

1 **H. B. 3080**

2
3 (By Delegates Manypenny, Skinner, Barrett, Longstreth,
4 Diserio, Wells, Sponaugle, Manchin and Fleischauer)

5
6 [Introduced March 25, 2013; referred to the
7 Committee on Energy, Industry and Labor, Economic
8 Development and Small Business then Finance.]
9

10 A BILL to amend and reenact §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6
11 and §24-2F-10 of the Code of West Virginia, 1931, as amended,
12 all relating to alternative and renewable energy portfolio
13 standards; defining terms; establishing standards for the sale
14 of electricity generated from solar renewable energy
15 resources; providing for compliance assessments; creating a
16 system of tradable solar renewable energy resource credits;
17 providing for the awarding of solar renewable energy resource
18 credits based upon electricity generated or purchased from
19 solar renewable energy resource facilities; and establishing
20 a distributed solar renewable energy requirement.

21 *Be it enacted by the Legislature of West Virginia:*

22 That §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6 and §24-2F-10 of
23 the Code of West Virginia, 1931, as amended, be amended and
24 reenacted, all to read as follows:

25 **ARTICLE 2F. ALTERNATIVE AND RENEWABLE ENERGY PORTFOLIO STANDARD.**

1 **§24-2F-3. Definitions.**

2 Unless the context clearly requires a different meaning, as
3 used in this article:

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

14 (2) "Alternative and renewable energy portfolio standard" or
15 "portfolio standard" means a requirement in any given year that
16 requires an electric utility to own credits and solar renewable
17 energy credits in an amount equal to a certain percentage of
18 electric 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 following
21 resources, methods or technologies for the production or generation
22 of electricity:

23 (A) Advanced coal technology;

24 (B) Coal bed methane;

1 (C) Natural gas, including any component of raw natural gas;
2 (D) Fuel produced by a coal gasification or liquefaction
3 facility;
4 (E) Synthetic gas;
5 (F) Integrated gasification combined cycle technologies;
6 (G) Waste coal;
7 (H) Tire derived fuel;
8 (I) Pumped storage hydroelectric projects; and
9 (J) Any other resource, method, project or technology
10 certified as an alternative energy resource by the Public Service
11 Commission.

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

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

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

24 (7) "Customer-generator" means an electric retail customer who

1 owns and operates a customer-sited generation project utilizing an
2 alternative or renewable energy resource or a net metering system
3 in this state.

4 (8) "Distributed solar renewable energy resource" means a
5 customer-sited and customer owned facility, not to exceed a
6 production of fifty kilowatts, that generates electricity only from
7 solar photovoltaic resources, solar thermal resources, or other
8 solar electric energy resources.

9 ~~(8)~~ (9) "Electric utility" means any electric distribution
10 company or electric generation supplier that sells electricity to
11 retail customers in this state. Unless specifically provided for
12 otherwise, for the purposes of this article, the term "electric
13 utility" may not include rural electric cooperatives, municipally-
14 owned electric facilities or utilities serving less than thirty
15 thousand residential electric customers in West Virginia.

16 ~~(9)~~ (10) "Energy efficiency or demand-side energy initiative
17 project" means a project in this state that promotes customer
18 energy efficiency or the management of customer consumption of
19 electricity through the implementation of:

20 (A) Energy efficiency technologies, equipment, management
21 practices or other strategies utilized by residential, commercial,
22 industrial, institutional or government customers that reduce
23 electricity consumption by those customers;

24 (B) Load management or demand response technologies,

1 equipment, management practices, interruptible or curtailable
2 tariffs, energy storage devices or other strategies in residential,
3 commercial, industrial, institutional and government customers that
4 shift electric load from periods of higher demand to periods of
5 lower demand;

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

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

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

23 ~~(10)~~ (11) "Greenhouse gas emission reduction or offset
24 project" means a project to reduce or offset greenhouse gas

1 emissions from sources in this state other than the electric
2 utility's own generating and energy delivery operations.
3 Greenhouse gas emission reduction or offset projects include, but
4 are not limited to:

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

7 (B) Forestation, afforestation or reforestation; and

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

10 ~~(11)~~ (12) "Net metering" means measuring the difference
11 between electricity supplied by an electric utility and electricity
12 generated from an alternative or renewable energy resource facility
13 owned or operated by an electric retail customer when any portion
14 of the electricity generated from the alternative or renewable
15 energy resource facility is used to offset part or all of the
16 electric retail customer's requirements for electricity.

