

Senate Bill No. 471

(By Senators Miller, Kessler (Mr. President), Cann, Edgell,
Kirkendoll, Snyder, Unger, Walters, Williams, Yost, Wells,
Cookman and Stollings)

[Introduced February 3, 2014; referred to the Committee Energy,
Industry and Mining; and then to the Committee on Finance.]

**FISCAL
NOTE**

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

Be it enacted by the Legislature of West Virginia:

That §24-2F-3, §24-2F-4, §24-2F-5, §24-2F-6 and §24-2F-10 of

1 the Code of West Virginia, 1931, as amended, be amended and
2 reenacted, all to read as follows:

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

4 **§24-2F-3. Definitions.**

5 Unless the context clearly requires a different meaning, as
6 used in this article:

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

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

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

1 of electricity:

2 (A) Advanced coal technology;

3 (B) Coal bed methane;

4 (C) Natural gas, including any component of raw natural gas;

5 (D) Fuel produced by a coal gasification or liquefaction
6 facility;

7 (E) Synthetic gas;

8 (F) Integrated gasification combined cycle technologies;

9 (G) Waste coal;

10 (H) Tire derived fuel;

11 (I) Pumped storage hydroelectric projects; and

12 (J) Any other resource, method, project or technology
13 certified as an alternative energy resource by the Public Service
14 Commission.

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

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

24 (6) "Commission" or "Public Service Commission" means the

1 Public Service Commission of West Virginia as continued pursuant to
2 section three, article one of this chapter.

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

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

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

20 ~~(9)~~ (10) "Energy efficiency or demand-side energy initiative
21 project" means a project in this state that promotes customer
22 energy efficiency or the management of customer consumption of
23 electricity through the implementation of:

24 (A) Energy efficiency technologies, equipment, management

1 practices or other strategies utilized by residential, commercial,
2 industrial, institutional or government customers that reduce
3 electricity consumption by those customers;

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

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

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

20 (E) Infrastructure and modernization projects that help
21 promote energy efficiency, reduce energy losses or shift load from
22 periods of higher demand to periods of lower demand, including the
23 modernization of metering and communications, (also known as "smart
24 grid"), distribution automation, energy storage, distributed energy

1 resources and investments to promote the electrification of
2 transportation.

3 ~~(10)~~ (11) "Greenhouse gas emission reduction or offset
4 project" means a project to reduce or offset greenhouse gas
5 emissions from sources in this state other than the electric
6 utility's own generating and energy delivery operations.
7 Greenhouse gas emission reduction or offset projects include, but
8 are not limited to:

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

11 (B) Forestation, afforestation or reforestation; and

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

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

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

24 (A) Wind power;

1 (B) Run of river hydropower;

2 (C) Geothermal energy, which means a technology by which
3 electricity is produced by extracting hot water or steam from
4 geothermal reserves in the earth's crust to power steam turbines
5 that drive generators to produce electricity;

6 (D) Biomass energy, which means a technology by which
7 electricity is produced from a nonhazardous organic material that
8 is available on a renewable or recurring basis, including pulp mill
9 sludge;

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

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

15 (G) Any other resource, method, project or technology, other
16 than solar photovoltaic resources, solar thermal resources or other
17 solar electric energy resources, that are certified by the
18 commission as a renewable energy resource.

19 (14) "Nonsolar renewable energy resource facility" means a
20 facility or equipment that generates electricity from nonsolar
21 renewable energy resources.

22 ~~(12)~~ (15) "Reclaimed surface mine" means a surface mine, as
23 that term is defined in section three, article three, chapter
24 twenty-two of this code, that is reclaimed or is being reclaimed in

1 accordance with state or federal law.

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

5 ~~(A) Solar photovoltaic or other solar electric energy;~~

6 ~~(B) Solar thermal energy;~~

7 ~~(C) Wind power;~~

8 ~~(D) Run of river hydropower;~~

9 ~~(E) Geothermal energy, which means a technology by which~~
10 ~~electricity is produced by extracting hot water or steam from~~
11 ~~geothermal reserves in the earth's crust to power steam turbines~~
12 ~~that drive generators to produce electricity;~~

13 ~~(F) Biomass energy, which means a technology by which~~
14 ~~electricity is produced from a nonhazardous organic material that~~
15 ~~is available on a renewable or recurring basis, including pulp mill~~
16 ~~sludge;~~

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

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

22 ~~(I) Recycled energy, which means useful thermal, mechanical or~~
23 ~~electrical energy produced from: (i) Exhaust heat from any~~
24 ~~commercial or industrial process; (ii) waste gas, waste fuel or~~

1 ~~other forms of energy that would otherwise be flared, incinerated,~~
 2 ~~disposed of or vented; and (iii) electricity or equivalent~~
 3 ~~mechanical energy extracted from a pressure drop in any gas,~~
 4 ~~excluding any pressure drop to a condenser that subsequently vents~~
 5 ~~the resulting heat; and~~

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

8 ~~(14) "Renewable energy resource facility" means a facility or~~
 9 ~~equipment that generates electricity from renewable energy~~
 10 ~~resources.~~

11 (16) "Solar renewable energy credit" means a tradable
 12 instrument that is used to establish, verify and monitor the
 13 generation of electricity from solar renewable energy resource
 14 facilities.

