



November 5, 2020

Cory Ann Wind
Oregon Department of Environmental Quality (DEQ)
700 NE Multnomah Street, Suite 600
Portland, OR 97232-4100

RE: COMMENTS OF CENTER FOR RESOURCE SOLUTIONS (CRS) ON THE RULEMAKING ADVISORY COMMITTEE #3 DISCUSSION PAPER FOR THE OCTOBER 22, 2020 ADVISORY COMMITTEE MEETING FOR THE CLEAN FUELS PROGRAM ELECTRICITY 2021 RULEMAKING

Dear Ms. Wind:

CRS appreciates this opportunity to submit comments on the *Rulemaking Advisory Committee #3 Discussion Paper* ("Third Discussion Paper") for the October 22, 2020 Rulemaking Advisory Committee (RAC) Meeting #3 ("October 22 Meeting") as a part of The Clean Fuels Program (CFP) Electricity 2021 Rulemaking. Our comments pertain mostly to the proposed requirement for Green-e® certification of renewable energy certificates (RECs) used for the CFP. We provide a brief evaluation of potential eligible REC supply under DEQ's proposal. We also make a recommendation regarding the use of RECs associated with generation that is imported to California.

BACKGROUND ON CRS AND GREEN-E®

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS provides technical guidance to policymakers and regulators at different levels on renewable energy policy design, accounting, tracking and verification, market interactions, and consumer protection. CRS also administers the Green-e® programs. For over 20 years, Green-e® has been the leading independent certification for voluntary renewable electricity products in North America. In 2019, Green-e® certified retail sales of over 69 million megawatt-hours (MWh), serving over 1.6 million retail purchasers of Green-e® certified renewable energy, including over 113,000 businesses.¹

¹ See the 2020 (2019 Data) Green-e® Verification Report here for more information: <https://resource-solutions.org/q2020/>.

COMMENTS

Green-e® certification of RECs used for the CFP

In the Third Discussion Paper, DEQ staff proposes that, “RECs must be certified under [the] Green-e[®] program]’s current standard.”² General information about the Green-e® program can be found on the program’s website, <https://www.green-e.org/>, including a description of certified products and verification activities; who can join as a seller of certified renewable energy; the Green-e® Standard, Code of Conduct, and other program documents; as well as instructions on how to join and information about certification fees.

Importantly, the Green-e® program does not certify renewable generators. It certifies voluntary renewable energy products—such as utility green power programs, competitive electricity products, REC products, community choice aggregation (CCA) or municipal choice programs, and direct procurement (e.g. power purchase agreements [PPA] and onsite generation)—and it verifies transactions of renewable electricity and RECs against requirements in the Green-e® Standard and Code of Conduct using its annual Verification Process Audit and Marketing Compliance Review. Renewable generators used to supply Green-e® certified renewable energy must meet the program’s eligibility requirements and submit certain documentation and attestations.

An entity generating CFP credits using RECs as proposed by DEQ (e.g. an electric vehicle [EV] charging station owner, utility, backstop aggregator, or automaker) can choose Green-e® certification of RECs at the wholesale or retail level. DEQ should clarify whether its proposed requirement refers to certification at the wholesale level, retail level, or either.

For certification at the wholesale level, the Green-e® program does not verify retirement of the REC. Consequently, DEQ would need to do that, and DEQ could set specific requirements for how RECs used for CFP must be tracked and retired in the Western Renewable Energy Generation Information System (WREGIS), e.g. using a CFP retirement reason and identifying a CFP retirement year. The Green-e® program could work with DEQ to provide information that the RECs retired for CFP were Green-e® certified at the wholesale level.

For certification at the retail level, the Green-e® program would verify end-use retirement of the RECs. It requires that RECs be retired for Green-e® certified sales using a specific retirement protocol in WREGIS. DEQ would need to accept the Green-e® program’s REC retirement requirements and determine for which CFP retirement year Green-e® certified RECs are being used, perhaps based on the Green-e® reporting year. Again, the Green-e® program can assist DEQ to provide the information it needs. In

² Third Discussion Paper, pg. 5.

addition, the Green-e® program may provide additional information to customers buying RECs that are used for the CFP—e.g. indicating that certified RECs used for the CFP are not surplus to regulations for greenhouse gases (GHGs) in the transportation sector and they are supporting compliance with state programs rather than voluntarily going above and beyond what is required.

The Green-e® program will also shortly be making available a new expedited Customer Procurement Review program for individual transactions of a Green-e® certified product. While it does not replace the annual Verification process for certified participants, it does let those participants assure their customers that individual transactions are Green-e® certified without having to wait for the results of the annual verification. Customer Procurement Review may be helpful in assisting to get DEQ necessary information on an expedited timeline.