17 (13) "Nonsolar renewable energy resource" means any of the
18 following resources, methods, projects or technologies for the
19 production or generation of electricity:

20 (A) Wind power;

21 (B) Run of river hydropower;

22 (C) Geothermal energy, which means a technology by which
23 electricity is produced by extracting hot water or steam from
24 geothermal reserves in the earth's crust to power steam turbines

1 that drive generators to produce electricity;

2 (D) Biomass energy, which means a technology by which
3 electricity is produced from a nonhazardous organic material that
4 is available on a renewable or recurring basis, including pulp mill
5 sludge;

6 (E) Biologically derived fuel including methane gas, ethanol
7 not produced from corn, or biodiesel fuel;

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

11 (G) Any other resource, method, project or technology, other
12 than solar photovoltaic resources, solar thermal resources, or
13 other solar electric energy resources, that are certified by the
14 commission as a renewable energy resource.

15 (14) "Nonsolar renewable energy resource facility" means a
16 facility or equipment that generates electricity from non-solar
17 renewable energy resources.

18 ~~(12)~~ (15) "Reclaimed surface mine" means a surface mine, as
19 that term is defined in section three, article three, chapter
20 twenty-two of this code, that is reclaimed or is being reclaimed in
21 accordance with state or federal law.

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

- 1 ~~—— (A) Solar photovoltaic or other solar electric energy;~~
- 2 ~~—— (B) Solar thermal energy;~~
- 3 ~~—— (C) Wind power;~~
- 4 ~~—— (D) Run of river hydropower;~~
- 5 ~~—— (E) Geothermal energy, which means a technology by which~~
6 ~~electricity is produced by extracting hot water or steam from~~
7 ~~geothermal reserves in the earth's crust to power steam turbines~~
8 ~~that drive generators to produce electricity;~~
- 9 ~~—— (F) Biomass energy, which means a technology by which~~
10 ~~electricity is produced from a nonhazardous organic material that~~
11 ~~is available on a renewable or recurring basis, including pulp mill~~
12 ~~sludge;~~
- 13 ~~—— (G) Biologically derived fuel including methane gas, ethanol~~
14 ~~or biodiesel fuel;~~
- 15 ~~—— (H) Fuel cell technology, which means any electrochemical~~
16 ~~device that converts chemical energy in a hydrogen-rich fuel~~
17 ~~directly into electricity, heat and water without combustion;~~
- 18 ~~—— (I) Recycled energy, which means useful thermal, mechanical or~~
19 ~~electrical energy produced from: (i) Exhaust heat from any~~
20 ~~commercial or industrial process; (ii) waste gas, waste fuel or~~
21 ~~other forms of energy that would otherwise be flared, incinerated,~~
22 ~~disposed of or vented; and (iii) electricity or equivalent~~
23 ~~mechanical energy extracted from a pressure drop in any gas,~~
24 ~~excluding any pressure drop to a condenser that subsequently vents~~

1 ~~the resulting heat; and~~

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

4 ~~— (14) "Renewable energy resource facility" means a facility or~~
5 ~~equipment that generates electricity from renewable energy~~
6 ~~resources.~~

7 (16) "Solar renewable energy credit" or "SREC" means a
8 tradable instrument that is used to establish, verify and monitor
9 the generation of electricity from solar renewable energy resource
10 facilities.

11 (17) "Solar renewable energy resource facility" means a
12 facility that generates electricity only from solar photovoltaic
13 resources, solar thermal resources, or other solar electric energy
14 resources.

15 ~~(15)~~ (18) "Waste coal" means a technology by which electricity
16 is produced by the combustion of the by-product, waste or residue
17 created from processing coal, such as gob.