15 (17) "Solar renewable energy resource facility" means a
 16 facility that generates electricity only from solar photovoltaic
 17 resources, solar thermal resources or other solar electric energy
 18 resources.

19 ~~(15)~~ (18) "Waste coal" means a technology by which electricity
 20 is produced by the combustion of the by-product, waste or residue
 21 created from processing coal, such as gob.

22 **§24-2F-4. Awarding of alternative, and renewable and solar**
 23 **renewable energy resource credits.**

24 (a) *Credits established.* -- The Public Service Commission

1 shall establish a system of tradable credits to establish, verify
2 and monitor the generation and sale of electricity generated from
3 alternative and nonsolar renewable energy resource facilities. The
4 credits may be traded, sold or used to meet the portfolio standards
5 established in section five of this article.

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

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

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

24 (3) An electric utility shall be awarded three credits for

1 each megawatt hour of electricity generated or purchased from a
2 nonsolar renewable energy resource facility located within the
3 geographical boundaries of this state if the nonsolar renewable
4 energy resource facility is sited upon a reclaimed surface mine;
5 and

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

11 (c) Awarding of solar renewable energy credits. -- Solar
12 renewable energy credits shall be awarded as follows:

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

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

23 (3) A customer-generator is awarded one solar renewable energy
24 credit for each megawatt hour of electricity generated from a solar

1 renewable energy resource facility.

2 ~~(c)~~ (d) Acquiring of credits and solar renewable energy
3 credits permitted. --

4 (1) An electric utility may meet the alternative and renewable
5 energy portfolio standards set forth in this article by purchasing
6 additional credits and solar renewable energy credits. Credits and
7 solar renewable energy credits may be bought or sold by an electric
8 utility or customer-generator or banked and used to meet an
9 alternative and renewable energy portfolio standard requirement in
10 a subsequent year.

11 (2) Each credit and solar renewable energy credit transaction
12 shall be reported by the selling entity to the Public Service
13 Commission on a form provided by the commission.

14 (3) As soon as reasonably possible after the effective date of
15 this section, the commission shall establish a registry of data, or
16 use an independent and industry-recognized system, that ~~shall track~~
17 tracks credit and solar renewable energy credit transactions and
18 shall list the following information for each transaction: (I) The
19 parties to the transaction; (ii) the number of credits and solar
20 renewable energy credits sold or transferred; and (iii) the price
21 paid. Information contained in the registry ~~shall be~~ is available
22 to the public, except that pricing information concerning
23 individual transactions ~~shall be~~ are confidential and exempt from
24 disclosure under subdivision (5), subsection (a), section four,

1 article one, chapter twenty-nine-b of this code.

2 (4) The commission may impose an administrative transaction
3 fee on a credit or solar renewable energy credit transaction in an
4 amount not to exceed the actual direct cost of processing the
5 transaction by the commission.

6 ~~(d)~~ (e) *Credits for certain emission reduction or offset*
7 *projects. --*

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

18 (2) The commission shall consult and coordinate with the
19 Secretary of the Department of Environmental Protection or an
20 independent and industry-recognized entity to verify and certify
21 greenhouse gas emission reduction or offset projects. The
22 Secretary of the Department of Environmental Protection shall
23 provide assistance and information to the Public Service Commission
24 and may enter into interagency agreements with the commission to

1 effectuate the purposes of this subsection.

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

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

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

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

23 **§24-2F-5. Alternative and renewable energy portfolio standard;**

1 **compliance assessments.**

2 (a) *General rule.* -- Each electric utility doing business in
3 this state ~~shall be~~ is required to meet the alternative and
4 renewable energy portfolio standards set forth in this section. In
5 order to meet these standards, an electric utility each year shall
6 own an amount of credits and solar renewable energy credits equal
7 to a certain percentage of electricity, as set forth in subsections
8 (c) and (d) of this section, sold by the electric utility in the
9 preceding year to retail customers in West Virginia.

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

1 supercritical technology.

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

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

7 (2) On and after January 1, 2025, an electric utility shall
8 each year own solar renewable energy credits in an amount equal to
9 at least two percent of the electric energy sold by the electric
10 utility to retail customers in this state in the preceding calendar
11 year.

