

## **Section 16-245-1. Definitions**

As used in sections 16-245-1 to 16-245a-2, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Applicant" means any person, as defined in section 16-1 of the Connecticut General Statutes, who applies for a license to become an electric supplier or electric aggregator in this state pursuant to section 16-245 of the Connecticut General Statutes, and any municipal electric utility that applies, pursuant to section 16-245c of the Connecticut General Statutes, for a license to provide electric generation services to end use customers outside of its service area using the transmission or distribution system or facilities of an electric distribution company, as defined in section 16-1 of the Connecticut General Statutes;
- (2) "Class I Renewable Energy Source" means "Class I Renewable Energy Source" as defined in section 16-1 of the Connecticut General Statutes;
- (3) "Class II Renewable Energy Source" means "Class II Renewable Energy Source" as defined in section 16-1 of the Connecticut General Statutes;
- (4) "Department" means the Department of Public Utility Control or its successor;
- (5) "Electric distribution company" means "electric distribution company" as defined in section 16-1 of the Connecticut General Statutes;
- (6) "Electric supplier" means "electric supplier" as defined in section 16-1 of the Connecticut General Statutes;
- (7) "ISO" means ISO – New England, Inc. and includes any successor organization thereto;
- (8) "Municipal electric utility" means a municipal electric utility established under chapter 101 of the Connecticut General Statutes or any other electric utility owned, leased, maintained, operated, managed or controlled by any unit of local government under any general statute or any public or special act;
- (9) "NEPOOL" means the New England Power Pool and includes any successor organization thereto;
- (10) "NEPOOL GIS" means the generation information system and associated operating rules that govern the tracking of generation attributes, as approved by NEPOOL, and as amended from time to time;
- (11) "Participating municipal electric utility" means participating municipal electric utility as defined in section 16-1 of the Connecticut General Statutes; and
- (12) "Security" means a bond, letter of credit, guarantee, or other appropriate financial instrument from a creditworthy financial institution.

(Amended effective 10/7/2004)

**Section 16-245-2. Scope of License. Application Filing Requirements. Periodic review.**

- (a) At the discretion of the department, the scope of any license may be restricted to the provision of service to a geographic area, the provision of service to a particular type of customer, a method of operation (e.g., generator, broker, marketer) or the services it offers (e.g., energy services, backup services). The scope of a license may be restricted based on the department's assessment of the technical, managerial and financial capability of the applicant and the scope of service plan submitted by the applicant.
- (b) Except as provided in subsection (e) of this section, an application for a license to become an electric supplier or participating municipal electric utility shall include a completed form prescribed by the department and shall include the following items:
  - (1) An application fee in the amount of \$ 1,000 made payable to the Treasurer of the State of Connecticut;
  - (2) A scope of service plan which sets forth a description of the geographic area the applicant plans to serve, the type of customers to be served, a description of the applicant's proposed operations (e.g., generator and supplier of electric generation services; broker or marketer and supplier of electric generation services; or aggregator and supplier of electric generation services), and the services it plans to offer (e.g., energy services, backup services);
  - (3) Documentation demonstrating the applicant's technical, managerial and financial capability to provide electric generation services;
  - (4) The applicant's legal name, a description of the applicant's form of ownership, and the name of the state or jurisdiction where the applicant is organized or formed;
  - (5) The applicant's endorsed certificate of incorporation certified by the Connecticut Secretary of the State, a copy of the applicant's certificate of existence, a copy of the applicant's certificate of good standing, or other business registration on file with the Connecticut Secretary of the State; unless the applicant is a municipal electric utility, in which case the applicant shall include the municipality's authorization to apply to become a participating municipal electric utility, which may include, but shall not be limited to, a resolution from its board of electrical commissioners, board of gas and electrical commissioners or town council;
  - (6) The address of the applicant's headquarters, the articles of incorporation filed with the state or jurisdiction in which the applicant is incorporated, and any bylaws and amendments thereto;
  - (7) The name, business address and title of each officer and director,

partner, or other similar officer, unless the applicant is a municipal electric utility, in which case the applicant shall include the name and business address of the manager, superintendent or other designated person in charge of electric generation services, as defined in section 16-1 of the Connecticut General Statutes, and the name and business address of each member of its board of electrical commissioners or board of gas and electrical commissioners appointed pursuant to section 7-216 of the Connecticut General Statutes;