18 **§24-2F-4. Awarding of alternative, and renewable, and solar**
19 **renewable energy resource credits.**

20 (a) *Credits established.* -- The Public Service Commission
21 shall establish a system of tradable credits to establish, verify
22 and monitor the generation and sale of electricity generated from
23 alternative and non-solar renewable energy resource facilities.

1 The credits may be traded, sold or used to meet the portfolio
2 standards established in section five of this article.

3 (b) *Awarding of credits.* -- Credits shall be awarded as
4 follows:

5 (1) An electric utility shall be awarded one credit for each
6 megawatt hour of electricity generated or purchased from an
7 alternative energy resource facility located within the
8 geographical boundaries of this state; or located outside of the
9 geographical boundaries of this state but within the service
10 territory of a regional transmission organization, as that term is
11 defined in 18 C.F.R. §35.34, that manages the transmission system
12 in any part of this state;

13 (2) An electric utility shall be awarded two credits for each
14 megawatt hour of electricity generated or purchased from a non-
15 solar renewable energy resource facility located within the
16 geographical boundaries of this state or located outside of the
17 geographical boundaries of this state but within the service
18 territory of a regional transmission organization, as that term is
19 defined in 18 C.F.R. §35.34, that manages the transmission system
20 in any part of this state;

21 (3) An electric utility shall be awarded three credits for
22 each megawatt hour of electricity generated or purchased from a
23 non-solar renewable energy resource facility located within the
24 geographical boundaries of this state if the non-solar renewable

1 energy resource facility is sited upon a reclaimed surface mine;
2 and

3 (4) A customer-generator shall be awarded one credit for each
4 megawatt hour of electricity generated from an alternative energy
5 resource facility and shall be awarded two credits for each
6 megawatt hour of electricity generated from a non-solar renewable
7 energy resource facility.

8 (c) Awarding of solar renewable energy credits. -- SRECs shall
9 be awarded as follows:

10 (1) An electric utility is awarded one SREC for each megawatt
11 hour of electricity generated or purchased from a solar renewable
12 energy resource facility located within the geographical boundaries
13 of this state;

14 (2) An electric utility is awarded two SRECs for each megawatt
15 hour of electricity generated or purchased from a solar renewable
16 energy resource facility located within the geographical boundaries
17 of this state if the solar renewable energy resource facility is
18 sited upon a reclaimed surface mine; and

19 (3) A customer-generator is awarded one SREC for each megawatt
20 hour of electricity generated from a solar renewable energy
21 resource facility.

22 ~~(c)~~ (d) Acquiring of credits and SRECs permitted. --

23 (1) An electric utility may meet the alternative and renewable
24 energy portfolio standards set forth in this article by purchasing

1 additional credits and SRECs. Credits and SRECs may be bought or
2 sold by an electric utility or customer-generator or banked and
3 used to meet an alternative and renewable energy portfolio standard
4 requirement in a subsequent year.

5 (2) Each credit and SREC transaction shall be reported by the
6 selling entity to the Public Service Commission on a form provided
7 by the commission.

8 (3) As soon as reasonably possible after the effective date of
9 this section, the commission shall establish a registry of data, or
10 use an independent and industry-recognized system, that shall track
11 credit and SREC transactions and shall list the following
12 information for each transaction: (i) The parties to the
13 transaction; (ii) the number of credits and SRECs sold or
14 transferred; and (iii) the price paid. Information contained in
15 the registry shall be available to the public, except that pricing
16 information concerning individual transactions shall be
17 confidential and exempt from disclosure under subdivision (5),
18 subsection (a), section four, article one, chapter twenty-nine-b of
19 this code.

20 (4) The commission may impose an administrative transaction
21 fee on a credit or SREC transaction in an amount not to exceed the
22 actual direct cost of processing the transaction by the commission.

23 ~~(d)~~ (e) Credits for certain emission reduction or offset
24 projects. --

1 (1) The commission may award credits to an electric utility
2 for greenhouse gas emission reduction or offset projects. For each
3 ton of carbon dioxide equivalent reduced or offset as a result of
4 an approved greenhouse gas emission reduction project, the
5 commission shall award an electric utility one credit: *Provided,*
6 That the emissions reductions and offsets are verifiable and
7 certified in accordance with rules promulgated by the commission:
8 *Provided, however,* That the commission has previously approved the
9 greenhouse gas emission reduction and offset project for credit in
10 accordance with section six of this article.

