



July 24, 2023

Oregon Public Utility Commissions (OPUC)
201 high Street SE, Suite 100
Salem, Oregon 97301-3398

RE: Docket UM 2273, Interested Party Comment from the U.S. Environmental Protection Agency in response to Oregon No. 23-194 and the June 29, 2023, Commission Workshop on Renewable Energy Certificates.

Dear Commissioners:

The U.S. Environmental Protection Agency's (EPA) Green Power Partnership appreciates the invitation and opportunity to provide technical input and information to the Oregon Public Utility Commissions (OPUC) in response to issues under consideration by the Commission in relation to Scoping Order No. 23-194 under the UM2273 proceeding.

Background on EPA's Green Power Partnership

In 2001, the US EPA launched the Green Power Partnership (GPP) to build a credible market for renewable energy within the US and to support US electricity consumers to switch to cleaner sources of power to reduce the air emissions associated with electricity consumption. Through the voluntary market and the aggregated investments made by US consumers, voluntary procurement of renewable energy represents a significant market driver to support broad electricity sector transformation. At the end of calendar year 2021, more than 700 EPA Green Power Partners were using more than 85 million megawatt-hours of green power annually. Voluntary consumers seek to make a difference by ensuring that their investments in renewable energy are surplus to regulation, are sourced from high-quality renewable resources and are reflective of new sources of generation. Voluntary market suppliers and consumers of renewable energy rely on Renewable Energy Certificates to verify and substantiate the attributes of power delivered from zero emissions generating sources.

Abridgment of Oregon HB2021

Oregon HB2021 requires retail electricity providers to reduce greenhouse gas emissions associated with electricity sold to Oregon consumers to 80 percent below baseline emissions levels by 2030, 90 percent below baseline emissions levels by 2035 and 100 percent below baseline emissions levels by 2040. The legislation indicates that retail electricity providers rely on nonemitting electricity in accordance with the clean energy targets outlined under the Act and eliminate greenhouse gas emissions associated with serving Oregon retail electricity consumers. Section 3 (2) indicates that nothing in this Act may be construed as establishing a standard that requires a retail electricity provider to track electricity to end use retail customers. Section 5 (3) requires that any electricity service supplier estimate the annual greenhouse gas emissions associated with electricity sold by the electricity supplier to retail electricity consumers.



Key Market Principles and Technical Considerations

- Renewable Energy Certificates (RECs) are used by both US electricity suppliers and consumers to substantiate the generation and delivery of electricity from zero emitting renewable sources used to serve consumer load.
- RECs play an important role for electricity suppliers, state policymakers, and consumers who seek to account for the energy and emissions associated with purchased electricity. RECs serve several important functions:
 - RECS are used by suppliers to credibly and accurately describe the power generated to serve load. The Federal Trade Commission’s Green Guides details that if a retail electricity marketer “generates renewable electricity but sells renewable energy certificates for all of that electricity, it would be deceptive for the marketer to represent, directly or by implication, that it uses renewable energy.”
 - 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.¹
 - The National Association of Attorneys General has also issued Environmental Marketing Guidelines for Electricity that highlights the deceptive and substantiation principles that both suppliers and consumers should abide by in making environmental claims related to electricity.²
 - RECs are used by consumers to credibly and accurately describe the power consumed in relation to purchased and self-generated electricity.
 - RECs are viewed as real property and are fundamental to existing markets established by existing state programs. Voluntary consumers rely on retail electricity programs and suppliers who can substantiate the quality and content of their products through RECs. The credibility and consumer confidence in power markets are in part in reliance on RECs.
 - An increasing number of organizations rely on RECs to report emissions associated with purchased electricity use under internationally recognized voluntary greenhouse gas accounting standards³. These standards require that reporting organizations demonstrate a clear claim to the attributes of delivered power, with a preference for claims based on RECs.
 - On the international trade front, trade policies being discussed in Europe and beyond suggest that manufacturers of products may require RECs to substantiate the manufacturing of products with lower emissions footprints. Oregonian businesses that trade internationally may find it necessary to be able to receive RECs through delivery power contracts from electricity suppliers to maintain their competitiveness with exports to certain countries.

¹ The [US FTC has issued letters](#) to electricity service providers regarding consumer deception concerns involving the handling of RECs, underpinning that a load- or consumption-based policy has implications for consumer protection.

² National Association of Attorneys General, [Environmental Marketing Guidelines for Electricity](#) (1999)

³ Greenhouse Gas Protocol, [Scope 2 Guidance](#) (2015)



