



Significant Changes to the Advanced Energy Portfolio Standard Rules

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The continuing debate over the [Senate Bill 221](#) (SB 221) implementation rules appears to have ended, but not before the Public Utilities Commission of Ohio (the Commission) made significant revisions to the rules during the month of October. The latest round of amendments included two significant clarifications of key definitions.

In its second Entry on Rehearing, dated October 15, 2009, the Commission overhauled the definition of double counting, and eliminated the definition of "fully aggregated." Through the definition of "double-counting," the rules specifically prohibit utilities from using "renewable energy, renewable energy credits or energy efficiency savings to: (1) satisfy multiple Ohio state renewable energy requirements or satisfy renewable energy requirements in more than one state; (2) comply with both energy efficiency and advanced energy statutory benchmarks; (3) support multiple voluntary product offerings; (4) substantiate multiple marketing claims, or (5) some combination of these."

The major changes to the definition involved clarifying and making more specific subsection (1), which necessarily included adding the prohibition in subsection (2). Previous versions of the rule had only included a general prohibition on using renewable energy, RECs, or energy efficiency savings to "satisfy multiple regulatory requirements." Perhaps more importantly, the Commission clarified that nothing in the modified definition of double counting prohibits a renewable energy resource from qualifying for both RECs and carbon offsets. The Commission did reserve the right to revisit the issue as the carbon trading markets develop at the regional and federal levels.

Likewise, the rule no longer includes a definition for the term "fully aggregated." In removing this definition from the rules, the Commission seemed to reverse course by now allowing the unbundling of a REC's environmental attributes, thereby allowing them to be sold separately to satisfy other compliance requirements (e.g. NOx allowances under the State's NOx Budget Trading Program).

Before sending the rules to JCARR for the final time, the Commission made one final change to the rules by modifying the types of storage facilities that qualify as renewable energy resources eligible to satisfy the renewable tier of the alternative energy portfolio standard. SB 221 identified as a renewable energy technology any "storage facility that will promote the better utilization of a renewable energy resource that primarily generates off peak." The rules, however, only qualify a storage facility if: 1) the electricity used to pump the resource into the storage reservoir itself qualifies as a renewable energy resource; or 2) the equivalent renewable energy credits are obtained. Previous versions of the rules did not include any mention of obtaining RECs as an alternative method of qualifying a storage facility. The Commission also noted that the amount of energy qualifying as a renewable energy resource will now include the amount of energy required to initially pump the resource into the storage reservoir. Previous versions of the rules had expressly prohibited this.

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