11 (2) The commission shall consult and coordinate with the
12 Secretary of the Department of Environmental Protection or an
13 independent and industry-recognized entity to verify and certify
14 greenhouse gas emission reduction or offset projects. The
15 Secretary of the Department of Environmental Protection shall
16 provide assistance and information to the Public Service Commission
17 and may enter into interagency agreements with the commission to
18 effectuate the purposes of this subsection.

19 (3) Notwithstanding the provisions of this subsection, an
20 electric utility may not be awarded credits for a greenhouse gas
21 emission reduction or offset project undertaken pursuant to any
22 obligation under any other state law, policy or regulation.

23 ~~(e)~~ (f) *Credits for certain energy efficiency and demand-side*
24 *energy initiative projects. --*

1 (1) The commission may award credits to an electric utility
2 for investments in energy efficiency and demand-side energy
3 initiative projects. For each megawatt hour of electricity
4 conserved as a result of an approved energy efficiency or demand-
5 side energy initiative project, the commission shall award one
6 credit: *Provided*, That the amount of electricity claimed to be
7 conserved is verifiable and certified in accordance with rules
8 promulgated by the commission: *Provided, however*, That the
9 commission has approved the energy efficiency or demand-side energy
10 initiative project for credit in accordance with section six of
11 this article.

12 (2) Notwithstanding the provisions of this subsection, an
13 electric utility may not be awarded credit for an energy efficiency
14 or demand-side energy initiative project undertaken pursuant to any
15 obligation under any other state law, policy or regulation.

16 **§24-2F-5. Alternative and renewable energy portfolio standard;**
17 **compliance assessments.**

18 (a) *General rule.* -- Each electric utility doing business in
19 this state shall be required to meet the alternative and renewable
20 energy portfolio standards set forth in this section. In order to
21 meet these standards, an electric utility each year shall own an
22 amount of credits and SRECs equal to a certain percentage of
23 electricity, as set forth in subsections (c) and (d) of this

1 section, sold by the electric utility in the preceding year to
2 retail customers in West Virginia.

3 (b) *Counting of credits and SRECs towards compliance.* -- For
4 the purpose of determining an electric utility's compliance with
5 the alternative and renewable energy portfolio standards set forth
6 in subsections (c) and (d) of this section, each credit and SREC
7 shall equal one megawatt hour of electricity sold by an electric
8 utility in the preceding year to retail customers in West Virginia.
9 Furthermore, a credit or SREC may not be used more than once to
10 meet the requirements of this section. No more than ten percent of
11 the credits used each year to meet the compliance requirements of
12 this section may be credits acquired from the generation or
13 purchase of electricity generated from natural gas. No more than
14 ten percent of the credits used each year to meet the compliance
15 requirements of this section may be credits acquired from the
16 generation or purchase of electricity generated from supercritical
17 technology.

18 (c) *Twenty-five percent by 2025.* --

19 (1) On and after January 1, 2025, an electric utility shall
20 each year own credits in an amount equal to at least twenty-five
21 percent of the electric energy sold by the electric utility to
22 retail customers in this state in the preceding calendar year.

23 (2) On and after January 1, 2025, an electric utility shall
24 each year own SRECs in an amount equal to at least two percent of

1 the electric energy sold by the electric utility to retail
2 customers in this state in the preceding calendar year.