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

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

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

23 (3) For the period beginning January 1, 2015, and ending
24 December 31, 2019, an electric utility shall each year own solar

1 renewable energy credits in an amount equal to at least one-half
2 percent of the electric energy sold by the electric utility to
3 retail customers in this state in the preceding calendar year:
4 Provided, That the electric utility may purchase solar renewable
5 energy credits from solar renewable energy resource facilities
6 located in Ohio and Pennsylvania for the period beginning January
7 1, 2015, and ending December 31, 2017; and

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

14 (e) *Distributed solar renewable energy requirement.* -- In
15 order to improve system reliability, each electric utility affected
16 by this article is required to satisfy a distributed solar
17 renewable energy requirement by obtaining solar renewable energy
18 credits from distributed solar renewable energy resources.

19 (1) On and after January 1, 2025, an electric utility shall
20 obtain twenty-five percent of their required solar renewable energy
21 credits from distributed solar renewable energy resources.

22 (2) For the period beginning January 1, 2016 and ending
23 December 31, 2019, an electric utility shall obtain ten percent of
24 their required solar renewable energy credits from distributed

1 solar renewable energy resources.

2 (3) For the period beginning January 1, 2020, and ending
3 December 31, 2024, an electric utility shall obtain fifteen percent
4 of their required solar renewable energy credits from distributed
5 solar renewable energy resources.

6 ~~(e)~~ (f) Double-counting of credits and solar renewable energy
7 credits prohibited. -- Any portion of electricity generated from an
8 alternative, nonsolar renewable or solar renewable energy resource
9 facility that is used to meet another state's alternative energy,
10 advanced energy, renewable energy or similar energy portfolio
11 standard may not be used to meet the requirements of this section.
12 An electric utility that is subject to an alternative energy,
13 advanced energy, renewable energy or similar energy portfolio
14 standard in any other state shall list, in the alternative and
15 renewable energy portfolio standard compliance plan required under
16 section six of this article, any such requirements and shall
17 indicate how it satisfied those requirements. The electric utility
18 shall provide in the annual progress report required under section
19 six of this article any additional information required by the
20 commission to prevent double-counting of credits and solar
21 renewable energy credits.

22 ~~(f)~~ (g) Carryover. -- An electric utility may apply any
23 credits and solar renewable energy credits that are in excess of
24 the alternative and renewable energy portfolio standard in any

1 given year to the requirements for any future year portfolio
2 standard: *Provided*, That the electric utility determines to the
3 satisfaction of the commission that ~~such~~ the credits and solar
4 renewable energy credits were in excess of the portfolio standard
5 in a given year and that ~~such~~ the credits and solar renewable
6 energy credits have not previously been used for compliance with a
7 portfolio standard.

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

9 (1) On or after January 1, 2015, and each year thereafter, the
10 commission shall determine whether each electric utility doing
11 business in this state is in compliance with this section. If,
12 after notice and a hearing, the commission determines that an
13 electric utility has failed to comply with an alternative and
14 renewable energy portfolio standard, the commission shall impose a
15 compliance assessment on the electric utility which shall equal at
16 least the lesser of the following:

17 (A) Fifty dollars multiplied by the number of additional
18 credits and solar renewable energy credits that would be needed to
19 meet an alternative and renewable energy portfolio standard in a
20 given year; or

21 (B) Two hundred percent of the average market value of credits
22 and solar renewable energy credits sold in a given year multiplied
23 by the number of additional credits and solar renewable energy
24 credits needed to meet the alternative and renewable energy

1 portfolio standard for that year.

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

6 ~~(h)~~ (I) *Force majeure*. --

7 (1) Upon its own initiative or upon the request of an electric
8 utility, the commission may modify the portfolio standard
9 requirements of an electric utility in a given year or years or
10 recommend to the Legislature that the portfolio standard
11 requirements be eliminated if the commission determines that
12 alternative or renewable energy resources are not reasonably
13 available in the marketplace in sufficient quantities for the
14 electric utility to meet the requirements of this article.

15 (2) In making its determination, the commission shall consider
16 whether the electric utility made good faith efforts to acquire
17 sufficient credits and solar renewable energy credits to comply
18 with the requirements of this article. Such good faith efforts
19 ~~shall~~ include, but are not limited to, banking excess credits and
20 solar renewable energy credits, seeking credits and solar renewable
21 energy credits through competitive solicitations and seeking to
22 acquire credits and solar renewable energy credits through
23 long-term contracts. The commission shall assess the availability
24 of credits and solar renewable energy credits on the open market.

1 The commission may also require that the electric utility solicit
 2 credits and solar renewable energy credits before a request for
 3 modification may be granted.

