



August 21, 2023

Oregon Public Utility Commission
Nolan Moser, Chief Administrative Law Judge
Via Electronic Filing
puc.filingcenter@puc.oregon.gov

RE: Interested Person Comment
UM 2273: Investigation Into House Bill 2021 Implementation Issues
Comments on Opening Briefs

Dear Judge Moser and members of the Commission:

On behalf of the Metro Climate Action Team (MCAT) I have reviewed the opening briefs and provide these additional comments in response as an Interested Person.

MCAT strongly supports the EPA opening comments that “If electricity providers that serve Oregon electricity consumers seek to deliver renewable or zero emissions power because of a regulatory policy, it may be viewed as deceptive to consumers if the power they receive is not otherwise substantiated with RECs to describe that power.” This supports MCAT’s position that even though REC’s are not required by DEQ in tracking HB 2021 compliance, when REC-based electricity is used for compliance, that REC (which embodies the emission attributes of the generating source) will have been used and, there is no REC remaining to sell. Therefore, the OPUC should require the retirement of RECs associated with electricity used for HB 2021 compliance to avoid double counting of its zero-emission attributes. Indeed, it’s both appropriate and right that the OPUC require that utilities retire the RECs associated with the electricity delivered to meet HB 2021 requirements.

MCAT also supports the EPA comment that HB2021 is a load-based policy that seeks to deliver emissions-free electricity to Oregon consumers, and that this determination would best align with other states’ policies by requiring the retirement of RECs for power claimed to be delivered under HB2021.

MCAT noted in the Oregon Department of Energy comments that DEQ and ODOE treat unbundled electricity—electricity from a renewable resource that has been stripped of its non-energy attributes, or “null power”—differently. Up until now, DEQ’s GHG reporting program has not considered RECs at all and treats “null power” as having zero-emissions in order to accurately count emissions from electricity generated in Oregon. On the other hand, ODOE’s program, which is designed to report emissions from the electricity resource mix serving Oregon customers, categorizes null power as an unspecified market purchase, which has an emission value of 0.428 Mt/MWh because the emission attributes of the REC-associated electricity have been claimed by another entity. The OPUC should adopt the ODOE methodology and consider any associated electricity where the REC is sold to be automatically converted to unspecified electricity, with the associated emission factor, which would likely throw the utility out of compliance – even if retroactively.

We also support the Green Energy Institute’s reply brief. Especially the section regarding the consequences that allowing associated RECs to be sold to third parties will have on the Commission’s



responsibility to acknowledge the utility Clean Energy Plans. Given that selling a REC results in the associated electricity taking on the emissions profile of unspecified electricity, MCAT would strenuously object to acknowledging Clean Energy Plans that included the sale of RECs associated with HB 2021 compliance.

There is only one true solution to the double-counting problem. *Only one entity should be allowed to claim the environmental attributes of clean electricity.* The sale of associated RECs used for HB 2021 compliance will result in double counting of GHG reduction benefits, and while the limited revenue generated by their sale would likely go to consumer benefit programs, that is not an acceptable rationale for allowing the double counting, and we fully agree with the GEI reply brief that the benefit of retiring RECs outweighs any revenue gained from selling those unbundled RECs.

Most compliance systems are not likely to allow these empty RECs to be used, but the voluntary markets are not well regulated, and these empty RECs will likely sell at a discount, which could possibly drag down the entire market. One strategy to hasten such a demise of the REC market would be to allow electric utilities covered by HB 2021 to sell their associated RECs, even though they clearly convey no emission-reduction benefit.

Finally, MCAT supports the Sierra Club, Rogue Climate, Columbia Riverkeeper, and Coalition of Communities of Color Reply Brief covering:

1. HB 2021's Public Interest Standard requires the Commission to further define criteria to approve Clean Energy Plans.
2. Section 2 Policy Statements should guide the Commission's interpretation and implementation of HB 2021, and are not invalidated by other state policies.
3. The Commission may evaluate whether a utility is meeting HB 2021 compliance and achieving "continual progress" outside of a Clean Energy Plan Review

Thank you for the opportunity to comment.

A handwritten signature in black ink that reads 'Pascal De Laquil III'.

Dr. Pat DeLaquil, on behalf of the Metro Climate Action Team Steering Committee:

Brett Baylor, Rick Brown, Linda Craig, Dan Frye, Debby Garman, KB Mercer, Michael Mitton, Rich Peppers, Rand Schenck, Jane Stackhouse, Joe Stenger and Catherine Thomasson