3 (d) *Interim portfolio standards.* --

4 (1) For the period beginning January 1, 2015, and ending
5 December 31, 2019, an electric utility shall each year own credits
6 in an amount equal to at least ten percent of the electric energy
7 sold by the electric utility to retail customers in this state in
8 the preceding calendar year; ~~and~~

9 (2) For the period beginning January 1, 2020, and ending
10 December 31, 2024, an electric utility shall each year own credits
11 in an amount equal to at least fifteen percent of the electric
12 energy sold by the electric utility to retail customers in this
13 state in the preceding calendar year;

14 (3) For the period beginning January 1, 2015, and ending
15 December 31, 2019, an electric utility shall each year own SRECs in
16 an amount equal to at least one-half percent of the electric energy
17 sold by the electric utility to retail customers in this state in
18 the preceding calendar year: *Provided*, that the electric utility
19 may purchase SRECs from solar renewable energy resource facilities
20 located in Ohio and Pennsylvania for the period beginning January
21 1, 2015, and ending December 31, 2017; and

22 (4) For the period beginning January 1, 2020, and ending
23 December 31, 2024, an electric utility shall each year own SRECs in
24 an amount equal to at least one and one-half percent of the

1 electric energy sold by the electric utility to retail customers in
2 this state in the preceding calendar year.

3 (e) Distributed solar renewable energy requirement. -- In
4 order to improve system reliability, each electric utility affected
5 by this act shall be required to satisfy a Distributed Solar
6 Renewable Energy Requirement by obtaining SRECs from Distributed
7 Solar Renewable Energy Resources.

8 (1) On and after January 1, 2025, an electric utility shall
9 obtain twenty-five percent of their required SRECs from distributed
10 solar renewable energy resources.

11 (2) For the period beginning January 1, 2016 and ending
12 December 31, 2019, an electric utility shall obtain ten percent of
13 their required SRECs from distributed solar renewable energy
14 resources.

15 (3) For the period beginning January 1, 2020, and ending
16 December 31, 2024, an electric utility shall obtain fifteen percent
17 of their required SRECs from distributed solar renewable energy
18 resources.

19 ~~(e)~~ (f) Double-counting of credits and SRECs prohibited. --
20 Any portion of electricity generated from an alternative, non-solar
21 renewable, or solar renewable energy resource facility that is used
22 to meet another state's alternative energy, advanced energy,
23 renewable energy or similar energy portfolio standard may not be
24 used to meet the requirements of this section. An electric utility

1 that is subject to an alternative energy, advanced energy,
2 renewable energy or similar energy portfolio standard in any other
3 state shall list, in the alternative and renewable energy portfolio
4 standard compliance plan required under section six of this
5 article, any such requirements and shall indicate how it satisfied
6 those requirements. The electric utility shall provide in the
7 annual progress report required under section six of this article
8 any additional information required by the commission to prevent
9 double-counting of credits and SRECs.

10 ~~(f)~~ (g) *Carryover*. -- An electric utility may apply any
11 credits and SRECs that are in excess of the alternative and
12 renewable energy portfolio standard in any given year to the
13 requirements for any future year portfolio standard: *Provided*,
14 That the electric utility determines to the satisfaction of the
15 commission that such credits and SRECs were in excess of the
16 portfolio standard in a given year and that such credits and SRECs
17 have not previously been used for compliance with a portfolio
18 standard.

19 ~~(g)~~ (h) *Compliance assessments*. --

20 (1) On or after January 1, 2015, and each year thereafter, the
21 commission shall determine whether each electric utility doing
22 business in this state is in compliance with this section. If,
23 after notice and a hearing, the commission determines that an
24 electric utility has failed to comply with an alternative and

1 renewable energy portfolio standard, the commission shall impose a
2 compliance assessment on the electric utility which shall equal at
3 least the lesser of the following:

4 (A) Fifty dollars multiplied by the number of additional
5 credits and SRECs that would be needed to meet an alternative and
6 renewable energy portfolio standard in a given year; or

7 (B) Two hundred percent of the average market value of credits
8 and SRECs sold in a given year multiplied by the number of
9 additional credits and SRECs needed to meet the alternative and
10 renewable energy portfolio standard for that year.

11 (2) Compliance assessments collected by the commission
12 pursuant to this subsection shall be deposited into the Alternative
13 and Renewable Energy Resources Research Fund established in section
14 eleven of this article.