- RECs are being considered under several proposed Federal rules based on norms and practices related to their widespread application and use to substantiate generated, delivered, and consumed power.
 - International standards that require the use of RECs to substantiate emissions associated with scope 2 have also been cited under proposed Federal Securities and Exchange Commission rules⁴ which may require reporting organizations to account for emissions associated with electricity using the international standards that currently require RECs to verify the energy and emissions associated with purchased and delivered electricity.
 - Energy Attribute Certificates (EACs)⁵ are also being evaluated under proposed Federal Acquisition Rules in a verifying role related to the manufacturing and delivery of suppliers and services to the government.
 - Additionally, Federal regulators have sought comment on the role of RECs to verify the generation, delivery, and consumption of power under the Treasury's implementation of the Inflation Reduction Act 45V tax credit⁶ and EPA's recently proposed Power Plant Rule⁷. These proposed rulemakings solicit comment based on norms and practices to utilize RECs to verify generation from zero emissions sources from both consumption- and generation-based emissions perspectives.
- Because electricity grids are not constrained by state borders and state policies are influenced by other policies outside of the state's jurisdiction, RECs play an important role to ensure a consistent practice within and beyond state borders. A consistent use and application of RECs to describe generated and delivered power supports broader market credibility and interactions between policies within and outside of specific state borders. A consistent use and application of RECs help ensure that policies are cumulative and reduces the chance of double-counting or double-claiming of generation used to meet different policies.
 - State policymakers widely require the use of RECs for load-based policies to define the delivery of both energy and emissions attributes to meet consumer load. Load-based policies utilize RECs to ensure that the policy's intent to represent energy or emissions reductions is not otherwise compromised due to double counting concerns. Furthermore, because RECs are widely used across regions and states, a load- or consumption-based policy requirement to retire RECs helps avoid consumer confusion and creates a clear market framework to support regulatory and voluntary procurement and consumption.

⁴ Securities and Exchange Commission, Press Release, [SEC Proposes Rule to Enhance and Standardize Climate-Related Disclosures for Investors](#) (2022)

⁵ An Energy Attribute Certificate (EAC) is used to contractually convey and allocate the energy attributes of power from points of generation to points of consumption. A Renewable Energy Certificate (REC) is a type of EAC generated from a renewable resource. EAC is a term defined under the GHG Protocol Scope 2 guidance.

⁶ Treasury Department, Notice 2022-58, [Request for Comments on Credits for Clean Hydrogen and Clean Fuel Production](#) (2022)

⁷ US Environmental Protection Agency, Docket [EPA-HQ-OAR-2023-0072](#), Greenhouse Gas Standards and Guidelines for Fossil Fuel-Fired Power Plants (2023)



- Generation-based policy may not require RECs in cases where distinctive claims of delivery of power from specified sources to load is clearly excluded from the policy implementation framework.
- A single EAC instrument system that is consistently applied, allows for actors in the voluntary market to take actions that supplement regulatory policies and help reduce the amount of regulatory burden on regulated entities.
 - Examples: State Renewable Portfolio Standards that regulate a minimum percentage of retail electricity sales coming from a specified set of eligible zero emissions resources, such as the California Renewable Portfolio Standard. Similarly, the Washington Clean Energy Transformation Act (CETA), is a load-based emissions policy that requires the use of RECs to verify the emissions of purchased/sold generation within the state.
- Voluntary procurement is estimated by the National Renewable Energy Laboratory to include more than 7.5 million customers buying 192 million megawatt-hours of renewable energy, through a wide range of supply options available to US consumers nationally.⁸ NREL estimates that more than 1 in 20 US electricity consumers participate in the voluntary market, representing roughly 5% of total annual retail electricity sales. The US Federal Government as a purchaser of electricity also seeks to buy carbon-free energy that is substantiated through EACs. This becomes difficult if delivery of power is not substantiated with EACs by retail electricity suppliers.

Summary Takeaways

- Based on EPA's unique national perspective our comments seek to highlight a broader national landscape that Oregon fits into and draw particular attention to the important role that RECs play beyond the implementation of HB2021. Oregon is part of a larger market that has developed based on certain norms and practices related to EACS and their use under regulatory and voluntary policies related to power generation, delivery, and consumption. RECs play an important role for Oregonians both within and outside of Oregon.
- The OPUC is determining whether the HB2021 is generation-based or load-based in focus. A load-based policy that seeks to deliver emissions free electricity to Oregon electricity consumers would best align with other states and load-based policies by requiring the retirement of EACs for generation used to meet HB2021. Adoption of this near universal practice helps ensure that the intent of the HB2021 policy to delivery zero emission power is credible and ensures that other entities or consumers cannot double-count or double-claim the attributes of power claimed to be delivered under HB2021.
- OPUC may want to consider how its decision to handle EACs under HB2021 may affect Oregon-based entities who may also be an affected class under other regulatory proceedings including utilities and corporate consumers. Because Oregon is part of a larger energy and emissions landscape within the US, the EAC policy decisions made by OPUC if different from other states, regions or authorities may create unintended complications for these Oregon entities to meet other obligations.

⁸ Heeter (Sumner), J. (2021). (publication). [Status and Trends in the Voluntary Market](#) (2020 data). Golden, CO: NREL.



- Should OPUC not require the use of RECs to substantiate the delivery of power and to avoid potential double counting, Oregonian consumers including dozens of organizations and nearly 10 EPA Green Power Communities may no longer qualify to meet EPA Green Power Partnership program requirements, which requires that voluntary buyers demonstrate delivery and consumption of power from eligible sources based on REC substantiation.

Please let us know if we can provide any further information or answer any other questions.

Sincerely,

_____/s/_____

Matt Clouse

Chief, Energy Supply & Industry Branch