



CRS

center for
resource
solutions

April 28, 2017

Sally Tallberg, Chairman
Michigan Public Service Commission (MPSC)
PO Box 30221
Lansing, MI 48909

Re: CASE NO. U-18349. Comments of Center for Resource Solutions (CRS) in response to request for comments on voluntary green pricing programs under MCL 460.1061

Dear Chairman Tallberg:

CRS appreciates this opportunity to submit comments in response to the Order and Notice of Opportunity to Comment regarding voluntary green pricing program under MCL 460.1061.

Introduction to CRS & Green-e®

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS has broad expertise in renewable energy policy design and implementation, electricity product disclosures and consumer protection, and greenhouse gas (GHG) reporting and accounting. CRS administers the Green-e programs. Green-e Energy is the leading certification program for voluntary renewable electricity products in North America. For over 20 years, Green-e staff have worked with independent third-party auditors to annually verify renewable energy purchases in the voluntary market and ensure purchasers receive full environmental benefits and sole ownership of each megawatt-hour (MWh) of renewable energy they purchase. Verification procedures ensure there is no double counting between voluntary and compliance (RPS) markets, and that other renewable energy or carbon policies do not claim any of the environmental benefits of certified renewable energy. In 2015, Green-e Energy certified retail sales of over 44 million MWh, representing over 1.2% of the total U.S. electricity mix. In 2015, there were over 827,000 retail purchasers of Green-e certified renewable energy, including 36,000 businesses.

Comments

CRS offers the following in response to the MPSC's specific request for comment on the minimum requirements of the green pricing programs offered by electric providers.

1. Voluntary green pricing programs under MCL 460.1061 must deliver (i.e. retire) renewable energy certificates (RECs) in the correct quantity and quality to substantiate sales and deliveries of renewable energy to participating customers.

Since usage of any specified generation source on the shared electricity grid can only be determined contractually, RECs are used to demonstrate renewable electricity purchasing, delivery, and use within the broader context of functioning voluntary and compliance renewable electricity markets in the United States. A REC represents and conveys the renewable, environmental and social attributes of one MWh of renewable electricity generation to the owner, including the GHG emissions factor of that

generation, along with the legal right to claim usage of that renewable electricity.¹ Without RECs such a claim could not otherwise be substantiated. Consequently, use of electricity without RECs cannot be claimed as renewable.

According to the U.S. Federal Trade Commission (FTC):

- “RECs have become an important tool for the renewable electricity market. Once renewable electricity is introduced into the grid, it is physically indistinguishable from electricity generated from conventional sources. Accordingly, consumers cannot determine the source of the electricity flowing into their homes and businesses. However, because electricity transactions can be tracked, entities can ‘buy’ renewable power by purchasing power bundled with RECs. Under the REC system, a renewable electricity generator splits its output into two components: (1) the electricity itself (i.e., ‘null’ electricity); and (2) certificates representing the renewable attributes of that electricity.”²
- “A marketer should not make unqualified renewable energy claims, directly or by implication, if fossil fuel, or electricity derived from fossil fuel, is used to manufacture any part of the advertised item or is used to power any part of the advertised service, unless the marketer has matched such non-renewable energy use with renewable energy certificates;” and “If a 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.”³
- “In addressing these issues in the Green Guides, the Commission [...] did warn that power providers that sell null electricity to their customers, but sell RECs based on that electricity to another party, should keep in mind that their customers may mistakenly believe the electricity they purchase is renewable, when legally it is not. Accordingly, it advised such generators to exercise caution and qualify claims about their generation by disclosing that their electricity is not renewable.”^{4,5}

RECs are essential to any renewable electricity delivery or usage claim in the U.S. They are part of the machinery of electricity markets in the U.S. and they function as the currency for the U.S. renewable energy market.

¹ Jones, T. et al. (2015) *The Legal Basis of Renewable Energy Certificates*. Center for Resource Solutions. Available online at: http://www.resource-solutions.org/pub_pdfs/The%20Legal%20Basis%20for%20RECs.pdf.

Also see U.S. Environmental Protection Agency (EPA). (2008) *Renewable Energy Certificates*. Available online at: http://www.epa.gov/greenpower/documents/gpp_basics-recs.pdf.

² US Federal Trade Commission (FTC). (2015). *Letter from James A. Kohm, Associate Director, Division of Enforcement, Bureau of Consumer Protection, to R. Jeffrey Behm, Esq., Sheehey, Furlong & Behm, P.C.* February 5, 2015. Available at:

https://www.ftc.gov/system/files/documents/public_statements/624571/150205gmpletter.pdf.

³ US Federal Trade Commission (FTC). (2012). *Guides for the Use of Environmental Marketing Claims; Final Rule*. Sec. 260.15. Available at: https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf

⁴ See Statement of Basis and Purpose at 225, available at <http://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-issues-revised-green-guides/greenguidesstatement.pdf>.