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

7 (4) Commission modification of an electric utility's portfolio
 8 standard requirements ~~shall~~ apply only to the portfolio standard in
 9 the year or years modified by the commission. Commission
 10 modification may not automatically reduce an electric utility's
 11 alternative and renewable energy portfolio standard requirements in
 12 future years.

13 (5) If the commission modifies an electric utility's portfolio
 14 standard requirements, the commission may also require the electric
 15 utility to acquire additional credits and solar renewable energy
 16 credits in subsequent years equivalent to the requirements reduced
 17 by the commission in accordance with this subsection.

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

20 **§24-2F-6. Alternative and renewable energy portfolio standard**
 21 **compliance plan; application; approval; and progress**
 22 **report.**

23 (a) On or before January 1, 2011, each electric utility

1 subject to the provisions of this article shall prepare an
2 alternative and renewable energy portfolio standard compliance plan
3 and shall file an application with the commission seeking approval
4 of ~~such~~ the plan.

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

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

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

11 (3) A calculation of the expected number of credits and solar
12 renewable energy credits required to meet the portfolio standards
13 set forth in this article;

14 (4) An anticipated time line for the development, purchase or
15 procurement of credits and solar renewable energy credits
16 sufficient to meet the portfolio standards set forth in this
17 article;

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

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

24 (7) A list of any requirements and a description of how the

1 electric utility satisfied or will satisfy those requirements if an
2 electric utility is subject to an alternative energy, advanced
3 energy, renewable energy or similar energy portfolio standard in
4 any other state; and

5 (8) ~~Such~~ Further information as required by the commission.

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

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

21 (e) If, and to the extent, the commission determines that a
22 portfolio standard compliance plan has a reasonable expectation of
23 achieving the portfolio standard requirements at a reasonable cost
24 to electric customers in this state, the commission shall approve

1 the plan. In establishing that the requisite standard for approval
2 of a portfolio standard compliance plan is met, the burden of proof
3 ~~shall be~~ is upon the applicant.

4 (f) In the event the commission disapproves of an application
5 filed pursuant to this section, in whole or in part, the commission
6 shall specify its reason or reasons for disapproval. Any portion
7 of the application not approved by the commission shall be modified
8 and resubmitted by the applicant.

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

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

20 (I) Approval of the compliance plan does not relieve an
21 electric utility from its obligation to pay a compliance assessment
22 pursuant to the provisions of section five of this article if it
23 fails to comply with the portfolio standards set forth therein.

24 (j) Within a year of the commission's approval of an electric

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

12 (k) The commission shall impose a special assessment on all
 13 electric utilities required to file a compliance plan. The
 14 assessments shall be prorated among the covered electric utilities
 15 on the basis of kilowatt hours of retail sales in West Virginia and
 16 ~~shall be~~ are due and payable on September 1 of each year. The
 17 amount of revenue collected pursuant to this subsection may not
 18 exceed \$200,000 in the first year following the effective date of
 19 this article and may not exceed \$100,000 in successive years. The
 20 funds generated from the assessments shall be used exclusively to
 21 offset all reasonable direct and indirect costs incurred by the
 22 commission in administering the provisions of this article.

23 **§24-2F-10. Portfolio requirements for rural electric**
 24 **cooperatives, municipally owned electric**

1 **facilities or utilities serving less than thirty**
2 **thousand residential electric customers in West**
3 **Virginia; and alternative and renewable energy**
4 **resource credits for nonutility generators.**

5 (a) The commission shall consider adopting, by rule,
6 alternative and renewable energy portfolio requirements for rural
7 electric cooperatives, municipally owned electric facilities or
8 utilities serving less than thirty thousand residential electric
9 customers in this state. The commission shall institute a general
10 investigation for the purpose of adopting ~~such~~ the requirements.

11 (b) The commission shall consider extending, by rule, the
12 awarding of alternative and renewable energy resource credits and
13 solar renewable energy credits in accordance with the provisions of
14 section four of this article to electric distribution companies or
15 electric generation suppliers other than electric utilities. As
16 part of its investigation, the commission shall examine any
17 modifications to the statutory and regulatory structure necessary
18 to permit the participation of ~~such~~ the nonutility generators in
19 the system of tradable credits and solar renewable energy credits
20 authorized by this article. If the commission determines that
21 statutory modifications to this article or other provisions of this
22 code are necessary to permit such participation, the commission
23 shall notify the Governor and the Legislature of the findings of

1 its investigation and proposed legislation necessary to effectuate
2 its recommendations.

NOTE: The purpose of this bill is to make several revisions and additions to the Alternative and Renewable Energy Portfolio Act. The bill would establish a solar renewable energy credit system to monitor and track the generation of electricity from solar energy resources; establish a distributed solar renewable energy requirement; and require that all solar renewable energy credits 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.