CRS center for resource solutions

February 7, 2014

Mr. Burl Haar, Executive Secretary
Minnesota Public Utilities Commission
121 7th Place East, Suite 350
St. Paul MN 55101-2147
Via: PublicComments.PUC@state.mn.us

Re: E999/CI-13-720 In the Matter of a Commission Inquiry into Ownership of Renewable Energy Credits used to meet Minnesota Requirements

Dear Sir,

The Center for Resource Solutions (CRS) appreciates the opportunity to provide input to the Minnesota Public Utilities Commission (the Commission) on the "Notice of Comment Period on Commission inquiry" (Notice), "In the Matter of Commission Inquiry into Ownership of Renewable Energy Credits used to Meet Minnesota Requirements" issued by the Commission on December 30, 2013.[1]

CRS is a nonprofit organization that creates policy and market solutions to advance sustainable energy and mitigate climate change. CRS administers Green-e® Energy, the nation's only independent certification and verification consumer protection program for renewable energy sold in the voluntary market. The 2012 verification report shows Green-e certified nearly 36 million megawatt hours (MWh), enough to power nearly a third of U.S. households for a month. Green-e certified renewable energy sales in the U.S. have increased an average of nearly 30% each year since 2008, and now Green-e certifies over one percent of the total U.S. electricity mix and approximately three-quarters of the total voluntary market for renewable energy and renewable energy certificate (REC) sales. [2] CRS's role in this market is to protect the renewable energy purchasers against double counting and false claims, and ensure the

[1] Docket No. E999/CI-13-720.
[2] Center for Resource Solutions 2012 Verification Report available at http://www.green-e.org/publications.shtml. National Renewable Energy Laboratory, *Status and Trends in the U.S. Voluntary Green Power Market (2012 Data)* available at www.nrel.gov/publications at 20.

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purchaser of renewable energy that she is receiving all of the attributes of renewable energy generation that she purchased.

Before answering the questions posed for comment, we are providing a brief summary of the value of RECs in the voluntary market for renewable energy in Minnesota. We believe this description will provide needed context to our responses.

I. RECs have Value to Residential Customers and Commercial Purchasers.

A renewable energy certificate is generally considered to be the non-power attributes and embodies all environmental benefits associated with one megawatt-hour of renewable generation (MWh).[3] This means that all environmental benefits of using renewable energy are embodied in a REC and is transferred with the REC when a REC is sold.

For RECs to retain their integrity in the market, they should not be disaggregated. All of the non-power attributes of the renewable generation are contained within a REC. In the United States, this includes claims related to the avoided carbon dioxide on the grid. If the Commission decides to vest some benefits of renewable energy use with the generator, and others with the utility, the RECs would likely be invalid for any other uses, including sale in the voluntary market.

The Commission has acknowledged RECs as transferable property rights in its order in Docket E002/M-08-440 (September 9, 2010).

> *With the creation of the system of tradable RECs, a new property right has essentially been established; the tradability of the RECs makes them akin to stand-alone personal property, separate and distinct from the generation to which they are attached. As has been amply demonstrated in this proceeding, RECs are valuable economic entities...*[4]

The owner or purchaser of a REC can make public statements about renewable energy use. For businesses, such statements can be valuable from a marketing or branding perspective as well as in corporate sustainability reports. A residential owner may wish to retain the RECs for the more personal reasons of making a difference, feeling good about renewable energy use, or

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[3] See: U.S. Department of Energy, U.S. Environmental Protection Agency, World Resources Institute, and Center for Resource Solutions, *Guide to Purchasing Green Power: Renewable Electricity, Renewable Energy Certificates, and On-Site Renewable Generation* (March 2010). Available at: http://www.epa.gov/greenpower/documents/purchasing_guide_for_web.pdf. ("Renewable Energy Certificates (RECs)"... "are the property rights to the environmental benefits from generating electricity from renewable energy sources.").

[4] Docket E002/M-08-440 (September 9, 2010), p. 8.

display their renewable energy use to their community. RECs are valuable even if they are not counted and tracked in a tracking system. Choosing to retain one's RECs does not mean that the RECs are forfeit or go to waste. The value of a REC is not an arbitrary amount of money that a utility will pay a DG customer, but rather the value of using one MWh of renewable energy, and that value can be claimed by residential customers, commercial customers, or utilities.

There are two major markets for Renewable Energy Certificates, the compliance market in which RECs are purchased to meet state renewable portfolio standards, and the voluntary market which is comprised of individuals and organizations who voluntarily choose to retain or purchase RECs in order to gain the right to say they are using renewable energy. The markets interact and intersect. Frequently the RECs eligible for one market are also eligible for the other market.

II. The Minnesota Voluntary Market for Renewable Energy Certificates is Thriving, Existing Contracts Should be Respected, and REC Ownership Should be Predictable.

