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## **SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

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May 25, 2010

Ms. Patty Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

Re: Docket RM09-002 -- In the Matter of the Adoption of Rules Regarding Renewable, Recycled and Conserved Energy.

Dear Ms. Van Gerpen:

Attached are draft rules regarding renewable, recycled and conserved energy. The Commission is seeking comment on these draft rules. Any interested person may file comments regarding the draft rules on or before June 9, 2010.

Based on the comments received, changes may be made to the draft rules. Proposed rules will then be filed with the Legislative Research Council to begin the formal rulemaking process. During that process, any interested person will also have the opportunity to file written comments, as well as provide comments at the hearing.

Sincerely,

Rolayne Ailts Wiest  
Commission Counsel

ARTICLE 20:10

**PUBLIC UTILITIES COMMISSION**

Chapter

- 20:10:01 General rules of practice.
- 20:10:02 General motor carrier rules, Repealed.
- 20:10:03 Regulated motor carriers, Repealed.
- 20:10:04 Exempt motor carriers, Repealed.
- 20:10:05 General telecommunications company rules.
- 20:10:06 Telecommunications records.
- 20:10:07 Telecommunications subscriber billing rules.
- 20:10:08 Telecommunications credit.
- 20:10:09 Refusal of telecommunications service.
- 20:10:10 Disconnection of telecommunications service.
- 20:10:11 Public grain warehouses.
- 20:10:12 Grain buyers.
- 20:10:13 Public utilities rate filing rules.
- 20:10:14 Procedure rules for public utilities, Repealed or transferred.
- 20:10:15 General gas and electric rules.
- 20:10:16 Gas and electric utility records and public information rules.
- 20:10:17 Gas and electric customer billing rules.
- 20:10:18 Gas and electric service rules.
- 20:10:19 Establishment of gas and electric credit.
- 20:10:20 Refusal and disconnection of gas and electric service.
- 20:10:21 Energy facility plans.

- 20:10:22 Energy facility siting rules.
- 20:10:23 Gas and electric advertising rules.
- 20:10:24 Interexchange carrier and classification rules.
- 20:10:25 Telecommunications facility construction notice rules, Repealed.
- 20:10:26 Master metering variance rules.
- 20:10:27 Telecommunications switched access filing rules.
- 20:10:28 Telecommunications separations procedures.
- 20:10:29 Telecommunications switched access charges.
- 20:10:30 Assignment of N11 dialing codes.
- 20:10:31 Assessment of fees for intrastate gas pipeline operators.
- 20:10:32 Local exchange service competition.
- 20:10:33 Service standards for telecommunications companies.
- 20:10:34 Prohibition against unauthorized changing of telecommunications company and charging for unauthorized services.
- 20:10:35 Telecommunications services.
- 20:10:36 Small generator facility interconnection.
- 20:10:37 Pipeline safety rules.
- 20:10:38 Renewable, recycled, and conserved energy rules.

## **20:10:38**

### **RENEWABLE, RECYCLED, AND CONSERVED ENERGY RULES**

#### **Section**

**20:10:38:01. Definitions.**

**20:10:38:02. Measurement and verification of energy efficiency measures.**

**20:10:38:03. Deemed savings approach.**

**20:10:38:04. Measured savings approaches.**

**20:10:38:05. Measurement and verification of demand response measures.**

**20:10:38:06. Annual report requirements.**

**20:10:38:01. Definitions.** Terms defined in SDCL 49-34A-1 have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

(1) “Conserved energy,” the reduction of energy usage achieved through energy efficiency measures and the reduction of demand achieved through demand response measures;

(2) “Demand response,” temporary changes in energy use by end use customers from their normal consumption patterns in response to changes in the price of energy over time, or in response to incentive payments designed to induce lower energy use at times of high wholesale market prices or when system reliability is jeopardized;

(3) “Demand response baseline energy use,” an estimate of the electricity that would have been consumed in the absence of the implementation of a demand response measure;

(4) “Demand response impact evaluation,” the performance of studies and activities intended to determine demand response reduction;

(5) “Demand response measure,” any measure designed, intended, or used to implement demand response;

(6) “Demand response reduction,” the reduction of electrical consumption achieved during the time a demand response measure was implemented as compared to the demand response baseline energy use;

(7) “Energy efficiency,” reducing the consumption of energy while maintaining or improving the end-use customer’s existing level of functionality;

(8) “Energy efficiency baseline energy use,” the energy consumption estimated to have occurred before the energy efficiency measure was implemented and is representative of normal operations;

(9) “Energy efficiency impact evaluation,” the performance of studies and activities intended to determine the actual savings and other effects from energy efficiency measures;

(10) “Energy efficiency measure,” any measure designed, intended, or used to improve energy efficiency;

(11) “Post-installation energy use,” energy consumption that occurs after an energy efficiency measure is implemented.

