

One Minute Memo[®]



Illinois Establishes A Renewable Energy Portfolio Standard And An Energy Efficiency Portfolio Standard

On August 28, 2007, Governor Blagojevich signed legislation that will greatly reduce greenhouse gas emissions from Illinois' utilities. The legislation requires utilities to utilize renewable sources of power and to encourage energy efficiency. More specifically, the legislation adopted a Renewable Energy Portfolio Standard and an Energy Efficiency Portfolio Standard. These measures were adopted as part of comprehensive electric power rate relief and regulatory reform legislation.¹

The Renewable Energy Portfolio Standard will be one of the most aggressive in the country. The legislation set the following minimum percentages for each utility's total supply to be generated from cost-effective renewable energy resources²:

- At least 2% by June 1, 2008;
- At least 4% by June 1, 2009;
- At least 5% by June 1, 2010;
- At least 6% by June 1, 2011;
- At least 7% by June 1, 2012;
- At least 8% by June 1, 2013;
- At least 9% by June 1, 2014;
- At least 10% by June 1, 2015; and
- Increasing by at least 1.5% each year thereafter to at least 25% by June 1, 2025.

Although the legislation stipulates that at least 75% of the renewable energy resources used to meet the standard should come from wind generation (if it is available), the term "renewable energy resources" is defined broadly. The term includes: "wind, solar thermal energy, photovoltaic cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, trees and tree trimmings, hydropower that does not include new construction or significant expansion of hydropower dams, and other alternative sources of environmentally preferable energy." Specifically excluded from the definition of "renewable energy resources" are incinerating, heating or burning tires, garbage and other waste. The legislation also provides specific details regarding what renewable energy resources are to be considered "cost-effective."

The renewable energy resources required to meet the standard must come from facilities located in Illinois. If cost-effective renewable energy resources are not available in Illinois, however, they can be procured in states that adjoin Illinois. If cost-effective resources are not available either in Illinois or in the states that adjoin Illinois, then they must be purchased elsewhere.

In addition to the Renewable Energy Portfolio Standard, Section 5-935 of the new legislation amends the Public Utilities Act by, among other things, adopting a new section entitled, "Energy Efficiency and Demand-

¹Public Act 95-41

²Section 1-75(c)(1)

Response Measures.”³ The Energy Efficiency Portfolio Standard requires electric utilities to implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals⁴:

- 0.2% of energy delivered in the year commencing June 1, 2008;
- 0.4% of energy delivered in the year commencing June 1, 2009;
- 0.6% of energy delivered in the year commencing June 1, 2010;
- 0.8% of energy delivered in the year commencing June 1, 2011;
- 1% of energy delivered in the year commencing June 1, 2012;
- 1.4% of energy delivered in the year commencing June 1, 2013;
- 1.8% of energy delivered in the year commencing June 1, 2014; and
- 2% of energy delivered in the year commencing June 1, 2015 and each year thereafter.

The legislation defines energy efficiency measures as those that reduce the amount of electricity required to achieve a given end use, and would include such things as energy efficient light bulbs and appliances. While electric utilities are expected to implement 75% of the energy efficiency measures, 25% of energy efficiency measures will be implemented by the Department of Commerce and Economic Opportunity. As with the Renewable Energy Portfolio Standard, whether an energy efficiency measure is “cost-effective” is provided for in the legislation.

The new legislation also requires electric utilities to implement cost-effective demand-response measures to reduce peak demand.⁵ This requirement commences on June 1, 2008 and continues for 10 years.

Illinois’ new Renewable Energy Portfolio Standard and Energy Efficiency Portfolio Standard are expected to greatly enhance opportunities for alternative energy providers in Illinois. Seyfarth Shaw’s Environmental Safety and Toxic Torts Group have been tracking statutory and regulatory developments and advising clients in this area. *For more information, please contact the Seyfarth Shaw attorney with whom you work or any member of the Environmental Safety and Toxic Torts Group on the website at www.seyfarth.com.*

³ 220 ILCS 5/12-103

⁴ 220 ILCS 5/12-103(b)

⁵ 220 ILCS 5/12-103(c)

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