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WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SB 350

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.]

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[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,
- 2 as used in this article:

3 (1) "Advanced coal technology" means a technology that
4 is used in a new or existing energy generating facility to
5 reduce airborne carbon emissions associated with the
6 combustion or use of coal and includes, but is not limited
7 to, carbon dioxide capture and sequestration technology,
8 supercritical technology, advanced supercritical technol-
9 ogy as that technology is determined by the Public Service
10 Commission, ultrasupercritical technology and pressurized
11 fluidized bed technology and any other resource, method,
12 project or technology certified by the commission as
13 advanced coal technology.

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

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

23 (A) Advanced coal technology;

24 (B) Coal bed methane;

25 (C) Natural gas;

26 (D) Fuel produced by a coal gasification or liquefaction
27 facility;

28 (E) Synthetic gas;

29 (F) Integrated gasification combined cycle technologies;

30 (G) Waste coal;

31 (H) Tirederived fuel;

32 (I) Pumped storage hydroelectric projects; and

33 (J) Any other resource, method, project or technology
34 certified as an alternative energy resource by the Public
35 Service Commission.

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

42 (5) “Alternative energy resource facility” means a
43 facility or equipment that generates electricity from
44 alternative energy resources.

45 (6) “Commission” or “Public Service Commission”
46 means the Public Service Commission of West Virginia as
47 continued pursuant to section three, article one of this
48 chapter.

49 (7) “Customer-generator” means an electric retail
50 customer who owns and operates a customer-sited genera-
51 tion project utilizing an alternative or renewable energy
52 resource or a net metering system in this state.

53 (8) “Electric utility” means any electric distribution
54 company or electric generation supplier that sells electric-
55 ity to retail customers in this state. Unless specifically
56 provided for otherwise, for the purposes of this article, the
57 term “electric utility” may not include rural electric
58 cooperatives, municipally-owned electric facilities or
59 utilities serving less than thirty thousand residential
60 electric customers in West Virginia.

61 (9) “Energy efficiency or demand-side energy initiative
62 project” means a project in this state that promotes
63 customer energy efficiency or the management of customer
64 consumption of electricity through the implementation of:

65 (A) Energy efficiency technologies, equipment, manage-
66 ment practices or other strategies utilized by residential,
67 commercial, industrial, institutional or government
68 customers that reduce electricity consumption by those
69 customers;

70 (B) Load management or demand response technologies,
71 equipment, management practices, interruptible or
72 curtailable tariffs, energy storage devices or other strate-
73 gies in residential, commercial, industrial, institutional
74 and government customers that shift electric load from
75 periods of higher demand to periods of lower demand;

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

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

87 (E) Infrastructure and modernization projects that help
88 promote energy efficiency, reduce energy losses or shift
89 load from periods of higher demand to periods of lower
90 demand, including the modernization of metering and
91 communications (also known as "smart grid"), distribution
92 automation, energy storage, distributed energy resources
93 and investments to promote the electrification of transpor-
94 tation.

95 (10) "Greenhouse gas emission reduction or offset
96 project" means a project to reduce or offset greenhouse gas
97 emissions from sources in this state other than the electric
98 utility's own generating and energy delivery operations.

99 Greenhouse gas emission reduction or offset projects
100 include, but are not limited to:

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

103 (B) Forestation, afforestation or reforestation; and

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

106 (11) “Net metering” means measuring the difference
107 between electricity supplied by an electric utility and
108 electricity generated from an alternative or renewable
109 energy resource facility owned or operated by an electric
110 retail customer when any portion of the electricity gener-
111 ated from the alternative or renewable energy resource
112 facility is used to offset part or all of the electric retail
113 customer’s requirements for electricity.

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

118 (13) “Renewable energy resource” means any of the
119 following resources, methods, projects or technologies for
120 the production or generation of electricity:

121 (A) Solar photovoltaic or other solar electric energy;

122 (B) Solar thermal energy;

123 (C) Wind power;

124 (D) Run of river hydropower;

125 (E) Geothermal energy, which means a technology by
126 which electricity is produced by extracting hot water or
127 steam from geothermal reserves in the earth’s crust to
128 power steam turbines that drive generators to produce
129 electricity;

130 (F) Biomass energy, which means a technology by which
131 electricity is produced from a nonhazardous organic
132 material that is available on a renewable or recurring
133 basis, including pulp mill sludge;

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

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

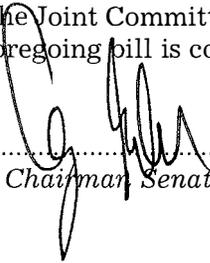
140 (I) Recycled energy, which means useful thermal,
141 mechanical or electrical energy produced from: (i) Exhaust
142 heat from any commercial or industrial process; (ii) waste
143 gas, waste fuel or other forms of energy that would
144 otherwise be flared, incinerated, disposed of or vented;
145 and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

149 (J) Any other resource, method, project or technology
150 certified by the commission as a renewable energy re-
151 source.

152 (14) "Renewable energy resource facility" means a
153 facility or equipment that generates electricity from
154 renewable energy resources.

155 (15) "Waste coal" means a technology by which electric-
156 ity is produced by the combustion of the by-product, waste
157 or residue created from processing coal (such as gob).

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

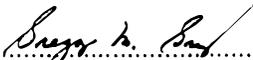

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Chairman Senate Committee

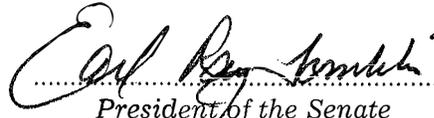

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

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


.....
Governor

PRESENTED TO THE
GOVERNOR

APR 01 2010

Time 11:25hr