

Synopsis of Colorado's Renewable Energy Standard – By Nea Brown, Holme Roberts
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Renewable Portfolio Standards set a proportion of retail electricity that must be generated by solar, wind, geothermal, biomass, and usually small hydroelectric sources. Sometimes they include recycled energy.

At present, there is no national RPS. Last year, a 15% RPS was in the energy legislation but did not pass both houses of Congress and was removed from the final bill. Southern states along with a number of other interests oppose national RPS legislation.

Colorado adopted its RPS initially through a ballot initiative – Amendment 37 – passed in 2004. In Colorado, the RPS is called a Renewable Energy Standard ("RES"). Originally, the RES covered only investor-owned utilities (e.g., Xcel and Aquila). By statute, C.R.S. 40-2-124 Colorado later extended RES requirements to certain cooperative electric associations and municipal utilities, significantly increased the RES for investor owned utilities, and enacted other provisions related to renewable energy.

In Colorado, the RES has special provisions for solar and requires that 4% of the total RES must be from solar, and half of that 4% must be from on-site solar, meaning at the electricity customer's location.

The RES for investor owned utilities in Colorado increases over time. In 2008, 5% of electricity must be renewable; 10% by 2011; 15% by 2015; and 20% by 2020. The RES for municipal utilities and cooperatives also increases over time though the present statute provides a maximum requirement of 10% by 2020. Non-compliance is in essence excused if the retail rate impact of compliance with the RES in a given year would exceed a 2% increase in the retail electric rate for investor owned utilities and 1% for cooperatives.

Compliance with the RES is determined using kilowatt-hours. For electricity generated out of state one kilowatt hour of renewable electricity counts as one kilowatt-hour toward the RES. For each kilowatt-hour of renewable electricity produced within Colorado, the utility acquiring the electricity receives a credit of 1.25 kilowatt-hours. Alternatively, for each kilowatt-hour of renewable electricity produced by a "community-based project" the acquiring utility receives a credit of 1.50 kilowatt-hour. Community-based projects are those generation facilities located in Colorado that are owned by residents of a community, nonprofit organization, cooperative, local government entity, or tribal council, up to 30 MW of generation and for which a resolution of support is adopted by the local governing body. Finally, as another alternative, for each kilowatt-hour of electricity generated from solar that begins production before July 1, 2015, the utility shall receive a credit of 3.0 kilowatt-hours toward the RES. Only one of these alternatives may be used for any kilowatt-hour.

About 28 states have RPSs. Many states have less ambitious RPSs though Minnesota's RPS is 30% by 2020. California's RPS is also ambitious due not so much to the percentage but due to the amount of electricity represented by that percentage. The RPS in Texas is only 5% by 2015.

The statute also contains important provisions concerning the role of the PUC, rebates and utility ownership of renewable resources.