**Source:**

**General Authority:** SDCL 49-34A-27, 49-34A-96, 49-34A-101.

**Law Implemented:** SDCL 49-34A-27, 49-34A-96, 49-34A-102, 49-34A-101, 49-34A-105.

**20:10:38:02. Measurement and verification of energy efficiency measures.**

The amount of conserved energy achieved through energy efficiency measures shall be validated by the use of an energy efficiency impact evaluation. A retail provider of electricity shall use a deemed savings approach or a measured savings approach when conducting an energy efficiency impact evaluation. An energy efficiency impact evaluation shall be consistent with generally accepted measurement and verification guidelines. As necessary, an energy efficiency impact evaluation shall include adjustments to account for factors that are beyond the control of the retail provider of electricity or energy consumer in order to bring baseline energy use and post-installation energy use subject to the same or similar conditions. Adjustments may include weather corrections, occupancy levels and hours, and production levels.

**Source:**

**General Authority:** SDCL 49-34A-27, 49-34A-96, 49-34A-101.

**Law Implemented:** SDCL 49-34A-27, 49-34A-96, 49-34A-102, 49-34A-101, 49-34A-105.

**20:10:38:03. Deemed savings approach.** A deemed savings approach uses pre-determined, validated estimates of energy saving attributable to a particular energy efficiency measure based upon engineering calculations, baseline studies, or reasonable assumptions. A retail provider of electricity may use a deemed savings approach for projects that involve simple energy efficiency measures with documented per-measure values.

**Source:**

**General Authority:** SDCL 49-34A-27, 49-34A-96, 49-34A-101.

**Law Implemented:** SDCL 49-34A-27, 49-34A-96, 49-34A-102, 49-34A-101, 49-34A-105.

**20:10:38:04. Measured savings approaches.** A measured savings approach shall be based on one or more of the following methods:

- (1) The use of direct metering and monitoring to measure baseline energy use and post-installation energy use;
- (2) The use of engineering methods that use standard formulas and assumptions to calculate the energy use of baseline and post-installation energy systems;
- (3) The use of statistical analyses to estimate baseline energy use and post-installation energy; or
- (4) The use of computer models to predict the change in energy use after energy efficiency measures are implemented.

**Source:**

**General Authority:** SDCL 49-34A-27, 49-34A-96, 49-34A-101.

**Law Implemented:** SDCL 49-34A-27, 49-34A-96, 49-34A-102, 49-34A-101, 49-34A-105.

**20:10:38:05. Measurement and verification of demand response measures.**

The amount of conserved energy achieved through demand response measures shall be validated by the use of a demand response impact evaluation. A retail provider of electricity shall use metering data collection and analyses, statistical estimations, engineering analyses, or a combination of these methods when conducting a demand response impact evaluation. A demand response impact evaluation shall be consistent with generally accepted measurement and verification guidelines.

**Source:**

**General Authority:** SDCL 49-34A-27, 49-34A-96, 49-34A-101.

**Law Implemented:** SDCL 49-34A-27, 49-34A-96, 49-34A-102, 49-34A-101, 49-34A-105.

**20:10:38:06. Annual report requirements.** In addition to the requirements of SDCL 49-34A-105, a retail provider of electricity shall include the following information in its annual report:

- (1) The total megawatt hours of retail sales in South Dakota and system-wide;
- (2) The total generation capacity owned by the retail provider and the location of each generation facility;
- (3) The amount of total generation capacity contracted for in purchase power agreements and the location of each generation facility;
- (4) The amount of renewable generation capacity and recycled energy system capacity owned by the retail provider and the location of each renewable generation facility;
- (5) The amount of renewable generation capacity contracted for in purchase power agreements and the location of each renewable generation facility;
- (6) The amount of renewable energy credits that the retail provider retired to meet the South Dakota's renewable energy objective and the location of the facility that produced the retired renewable energy credits;
- (7) The amount of renewable energy credits that the retail provider retired to meet a renewable energy objective or renewable energy standard in each of the other states it provides electricity services and the location of the facility that produced the retired renewable energy credits;

(8) The amount of energy and capacity the retail provider conserved through energy efficiency measures;

(9) The amount of the reduction of energy and capacity the retail provider achieved through demand response measures;

(10) The amount of capital spent on energy efficiency measures;

(11) The amount of capital spent on demand response measures;

(12) An explanation of each energy efficiency impact evaluation used to measure conserved energy and the rationale for using each energy efficiency impact evaluation; and

(13) An explanation of each demand response impact evaluation used to measure conserved energy and the rationale for using each demand response impact evaluation.

**Source:**

**General Authority:** SDCL 49-34A-27, 49-34A-96, 49-34A-101.

**Law Implemented:** SDCL 49-34A-27, 49-34A-96, 49-34A-102, 49-34A-101, 49-34A-105.