- (8) The address of the applicant's principal office in this state, if any, or the address of the applicant's agent for service in this state. The application shall also include the name, address, telephone number, facsimile machine number and e-mail address of the applicant's contact person for regulatory matters;
- (9) Information about the applicant's corporate structure, including names and financial statements, as appropriate, concerning corporate affiliates. If the applicant is a holding company or the subsidiary of a holding company, a graphical depiction of the organization shall also be provided;
- (10) A summary of any history of bankruptcy, dissolution, merger or acquisition of the applicant in the two calendar years immediately preceding the application;
- (11) An exhibit indicating whether the applicant or any of the applicant's corporate affiliates or officers have been or are currently under investigation, either in this state or in another state or jurisdiction for violation of any consumer protection law or regulation, and whether the applicant or any of the applicant's corporate affiliates or officers have been fined, sanctioned or otherwise penalized either in this state or in another state or jurisdiction for violation of any consumer protection law or regulation;
- (12) The applicant's toll-free telephone number for customer service and address for customer complaints;
- (13) A copy of the applicant's standard service contract;
- (14) Unless addressed in the applicant's standard service contract, the applicant's customer service plan, which shall consist of the applicant's customer security deposit procedures and requirements, customer complaint handling and dispute resolution procedures, customer termination procedures, customer rights and responsibilities and customer information and disclosure procedures;
- (15) The applicant's Federal Employer Identification Number;
- (16) A declaration that the applicant agrees to cooperate with the department, the ISO, the electric distribution companies and other electric suppliers in the event of an emergency condition that may jeopardize the safety and reliability of electric service in accordance with emergency plans and other procedures as may be determined

- appropriate by the department;
- (17) An attestation that the applicant will not release customer information to any person, as that term is defined in section 16-1 of the Connecticut General Statutes, unless the customer signs a release, the form for which shall be made available by the department. For purposes of this subdivision, "customer information" means customer-specific information which the electric supplier acquired or developed in the course of providing electric generation services and includes, but is not limited to, information that relates to the quantity, time of use, type and destination of electric service, information contained in electric service bills and other data specific to an electric supplier customer;
  - (18) Documentation demonstrating that the applicant maintains security as required pursuant to section 16-245-4 of the Regulations of Connecticut State Agencies;
  - (19) If the applicant maintains security in an amount less than \$ 250,000 pursuant to section 16-245-4(a) of the Regulations of Connecticut State Agencies, a twelve month estimate of the applicant's gross receipts from the sale of electric generation services in Connecticut;
  - (20) A twelve month estimate of the expected total electric generation load to be served in Connecticut by the applicant;
  - (21) if the applicant is a publicly owned company, a copy of the applicant's two most recent annual reports to stockholders, annual returns or summary financial statements, including filings made with the Securities and Exchange Commission such as 10-K or 10-Q and 8-K filings and audited financial statements; if the applicant is a privately owned company, a copy of the company's two most recent federal income tax returns;
  - (22) Information regarding the status of the applicant's operations in other states, including any decisions or orders granting or denying the applicant authority to sell electricity in another state; and
  - (23) An affidavit certifying under penalty of false statement that all statements made in the application are true and complete.
- (c) An application to expand the scope of an electric supplier's license shall include the information required in subsections (b)(2) and (b)(3), and subsections (b)(18) to (b)(23), inclusive.
  - (d) An applicant shall amend its application while the application is pending if substantial changes occur regarding the information provided in the application within ten days of any such change.
  - (e) Subsections (b)(6), (b)(9), (b)(10), and (b)(21) of this section shall not apply to any applicant to become a participating municipal electric utility.
  - (f) Any license to supply electricity in this state shall be subject to a periodic review which shall occur every five (5) years after the date on which the license was issued or was last reviewed. Not less than forty-five (45) days before the five year anniversary of the date on which the license was issued or was last reviewed, an electric supplier shall file with the

department a review application, which shall include the following:

- (1) A fee in the amount of \$ 250 made payable to the Treasurer of the State of Connecticut.
  - (2) Information required in subsections (b)(6), (b)(9), (b)(10), and (b)(21) of this section and
  - (3) An update of any information previously filed pursuant to subsection (b) of this section that has changed since the date on which the license was issued or was last reviewed.
- (g) An electric supplier shall:
- (1) Maintain all records of customer complaints for a minimum of three (3) years from the date of complaint;
  - (2) Make customer complaint records available to the department upon its request;
  - (3) Cooperate with the department in its investigations of consumer complaints and comply with any resulting orders; and
  - (4) Notify the department within ten days of any changes to the regulatory contact information and customer service plan filed pursuant to subsections (b)(8) and (b)(14) of this section.

