC) stated in a 2007 order that it would not explicitly address REC ownership until a viable REC market emerged in the state.[12] In 2009, the issue of REC ownership was refined through a Settlement Agreement, whereby the parties agreed that RECs would belong to the customer/generators until the state had a "fully developed" REC market. At that time, the utilities would own any RECs associated with NEG when that NEG balance is set to zero each billing year.[13]

[11] http://energytrust.org/shared-resources/info/green-tags.aspx

[12] See Order 2007-618, p. 3, retrieved from http://dms.psc.sc.gov/pdf/orders/BC448E37-D85A-23D2-424F813430B190CF.pdf

[13] See Order 2009-552, Order on Net Metering and Settlement Agreement at p. 4, retrieved from http://dms.psc.sc.gov/pdf/orders/060BCE73-C7A0-5396-D583B372B523AC33.pdf