The Minnesota voluntary REC market is thriving. Owners of distributed generation (DG) facilities are able to claim the RECs produced from their renewable energy generation, and, if they so choose, sell them in either the voluntary or the compliance market. Looking at Green-e certification data only, in 2012, Minnesota had approximately 23,000 residential customers and 400 commercial customers, totaling over 1.5 million MWh in purchases. Over one million MWh of these sales were unbundled REC purchases, not sold through a bundled utility green electricity program. Minnesota generators produced nearly 1.4 million MWh of renewable generation sold into the voluntary market.[5]

RECs are generally considered to be owned by the owner of the generation equipment unless contractually exchanged or conveyed to another party or via legislation or regulation. If new legislation or regulations are adopted that shift ownership of RECs, CRS recommends that the changes only impact future generation, and, to the greatest extent possible, allow existing contracts to be upheld.

Predictable ownership is critical to the value of RECs. If purchased property rights are easily taken from generation owners without choice or compensation and given to utility companies, then purchasers in the voluntary market are less likely to value their RECs as the property rights to them may be perceived as weak. REC sales are often agreed upon before the REC has been generated. This can happen as an ancillary agreement to a lease or installation agreement, or with a long term power purchase agreement or a forward contract.

[5] Center for Resource Solutions, Verification of 2012 Data, unpublished.

In order to preserve this voluntary market and its economic benefits to the state, the Commission should ensure that REC ownership is clear and predictable, existing contracts are upheld and initial ownership rests with the owner of the generation equipment.

1. What categories of Renewable Energy Credits (RECs) need clarity on ownership?

REC ownership should be clear in all instances. This includes affirming the industry standard that the owner of the generation unit owns the RECs unless contractually agreed otherwise. However, if REC ownership is not clearly articulated in contracts, certification programs like Green-e Energy may refuse to certify sales of the RECs.

2. Who owns the RECs from net metered customers? Does it matter whether the QF is paid the average retail rate or avoided cost rate?

DG customers using net metering options do not automatically forfeit their RECs to utilities. Only if the RECs are clearly contracted for by the utility, or legislation or regulation dictates that the utility received the RECs, would the utility receive the RECs. As Minnesota's net energy metering legislation is silent on the subject of REC ownership, the RECs should be retained by the owner of the generation equipment.[6] Best practices in contracting should address REC ownership, with the presumption that RECs not transferred are retained by the generator.

3. Who owns the RECs if a third party owns the PV equipment and leases to the homeowner/business?

Generally, where a third party owns the PV equipment and leases the equipment to the homeowner, the lease speaks directly to REC ownership, commonly stating that the third party PV owner also has rights to all of the RECs. If the contract is not specific about REC ownership, but says that the homeowner is purchasing or has the right to use renewable energy, then this is good evidence that the RECs are retained by the homeowner. The RECs embody the renewableness of the generation, so if the homeowner is conveyed use of the renewable energy, then they own not only the electricity, but also the RECs associated with that generation.

4. Are there special considerations on REC ownership related to REC aggregators/marketers?

[6] See Minn. Stat. 216b.164.

It is critical that all parties understand who owns the RECs and what rights they convey. Aggregators, marketers, and utilities working with DG customers should be required to clearly convey to customers that if the customer sells their RECs, they are selling their right to say that they are using renewable energy. They should also be required to explain what a REC is in a way that educates customers and reduces the likelihood of double claims on RECs. CRS would be happy to provide more information to the Commission on this topic.

5. What factors should the Commission take into account when determining the REC ownership?

The commission should consider existing contracts and industry standards when determining REC ownership. Customers who install DG systems are generally not doing so to help the utility meet its RPS obligations (unless they have explicitly sold the RECs to the utility), but rather they generally believe they are going beyond what is required by the RPS. When the generation unit is running the owner typically believes that he has the right to the renewable energy it produces.

6. Should the Commission make decisions on REC ownership?

Clarity in the REC market will help all participants. Industry standard practice is for the REC to be retained by the generation owner unless specifically conveyed to another party. If the Commission intends that REC ownership vests with a different entity then it should be clear to all interested parties who owns the property rights of renewable energy claims. If the Commission declines to clarify REC ownership, then utilities may continue to contest REC ownership.

7. If the Commission should issue decisions on REC ownership, for which utilities or parties to a transaction should the Commission's decision apply?

Standard practice is that REC ownership sits with the generator, regardless of the size of the generator. If the commission choses to transfer ownership, then that decision should be uniformly applied and clear with regards to the rights vested within a REC.

In conclusion, CRS recommends the Commission consider the impact a decision will have on existing REC contracts and markets. There is a recognizable value for a DG customer to retain RECs, even if they are never commoditized and sold into the market or registered in a tracking system. When an individual decides to put solar panels on her roof, she is likely thinking not only of reducing energy costs, but also other goals of using renewable energy, and using

renewable energy beyond what the utility is already required to deliver under a renewable portfolio standard. RECs should not be disaggregated and separated with some environmental benefits being paid for and given to a utility, and other aspects remaining with the DG owner.

Sincerely,

Robin Quarrier
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Center for Resource Solutions

Jennifer Martin
Executive Director
Center for Resource Solutions

Green-e Energy