WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED

Senate Bill No. 350

(By Senators Oliverio, McCabe, Browning, Green, Kessler, Foster, Stollings, D. Facemire, Prezioso, Plymale and Palumbo)

[Passed March 13, 2010; in effect ninety days from passage.]
AN ACT to amend and reenact §24-2F-3 of the Code of West Virginia, 1931, as amended, relating to definitions used in the alternative and renewable energy portfolio standard; recategorizing recycled energy as a renewable energy resource for the purposes of purchasing energy resource credits; and removing restriction that ethanol be produced from sources other than corn in order to be a renewable energy resource.

Be it enacted by the Legislature of West Virginia:

That §24-2F-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2F. ALTERNATIVE AND RENEWABLE ENERGY PORTFOLIO STANDARD.

§24-2F-3. Definitions.

1 Unless the context clearly requires a different meaning, as used in this article:
(1) "Advanced coal technology" means a technology that is used in a new or existing energy generating facility to reduce airborne carbon emissions associated with the combustion or use of coal and includes, but is not limited to, carbon dioxide capture and sequestration technology, supercritical technology, advanced supercritical technology as that technology is determined by the Public Service Commission, ultrasupercritical technology and pressurized fluidized bed technology and any other resource, method, project or technology certified by the commission as advanced coal technology.

(2) "Alternative and renewable energy portfolio standard" or "portfolio standard" means a requirement in any given year that requires an electric utility to own credits in an amount equal to a certain percentage of electric energy sold in the preceding calendar year by the electric utility to retail customers in this state.

(3) "Alternative energy resources" means any of the following resources, methods or technologies for the production or generation of electricity:

(A) Advanced coal technology;
(B) Coal bed methane;
(C) Natural gas;
(D) Fuel produced by a coal gasification or liquefaction facility;
(E) Synthetic gas;
(F) Integrated gasification combined cycle technologies;
(G) Waste coal;
(H) Tire derived fuel;
(I) Pumped storage hydroelectric projects; and
(J) Any other resource, method, project or technology certified as an alternative energy resource by the Public Service Commission.

(4) "Alternative and renewable energy resource credit" or "credit" means a tradable instrument that is used to establish, verify and monitor the generation of electricity from alternative and renewable energy resource facilities, energy efficiency or demand-side energy initiative projects or greenhouse gas emission reduction or offset projects.

(5) "Alternative energy resource facility" means a facility or equipment that generates electricity from alternative energy resources.

(6) "Commission" or "Public Service Commission" means the Public Service Commission of West Virginia as continued pursuant to section three, article one of this chapter.

(7) "Customer-generator" means an electric retail customer who owns and operates a customer-sited generation project utilizing an alternative or renewable energy resource or a net metering system in this state.

(8) "Electric utility" means any electric distribution company or electric generation supplier that sells electricity to retail customers in this state. Unless specifically provided for otherwise, for the purposes of this article, the term "electric utility" may not include rural electric cooperatives, municipally-owned electric facilities or utilities serving less than thirty thousand residential electric customers in West Virginia.

(9) "Energy efficiency or demand-side energy initiative project" means a project in this state that promotes customer energy efficiency or the management of customer consumption of electricity through the implementation of:
(A) Energy efficiency technologies, equipment, management practices or other strategies utilized by residential, commercial, industrial, institutional or government customers that reduce electricity consumption by those customers;

(B) Load management or demand response technologies, equipment, management practices, interruptible or curtailable tariffs, energy storage devices or other strategies in residential, commercial, industrial, institutional and government customers that shift electric load from periods of higher demand to periods of lower demand;

(C) Industrial by-product technologies consisting of the use of a by-product from an industrial process, including, but not limited to, the reuse of energy from exhaust gases or other manufacturing by-products that can be used in the direct production of electricity at the customer's facility;

(D) Customer-sited generation, demand-response, energy efficiency or peak demand reduction capabilities, whether new or existing, that the customer commits for integration into the electric utility's demand-response, energy efficiency or peak demand reduction programs; or

(E) Infrastructure and modernization projects that help promote energy efficiency, reduce energy losses or shift load from periods of higher demand to periods of lower demand, including the modernization of metering and communications (also known as "smart grid"), distribution automation, energy storage, distributed energy resources and investments to promote the electrification of transportation.

(10) "Greenhouse gas emission reduction or offset project" means a project to reduce or offset greenhouse gas emissions from sources in this state other than the electric utility's own generating and energy delivery operations.
Greenhouse gas emission reduction or offset projects include, but are not limited to:

(A) Methane capture and destruction from landfills, coal mines or farms;

(B) Forestation, afforestation or reforestation; and

(C) Nitrous oxide or carbon dioxide sequestration through reduced fertilizer use or no-till farming.

(11) "Net metering" means measuring the difference between electricity supplied by an electric utility and electricity generated from an alternative or renewable energy resource facility owned or operated by an electric retail customer when any portion of the electricity generated from the alternative or renewable energy resource facility is used to offset part or all of the electric retail customer's requirements for electricity.

(12) "Reclaimed surface mine" means a surface mine, as that term is defined in section three, article three, chapter twenty-two of this code, that is reclaimed or is being reclaimed in accordance with state or federal law.

(13) "Renewable energy resource" means any of the following resources, methods, projects or technologies for the production or generation of electricity:

(A) Solar photovoltaic or other solar electric energy;

(B) Solar thermal energy;

(C) Wind power;

(D) Run of river hydropower;

(E) Geothermal energy, which means a technology by which electricity is produced by extracting hot water or steam from geothermal reserves in the earth's crust to power steam turbines that drive generators to produce electricity.
(F) Biomass energy, which means a technology by which electricity is produced from a nonhazardous organic material that is available on a renewable or recurring basis, including pulp mill sludge;

(G) Biologically derived fuel including methane gas, ethanol or biodiesel fuel;

(H) Fuel cell technology, which means any electrochemical device that converts chemical energy in a hydrogen-rich fuel directly into electricity, heat and water without combustion;

(I) Recycled energy, which means useful thermal, mechanical or electrical energy produced from: (i) Exhaust heat from any commercial or industrial process; (ii) waste gas, waste fuel or other forms of energy that would otherwise be flared, incinerated, disposed of or vented; and (iii) electricity or equivalent mechanical energy extracted from a pressure drop in any gas, excluding any pressure drop to a condenser that subsequently vents the resulting heat; and

(J) Any other resource, method, project or technology certified by the commission as a renewable energy resource.

(14) “Renewable energy resource facility” means a facility or equipment that generates electricity from renewable energy resources.

(15) “Waste coal” means a technology by which electricity is produced by the combustion of the by-product, waste or residue created from processing coal (such as gob).
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of April 2010.

Governor