(Amended effective 10/7/2004)

### **Section 16-245-3. Post-licensing requirements**

- (a) In addition to the conditions described in subsection (g) of section 16-245 of the Connecticut General Statutes, it shall be a condition of continuing licensure for an electric supplier to provide:
- (1) Any and all information requested by the department for the purpose of compiling quarterly disclosure reports required pursuant to section 16-245p of the Connecticut General Statutes;
  - (2) Any and all information requested by the department in its implementation of section 16-245x of the Connecticut General Statutes; and
  - (3) Any and all information that the electric supplier is required to provide pursuant to section 16-245y(b) of the Connecticut General Statutes.
- (b) Not less than twenty (20) days before an electric supplier executes its first contract for the sale of electric generation services to an end user, the electric supplier shall file with the department an affidavit attesting to the electric supplier's capability to exchange data necessary for the establishment and maintenance of a customer's account with the electric distribution company or companies serving the area or areas the electric supplier intends to serve. The affidavit shall attest to the successful completion of a "test run" between the electric supplier's computer systems and the electric distribution company's or companies' computer systems. The electric supplier shall serve such affidavit on the electric distribution company or companies serving the area or areas the electric

supplier intends to serve. For purposes of this subdivision, "test run" shall mean an exchange of data necessary to establish and maintain a customer's account, including, but not limited to, account administration, usage and billing, and payments and adjustments. The affidavit shall create a rebuttable presumption that the electric supplier is capable of electronically exchanging data necessary for the establishment and maintenance of a customer's account with the electric distribution company or companies serving the area or areas the electric supplier intends to serve.

- (c) Not later than October 15 of each year, an electric supplier shall submit to the department the following information:
  - (1) If the supplier has elected to maintain security based on a percentage of its gross receipts, the amount of the electric supplier's gross receipts from the sale of electric generation services in the previous twelve months;
  - (2) An estimate of the expected electric generation load to be served by the electric supplier in the next twelve months; and
  - (3) An affidavit attesting that the electric supplier is subject to chapters 208, 212, 212a and 219 of the Connecticut General Statutes, as applicable, and shall pay all taxes that it is subject to in this state.
- (d) For purposes of this subsection, "aggregated customer" shall mean a customer who is gathered by an electric aggregator, as defined in section 16-1 of the Connecticut General Statutes, for the purchase of electric generation services from an electric supplier. Not more than sixty days (60) after an aggregated customer contracts with an electric supplier, and not more than sixty days after any renewal, extension or modification of such contract, the electric aggregator shall issue to the aggregated customer a notice containing the following information:
  - (1) The name, address and toll-free customer service telephone number of the electric supplier that provides electric generation services under its aggregation offer; and
  - (2) The rate for electric generation services stated in its aggregation offer, or a description of how electric generation services are charged to customers under its aggregation offer.

(Amended effective 10/7/2004)

#### **16-245-4 - Security.**

- (a) An electric supplier shall maintain security in an amount that will ensure its financial responsibility and its supply of electricity to end use customers in accordance with contracts, agreements or arrangements. An electric supplier may elect to maintain security in the amount of \$250,000 or five per cent of its estimated gross receipts for its first full year of operation. Such security shall name the department as obligee. Failure to pay the full amount of taxes or assessments due, or failure to supply electricity or

- other services in accordance with contracts, agreements, or arrangements may cause payments to be made under the security.
- (b) Security based on an electric supplier's gross receipts shall be subject to annual adjustment. The department may require an increase in the amount of the security if the electric supplier's annual gross receipts increase more than ten percent from the gross receipts amount previously used by the department to determine the level of security required, except in no event shall the department require security in excess of \$250,000.
  - (c) An electric supplier that petitions the department to expand the authority granted in its license shall maintain security in an amount that will ensure its financial responsibility and its supply of electricity to end use customers in accordance with contracts, agreements or arrangements, and may elect to maintain security in the amount of \$250,000 or five per cent of the electric supplier's estimated gross receipts for its first full year of expanded operation. The security shall be subject to annual adjustment by the department pursuant to subsection (b) of this section.