15 ~~(h)~~ (i) *Force majeure.* --

16 (1) Upon its own initiative or upon the request of an electric
17 utility, the commission may modify the portfolio standard
18 requirements of an electric utility in a given year or years or
19 recommend to the Legislature that the portfolio standard
20 requirements be eliminated if the commission determines that
21 alternative or renewable energy resources are not reasonably
22 available in the marketplace in sufficient quantities for the
23 electric utility to meet the requirements of this article.

24 (2) In making its determination, the commission shall consider

1 whether the electric utility made good faith efforts to acquire
2 sufficient credits and SRECs to comply with the requirements of
3 this article. Such good faith efforts shall include, but are not
4 limited to, banking excess credits and SRECs, seeking credits and
5 SRECs through competitive solicitations and seeking to acquire
6 credits and SRECs through long-term contracts. The commission
7 shall assess the availability of credits and SRECs on the open
8 market. The commission may also require that the electric utility
9 solicit credits and SRECs before a request for modification may be
10 granted.

11 (3) If an electric utility requests a modification of its
12 portfolio standard requirements, the commission shall make a
13 determination as to the request within sixty days.

14 (4) Commission modification of an electric utility's portfolio
15 standard requirements shall apply only to the portfolio standard in
16 the year or years modified by the commission. Commission
17 modification may not automatically reduce an electric utility's
18 alternative and renewable energy portfolio standard requirements in
19 future years.

20 (5) If the commission modifies an electric utility's portfolio
21 standard requirements, the commission may also require the electric
22 utility to acquire additional credits and SRECs in subsequent years
23 equivalent to the requirements reduced by the commission in
24 accordance with this subsection.

1 ~~(i)~~ (j) *Termination*. -- The provisions of this section shall
2 have no force and effect after June 30, 2026.

3 **§24-2F-6. Alternative and renewable energy portfolio standard**
4 **compliance plan; application; approval; and progress**
5 **report.**

6 (a) On or before January 1, 2011, each electric utility
7 subject to the provisions of this article shall prepare an
8 alternative and renewable energy portfolio standard compliance plan
9 and shall file an application with the commission seeking approval
10 of such plan.

11 (b) A portfolio standard compliance plan shall include:

12 (1) Statistics and information concerning the electric
13 utility's sales to retail customers in West Virginia during the
14 preceding ten calendar years;

15 (2) A calculation of the electric utility's projected yearly
16 sales to retail customers for the years 2011-2025;

17 (3) A calculation of the expected number of credits and SRECs
18 required to meet the portfolio standards set forth in this article;

19 (4) An anticipated time line for the development, purchase or
20 procurement of credits and SRECs sufficient to meet the portfolio
21 standards set forth in this article;

22 (5) A nonbinding estimate of the costs to comply with the
23 portfolio standards set forth in this article;

1 (6) A description of any greenhouse gas emission reduction or
2 offset projects or energy efficiency and demand-side energy
3 initiative projects the electric utility proposes to undertake for
4 credit in accordance with this article;

5 (7) A list of any requirements and a description of how the
6 electric utility satisfied or will satisfy those requirements if an
7 electric utility is subject to an alternative energy, advanced
8 energy, renewable energy or similar energy portfolio standard in
9 any other state; and

10 (8) Such further information as required by the commission.

11 (c) Upon the filing of an application for approval of a
12 portfolio standard compliance plan, and after hearing and proper
13 notice, the commission may, in its discretion, approve or
14 disapprove, or approve in part or disapprove in part, the
15 application: *Provided*, That the commission, after giving proper
16 notice and receiving no protest within thirty days after the notice
17 is given, may waive formal hearing on the application. Notice
18 shall be published as a Class I legal advertisement in compliance
19 with the provisions of article three, chapter fifty-nine of this
20 code, and shall be given in a manner and in such form as may be
21 prescribed by the commission.

22 (d) The commission shall, following proper notice and hearing,
23 if any, render a final decision on any application filed pursuant
24 to this section within two hundred seventy days of the filing of

1 the application.

2 (e) If, and to the extent, the commission determines that a
3 portfolio standard compliance plan has a reasonable expectation of
4 achieving the portfolio standard requirements at a reasonable cost
5 to electric customers in this state, the commission shall approve
6 the plan. In establishing that the requisite standard for approval
7 of a portfolio standard compliance plan is met, the burden of proof
8 shall be upon the applicant.