⁵ US Federal Trade Commission (FTC). (2015). *Letter from James A. Kohm, Associate Director, Division of Enforcement, Bureau of Consumer Protection, to R. Jeffrey Behm, Esq., Sheehey, Furlong & Behm, P.C.* February 5, 2015. Available at:

https://www.ftc.gov/system/files/documents/public_statements/624571/150205gmpletter.pdf.

Utilities can deliver RECs to commercial and residential customers participating in voluntary green pricing programs by retiring RECs on their behalf with proper designation in electronic tracking systems, such as The Michigan Renewable Energy Certification System (MIRECS), or retiring them contractually on their behalf for facilities not registered in a tracking system.

2. There should be some verification of accurate REC delivery and retirement through the programs. The MPSC may consider requiring or referencing Green-e certification for voluntary green pricing programs under MCL 460.1061 to verify exclusive delivery of renewable energy and ensure conformance with best practice and consumer protection.

Green-e certified 229 voluntary utility green pricing programs across the country in 2015.⁶ Specifically, Green-e certification provides the following assurances for voluntary green pricing programs.

- *High-quality renewable energy.* Green-e sets eligibility standards for generation facilities in order to achieve sustainability, market growth, or other policy objectives.
- *Exclusive retail ownership.* Green-e requires verification of sales by an independent third party to prevent double counting and double selling. This audit ensures that RECs are exclusively retired on behalf of customers and not used for the RPS.
- *Exclusive retail claims.* Green-e verifies that attributes have not been double claimed by parties based on different instruments or the underlying physical electricity.
- *Regulatory surplus.* Green-e requires that certified renewable energy is surplus to what is required by state or federal policy or legal mandate.
- *Full attribute aggregation.* Green-e includes market- and state-specific requirements to verify that individual attributes of generation have not been split off, sold elsewhere, or otherwise removed by policy.
- *Customer Disclosure Requirements.* Green-e requires the provision of certain disclosures to customers purchasing certified renewable energy, including certain mailings; prospective and historical Product Content Labels; and a detailed Price, Terms, and Conditions.
- *Oversight of marketing and promotional materials.* Green-e enforces requirements for all marketing of certified renewable energy.

Other states have required Green-e certification for voluntary programs. For example, in January 2015, the California Public Utilities Commission (CPUC) directed the three largest investor-owned utilities (IOUs) in the state—Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas and Electric Company, which together cover nearly 80% of the state— to offer a Green-e Energy certified 100% renewable energy option to their customers and encouraged them to develop a range of green power options that will allow ratepayers at all income levels to use more renewable energy than that which is required under the state's Renewable Portfolio Standard.⁷ Each IOU will offer two distinct Green-e certified program models:

- **Green Tariff:** Customers can sign up to meet up to 100% of their electricity with solar generation purchased from the utility. The customer will see an additional charge on their utility bill that

⁶ October 16, 2016. 2015 Green-e Verification Report. Available at: <https://www.green-e.org/docs/2015%20Green-e%20Verification%20Report.pdf>.

⁷ California Public Utilities Commission (CPUC). Decision 15-01-051. January 29, 2015. *Decision Approving Green Tariff Shared Renewables Program for San Diego Gas & Electric Company, Pacific Gas and Electric Company, and Southern California Edison Company pursuant to Senate Bill 43*. Available online: <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M146/K250/146250314.PDF>.

reflects the additional costs of receiving solar generation to meet their electricity use.

- Enhanced Community Renewables (ECR): This program reflects the "Community Solar" model of renewable energy purchasing. Customers sign up to purchase a portion of a local solar project directly from a developer at a level that meets at least 25% and up to 100% of their monthly electricity demand. The customer will pay the developer for the subscribed output, and receive a credit on their utility bill that reflects their enrollment level.

According to the CPUC's order, "[Green-e Energy certification] will benefit customers and the GTST [sic] [Green Tariff Shared Renewables] Program as a whole," and:

"the Green-e Energy National Standard is developed with input from the public, including electricity users, generators, consumer protection groups, environmental policy and advocacy groups, renewable fuel companies, environmental regulatory bodies and others. Green-e Energy certification will provide consumers with assurance that the product meets the Green-e Energy National Standard. Green-e Energy certification will also provide customers with standardized, understandable information on the energy's attributes."⁸

Thank you very much for the opportunity to comment. We would be happy to supply any other supporting or clarifying information that would be helpful.

Sincerely,



Todd Jones
Senior Manager, Policy and Climate Change Programs

⁸ California Public Utilities Commission (CPUC). Decision 15-01-051 January 29, 2015. Section 5.4, pg. 90.