(Effective 4/6/99)

**16-245-5 - Renewable Portfolio Requirements.**

(Repealed 10/7/04)

**16-245-6 - Enforcement.**

In determining the appropriate sanction for violation of any licensing requirement, the department shall consider the following:

- (1) The appropriateness of the sanction or fine to the size of the business of the person charged;
- (2) The gravity of the violation;
- (3) The number of past violations by the person charged;
- (4) The good faith effort to achieve compliance;
- (5) The proposed programs and procedures to ensure compliance in the future; and
- (6) Such other factors deemed appropriate and material to the particular circumstances of the violation.

(Effective 4/6/99)

Section 16-245a-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-245a-1. Reporting requirement. Operating rules. Renewable energy portfolio deficiencies.

- (a) Annual Reporting Requirement. Each electric distribution company and each electric supplier shall submit an annual report demonstrating its compliance with

the renewable energy portfolio standard requirements set forth in [section] sections 16-245a and 16-243q of the Connecticut General Statutes. The report shall indicate the percent of total electricity output or services generated from Class I and Class II renewable energy sources and obtained from Class III sources during the previous calendar year. Said report shall include all supporting calculations. [For purposes of this section, the percent of total electricity output or services may be represented by renewable energy power attribute certificates issued by a renewable energy trading program.] The annual compliance report for each calendar year shall be submitted not later than October 15 of the following year.

(b) Operating Rules. Certificates for renewable energy power generated within NEPOOL shall be accounted for in accordance with the current operating rules of the NEPOOL GIS.

(c) Required Documentation. [Renewable Energy Portfolio Deficiencies.] The annual report submitted pursuant to subsection (a) shall be based exclusively on certificates issued by the NEPOOL GIS, and shall include copies of all quarterly and annual reports issued to the electric distribution company or electric supplier by the NEPOOL GIS during the compliance period. [An electric distribution company or electric supplier that seeks to make up any renewable energy portfolio deficiency within the first three months of the succeeding calendar year shall specifically indicate the amount of renewable energy sources or attributes used within the first three months of the succeeding year to make up the previous year's deficiency. To ensure that such energy sources or attributes are not used to comply with the portfolio requirements of the succeeding calendar year, the electric distribution company or electric supplier's annual report for the succeeding year shall contain a calculation, supported by quarterly and annual reports issued by the NEPOOL GIS, demonstrating that such energy sources or attributes are not used to comply with the succeeding calendar year's portfolio requirements.]

(NEW) (d) Renewable Energy Portfolio Deficiencies. An electric distribution company or electric supplier that seeks to make up any renewable energy portfolio deficiency within the first three months of the succeeding calendar year shall specifically indicate the amount of renewable energy sources or attributes used within the first three months of the succeeding year to make up the previous year's deficiency. To ensure that such energy sources or attributes are not used to comply with the portfolio requirements of the succeeding calendar year, the electric distribution company or electric supplier's annual report for the succeeding year shall include a calculation, supported by quarterly and annual reports issued by the NEPOOL GIS, demonstrating that such energy sources or attributes are not used to comply with the succeeding calendar year's portfolio requirements.

**(NEW) (e) Banking of Renewable Energy Certificates. An electric**

**distribution company or electric supplier may bank Class I, Class II and Class III renewable energy certificates generated in one year to comply with the renewable energy portfolio requirements in either of the two following years, provided the electric distribution company or electric supplier has complied with the renewable energy portfolio requirements each year by means of renewable energy certificates or has made the alternative payment permitted by section 16-245(k), section 16-243q(b) or section 16-243q(d) of the Connecticut General Statutes. In addition, the electric distribution company or electric supplier shall demonstrate to the satisfaction of the Department of Public Utility Control that:**

- 1) The banked renewable energy certificates were in excess of the renewable energy certificates needed for compliance in the year they were generated, and the excess renewable energy certificates have not previously been used for compliance with section 16-245a(a) or section 16-243q(a) of the Connecticut General Statutes;
- 2) The banked Class I renewable energy certificates do not exceed thirty per cent of the Class I sources needed by the electric distribution company or electric supplier for compliance in the year the certificates were generated;
- 3) The banked Class II renewable energy certificates do not exceed thirty per cent of the Class II sources needed by the electric distribution company or electric supplier for compliance in the year the certificates were generated;
- 4) The banked Class III renewable energy certificates do not exceed thirty per cent of the Class III sources needed by the electric distribution company or electric supplier for compliance in the year the certificates were generated; and
- 5) The banked renewable energy certificates have not otherwise been, nor will be, sold, retired, claimed or represented as part of the total output or services, or used to satisfy obligations in jurisdictions other than Connecticut.