The Green-e® program can also certify RECs from self-generation (e.g. onsite equipment) and direct purchases from individual facilities (e.g. PPAs), through the Green-e® Direct program.³

Unless required by DEQ, the CFP credit generating entity could but would not necessarily need to join the Green-e® program (e.g. execute the Green-e® Certification and Logo Use Agreement, pay certification fees, and undergo the Verification Audit) in order to demonstrate Green-e® certification of RECs at either the wholesale or retail level for the CFP. For certification at the wholesale level, the wholesale seller is the participant in the program, whereas the CFP credit generating entity is the wholesale buyer. For certification at the retail level, the credit generating entity is the retail buyer of the certified RECs on behalf of EV customers and RECs can either be retired by the retail seller (the Green-e® participant) on behalf of the credit generating entity or moved into and retired in the credit generating entity's account in WREGIS.

Where the credit generating entity in this case is a utility (e.g. using Green-e® certified RECs to generate incremental CFP credits for residential EV charging), the utility could but would not need to join the Green-e® program as a participating seller provided that the RECs are not included as a part of a residential product (the section below addresses Green-e® program requirements for these products). The utility would not be permitted to communicate to customers that they are delivering or that customers are receiving Green-e® certified renewable energy or RECs unless the utility joins the Green-e® program.

For certification of direct transactions (e.g. REC from onsite generation or PPAs), either the generator (i.e. the owner of the equipment) or the direct buyer must join the program. Only in the case that the

³ More information about those program requirements is available at: <https://www.green-e.org/programs/energy/direct> and <https://www.green-e.org/docs/energy/direct/Green-e%20Direct%20Requirements.pdf>.

credit generating entity wants to use certified RECs from its owned onsite equipment would it need to join the Green-e® program since there is no other transacting party.

Green-e® certification of green tariff programs used for the CFP

The previous section pertains to Green-e® certification of RECs for the CFP that are sold to the CFP credit generating entity as a stand-alone REC product or simply retired on behalf of customers' EV charging. The Green-e® program can certify these RECs because the buyer is the CFP credit generating entity or using the RECs for the CFP (even if this is a utility retiring RECs on behalf of residential EV charging, provided that it is not selling certified RECs to customers for which it receives CFP credit).⁴

As proposed by DEQ, credit generating entities may also use RECs that are provided through a green tariff program for CFP credit generation. In this case, the CFP credit generating entity may be a renewable electricity seller (e.g. the utility for residential EV charging) or a non-residential buyer of renewable electricity (e.g. a charging station owner, EV fleet owner, or transit company). DEQ has proposed, "establishing an application process where the utility would submit information on renewable generation sources for the Green Tariff through a Tier 2 fuel pathway application process," and, "customers on that tariff would need to use utility bills to demonstrate that EV charging equipment was covered by utility meters enrolled in an approved green tariff program."⁵ It is not proposing to require Green-e® certification. However, these programs may nevertheless be Green-e® certified.

The Green-e® program has different requirements for REC-only and renewable electricity products. In the Green-e® program, a "renewable electricity product" is one in which the RECs and energy are sold together. This includes both products where RECs and energy are sourced from the same facilities and products where unbundled RECs and system power are procured separately from the same grid region and sold together.

The Green-e® program would treat certified renewable electricity products that are used for CFP differently if the selling utility or electricity supplier is the entity generating the CFP credits. The program has existing rules for certified utility products that are being used for California's Low-carbon Fuel Standard (LCFS) program. These same rules would likely be applied to certified utility products used for the CFP, though there is no official Green-e® program policy for the CFP at this time. These rules would allow the utility to allocate a portion of product sales to CFP, based on EV usage, provided that it is 1) a 100% renewable energy product, 2) that 25% of product sales remain purely voluntary (not

⁴ The Green-e® program does not allow this for California's Low-carbon Fuel Standard (LCFS) program since RECs used for the LCFS cannot meet other requirements in the Green-e® program, namely, to use the Voluntary Renewable Energy Program (VREP) under cap-and-trade. See additional details here: <https://www.green-e.org/news/062019>.

⁵ Third Discussion Paper, pg. 5-6.

used for CFP or the Renewable Portfolio Standard), and 3) the utility must provide additional disclosure language.⁶

In addition, investor-owned utility (IOU) voluntary green pricing programs have included provisions for the programs to be Green-e® certified since around 2012,⁷ per the recommendations of the Portfolio Options Committee (POC) and approved by the Oregon Public Utility Commission (OPUC).⁸ Where these programs may also be approved Green Tariffs under the CFP, the potential Green-e® program rules above would apply.