9 (f) In the event the commission disapproves of an application
10 filed pursuant to this section, in whole or in part, the commission
11 shall specify its reason or reasons for disapproval. Any portion
12 of the application not approved by the commission shall be modified
13 and resubmitted by the applicant.

14 (g) Either upon an application of the electric utility, a
15 petition by a party or the commission's own motion, a compliance
16 plan proceeding may be reopened for the purpose of considering and
17 making, if appropriate, alterations to the plan.

18 (h) Approval of the compliance plan does not eliminate the
19 need for an electric utility to otherwise obtain required
20 approvals, including, but not limited to, certificates to
21 construct, consent to enter into affiliated contracts and recovery
22 of compliance costs. Furthermore, nothing in this article shall be
23 interpreted to alter or amend the existing power and authority of
24 the commission.

1 (i) Approval of the compliance plan does not relieve an
2 electric utility from its obligation to pay a compliance assessment
3 pursuant to the provisions of section five of this article if it
4 fails to comply with the portfolio standards set forth therein.

5 (j) Within a year of the commission's approval of an electric
6 utility's compliance plan, and every year thereafter, the electric
7 utility shall submit to the commission an annual progress report.
8 The progress report shall include the electric utility's sales to
9 retail customers in West Virginia during the previous calendar
10 year; the amount of energy the electric utility has generated,
11 purchased or procured from alternative, ~~or~~ non-solar renewable, and
12 renewable energy resources; a comparison of the budgeted and actual
13 costs as compared to the estimated cost of the portfolio standard
14 compliance plan; any information required by the commission to
15 prevent the double-counting of credits and SRECs; and any further
16 information required by the commission.

17 (k) The commission shall impose a special assessment on all
18 electric utilities required to file a compliance plan. The
19 assessments shall be prorated among the covered electric utilities
20 on the basis of kilowatt hours of retail sales in West Virginia and
21 shall be due and payable on September 1 of each year. The amount
22 of revenue collected pursuant to this subsection may not exceed
23 \$200,000 in the first year following the effective date of this
24 article and may not exceed \$100,000 in successive years. The funds

1 generated from the assessments shall be used exclusively to offset
2 all reasonable direct and indirect costs incurred by the commission
3 in administering the provisions of this article.

4 **§24-2F-10. Portfolio requirements for rural electric**
5 **cooperatives, municipally owned electric**
6 **facilities or utilities serving less than**
7 **thirty thousand residential electric customers**
8 **in West Virginia; and alternative and renewable**
9 **energy resource credits for nonutility**
10 **generators.**

11 (a) The commission shall consider adopting, by rule,
12 alternative and renewable energy portfolio requirements for rural
13 electric cooperatives, municipally owned electric facilities or
14 utilities serving less than thirty thousand residential electric
15 customers in this state. The commission shall institute a general
16 investigation for the purpose of adopting such requirements.

17 (b) The commission shall consider extending, by rule, the
18 awarding of alternative and renewable energy resource credits and
19 SRECs in accordance with the provisions of section four of this
20 article to electric distribution companies or electric generation
21 suppliers other than electric utilities. As part of its
22 investigation, the commission shall examine any modifications to
23 the statutory and regulatory structure necessary to permit the

1 participation of such nonutility generators in the system of
2 tradable credits and SRECs authorized by this article. If the
3 commission determines that statutory modifications to this article
4 or other provisions of this code are necessary to permit such
5 participation, the commission shall notify the Governor and the
6 Legislature of the findings of its investigation and proposed
7 legislation necessary to effectuate its recommendations.

NOTE: The purpose of this bill is to make several revisions and additions to the Alternative and Renewable Energy Portfolio Act; establishes a solar renewable energy credit (SREC) system to monitor and track the generation of electricity from solar energy resources; establishes a distributed solar renewable energy requirement; and requires that all SRECs awarded come from electricity generated or purchased from facilities located only within the geographical boundaries of West Virginia.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.