[(d)] (f) Renewable Energy Trading Program Emissions Attributes. Any electric distribution company or electric supplier that seeks to demonstrate renewable energy portfolio standard compliance by participating in a renewable energy trading program shall have exclusive ownership of all renewable energy and environmental attributes from such trading program that are associated with its renewable energy sources.

STATEMENT OF PURPOSE:

Purpose of the Regulation - Electric suppliers and electric distribution companies meet renewable energy portfolio standards by obtaining renewable energy

certificates (RECs). RECs are issued and tracked by the New England Power Pool generation information system. Excess REC supply can quickly drive down REC prices. Banking of RECs allows electric suppliers and electric distribution companies to bank excess compliance for use in a subsequent period essentially transferring excess RECs into future years. Massachusetts, Rhode Island and Maine have established uniform standards for banking RECs, with uniform restrictions. The proposed regulations would establish the same banking provisions, including the same restrictions, as used in other New England states. The establishment of uniform REC banking provisions throughout New England promotes investment in renewable energy generation by ameliorating REC price fluctuations. The regulations also include minor conforming changes to accommodate Class III REC compliance reporting.

Summary of the Main Provisions – New subsection (e) would permit banking of RECs for two additional compliance years, subject to three limitations. First, the obligated entity must have historically complied with the renewable portfolio standards by either (1) obtaining RECs, or (2) through payments to the Renewable Energy Investment Fund, as provided for in section 16-245(k) of the Connecticut General Statutes. Second, the obligated entities must have excess RECs beyond their compliance needs. Third, compliance through banked RECs in any year is limited to no more than 30% of the obligated entity's total REC obligation.

Legal Effects of the Regulation – Currently, the only flexibility afforded to electric suppliers and electric distribution companies to enable them to comply with renewable energy portfolio standards is through a concept called “borrowing,” which is permitted by General Statutes of Connecticut § 16-245a(e)(1). This borrowing provision allows an electric supplier or electric distribution company to borrow RECs from the first quarter of Year 2 to comply with the REC requirement in Year 1. Banking is a different concept that is not yet legally permitted in Connecticut. These regulations would establish the legal permission for banking of RECs for the first time in Connecticut.

#### **16-245a-2. Registration of Renewable Energy Electric Generating Units.**

- (a) Units located within New England.** The department shall issue registration numbers to electric generation units eligible as Class I or Class II renewable energy sources that have submitted a registration application to the NEPOOL GIS. Such renewable energy electric units shall apply for registration on a form prescribed by the department.
- (b) Facilities located outside New England.** The department shall issue registration numbers to electric generation units eligible as Class I or Class II renewable energy sources located outside NEPOOL as permitted by section 16-245a(a)(2) of the Connecticut General Statutes. Such renewable energy electric generation units shall apply for registration on a form prescribed by the department.
- (c) Facilities subject to emissions limitations.** Each electric generation unit subject to the average nitrogen oxide rate restrictions contained in the definitions of Class I and Class II renewable energy sources shall file with

the department within forty-five (45) days of the end of each calendar quarter an affidavit attesting to the unit's average nitrogen oxide emission rate per million BTU of heat input for such quarter. Upon receipt of such information, the department shall notify the applicable generation information system administrator of such unit's eligibility for trading as a renewable energy resource in Connecticut. Failure to file such affidavit may result in the revocation of the renewable energy unit's registration number, rendering energy generated by the unit ineligible for trading as a renewable energy resource in Connecticut.

- (d) **Audits.** The department may audit any renewable energy electric generation unit at any time to determine the unit's eligibility as a Class I or Class II renewable energy source.
- (e) **Objections to classification.** Any person that objects to the department's classification of an electric generating unit pursuant to this section may request a declaratory ruling from the Department of Public Utility Control pursuant to section 4-176 of the Connecticut General Statutes as to the electric generating unit's eligibility as a Class I or Class II renewable energy source.
- (f) **Notification of changed information.** If any of the information provided in a registration application submitted pursuant to this section changes, the department shall be notified of any such changes within 10 days. Failure to notify the department of such changed information within 10 days may result in the revocation of the renewable energy unit's registration number.

(Effective 10/7/2004)