Verification of DEQ's other proposed requirements for RECs through the Green-e® program

In the Third Discussion Paper, DEQ staff proposes that, in addition to Green-e® certification, RECs used for CFP must also be from generators placed in service after 2015 (hereafter the “placed in service requirement”), that the associated generation be located in a balancing authority area (BA) that includes Oregon or that the electricity is delivered to one of those BAs (hereafter, the “deliverability requirement”), and that RECs must be from the same or prior year as the EV charging (hereafter the “vintage requirement”).

In general, the Green-e® program can be used to verify these proposed requirements. Where there are differences between Green-e® program requirements and these, the program would default to the more stringent requirement. DEQ's proposed placed in service requirement is more stringent than the Green-e® program's “new date”⁹ requirement. The Green-e® program could verify the more stringent post-2015 CFP facility in service date for CFP products/transactions. Regarding the proposed deliverability requirement, information on RECs can be used to determine the location of the generator and the Green-e® program can verify that the RECs come from “a BA that includes Oregon.” However, information on the RECs cannot be used to demonstrate that the associated electricity was, “delivered to one of those BAs on a real-time basis without shaping, storage, or integration services.”¹⁰ Therefore, the Green-e® program could potentially add verification procedures to check this based on other documentation and attestation that may be needed. Finally, the Green-e® program's vintage requirements are more stringent than what is in the Third Discussion Paper, in which case the program would verify that its 21-month eligible vintage window¹¹ for certified sales has been met. However, DEQ

⁶ See. Sec. IV.C1.9 (pg. 16) of the *Green-e® Energy Code of Conduct for Canada and the United States v2.2*. Available: <https://www.green-e.org/docs/energy/Green-e%20Energy%20Code%20of%20Conduct.pdf>.

⁷ See docket UM 1020, at: <https://www.oregon.gov/puc/edockets/Pages/default.aspx>.

⁸ The most recent approval was Order 18-183 (<https://apps.puc.state.or.us/orders/2018ords/18-183.pdf>). In March 2020, the OPUC suspended the POC per Order 20-063 (<https://apps.puc.state.or.us/orders/2020ords/20-063.pdf>). As part of this and a subsequent order (<https://apps.puc.state.or.us/orders/2020ords/20-183.pdf>), POC recommendation requirements were also suspended, and the programs were given a continuance through December 31, 2021.

⁹ See Sec. II.E (pg. 7-8) of the *Green-e® Renewable Energy Standard for Canada and the United States v3.4*. Available: <https://www.green-e.org/docs/energy/Green-e%20Standard%20v3.4%20US.pdf>.

¹⁰ Third Discussion Paper, pg. 5.

¹¹ See Sec. III.B (pg. 11) of the *Green-e Renewable Energy Standard for Canada and the United States v3.4*. Available: <https://www.green-e.org/docs/energy/Green-e%20Standard%20v3.4%20US.pdf>.

staff indicated at the October 22 Meeting that it did not intend to propose vintage requirements that were different from those of the Green-e® program and it intends to change the proposed vintage limits to match the Green-e® program.

Differences between WREGIS and the Green-e® program

At the October 22 Meeting, several participants asked or commented on the role of WREGIS relative to the Green-e® program regarding the proposed requirements above. WREGIS is not a renewable energy standard or verification program. The Green-e® program provides verification of renewable energy transactions relying, in part, on robust tracking systems like WREGIS, which use verified static and dynamic generation data to issue, track and retire serialized RECs to prevent double issuance, double transfer, and double retirement. The Green-e® program requires an annual audit of sales against the Green-e® Standard and retirement information in WREGIS, to ensure that WREGIS certificates meet the Green-e® Standard and were not double sold. DEQ could perform its own verification that the requirements above have been met, rather than relying on Green-e® certification, but WREGIS does not do this. DEQ is also not proposing to require an audit of REC sales to protect against double selling, and WREGIS also does not do this. The Green-e® program includes resource- and product-specific requirements beyond what DEQ is proposing, to provide additional quality and sustainability assurances. The Green-e® program also prevents instances of double claiming, verifying that there are no other renewable energy usage claims being made on either the RECs or underlying electricity. WREGIS also cannot be used for this.

One specific example of Idaho Power's voluntary target and potential double claiming came up at the October 22 Meeting. We cannot speak to the details of that program, but it may be permissible for utilities to count voluntary renewable energy and REC sales toward voluntary targets for their own sales. This would not conflict with the REC owner's exclusive end-use claim. Regardless, the Green-e® program does not certify RECs where there is an existing or multiple claims on the usage of the renewable energy generation or its benefits.

Evaluation of potential eligible supply under DEQ proposal

CRS was asked to evaluate the amount of potential supply that could be eligible in the Green-e® program, came online in or after 2015,¹² and is located with the proposed area of deliverability (estimated as the following BA areas: PGE, BPAT, PACW, IPCO, AVRN, and GRID).

We considered the following categories of generators.

1. Generators that currently have approved tracking attestations on file with the Green-e® Energy program that are located within the listed BAs and are online in/after 2015.

¹² This differs slightly from the proposed requirement in the Third Discussion Paper which is that the generator was placed in service after 2015.

2. Generators that could *potentially* be listed to be used in Green-e® Energy program that are located within the listed BAs and are online in/after 2015.

For category no. 1, we compiled the list of facilities that have approved tracking attestation on file with CRS, with an Energy Information Administration (EIA) number and BA Code that is PGE, BPAT, PACW, IPCO or AVRN, and that came online in 2015 or after. We used the facility online date in the 2019 EIA860 Early Release Form and the 2018 net generation from the EIA923 Form. The total MWh from these facilities were about 1.23 million MWh.

For category no. 2, we used EIA and Emissions & Generation Resource Integrated Database (eGRID) information to compile a list of solar and wind facilities that came online in 2015 or after and that have a BA Code of PGE, BPAT, PACW, IPCO or AVRN. The total MWh from these facilities were about 1.29 million MWh. We did not include hydropower or biomass generators, since the Green-e® program has stringent requirements for those. We also did not include geothermal, as the one facility that is eligible reported zero generation in 2018.

It is unclear exactly what portion of these volumes would be available for REC sales for the CFP. Approximately 60-70% of the first volume—1.23 million MWh—is currently being used by Green-e® Energy participants for existing sales, not all of it to customers in Oregon and not all of it for REC sales. It may be that some of this volume can be (re)allocated to CFP. In general, our understanding is that supply of *unclaimed* renewable energy in the West is limited.

RECs associated with California imports

Oregon's CFP should not accept RECs associated with power that has been or will be imported to California, either directly or through the Western Energy Imbalance Market (EIM).

California's cap-and-trade program includes emissions associated with imported electricity. It defines imported electricity as: "electricity generated outside the state of California and delivered to serve load located inside the state of California."¹³ In addition, GHG attribution to California in EIM, "determines if [a] resource is serving load in [the] California GHG compliance area,"¹⁴ as opposed to load in Oregon, for example. Like CFP, California is accounting for generation attributes delivered to load in California under this part of the cap-and-trade program. As such, it affects other load-based policies and RECs.

¹³ Sec. 95802(a) California's Cap-and-trade Regulation.

¹⁴ Slide 5 of the California Independent System Operator's (CAISO's) July 15, 2020 presentation to the state of Washington's Clean Energy Transformation Act (CETA) Carbon and Electricity Markets Stakeholder Workgroup (MWG). Available here: <https://www.utc.wa.gov/layouts/15/CasesPublicWebsite/GetDocument.ashx?docID=140&year=2019&docketNumber=190760>.

However, that program does not require REC retirement in California for renewable imports, to calculate emissions or determine compliance obligations.¹⁵ It does not use RECs to track imported renewable energy, and the California Independent System Operator (CAISO) has created a GHG attribution mechanism in the EIM for California that also does not involve RECs. As we have described previously at the EIM Regional Issues Forum (RIF),¹⁶ that has created a risk of double counting zero-emissions electricity that is imported to California and reported under the Mandatory Reporting Regulation (MRR). Where the RECs associated with this generation are used for the CFP or in RPS and other programs outside of California, the same zero-emission generation may be delivered to two different states.¹⁷

The Green-e® program's verification software does ask participants whether RECs used outside of California are associated with generation that was imported to California for all the facilities that are located in WREGIS footprint. The program can potentially add additional verification requirements, including additional documentation or attestation around this issue. However, the program would like (and has requested) additional data from the California Air Resources Board (CARB) to improve its verification that these RECs are not double counted. Due to the many other potential benefits, we nevertheless support both allowing RECs to be used in CFP and the use of Green-e® certification.

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy

¹⁵ See Sec. 94511(a)(4) of the Mandatory Reporting Regulation (MRR): ““Imported Electricity from Specified Facilities or Units. The electric power entity must report all direct delivery of electricity as from a specified source for facilities or units in which they are a generation providing entity (GPE) or have a written power contract to procure electricity.”

¹⁶ See recording of the June 18, 2019 EIM RIF: <https://www.youtube.com/watch?v=KhZ-QPOAluU&feature=youtu.be>, min 1:05-1:14:47.

¹⁷ Further explanation is provided in two letters from CRS to the California Independent Emissions Market Advisory Committee (IEMAC) dated Oct 5, 2018 and Aug 22, 2019. Available at: <https://resource-solutions.org/wp-content/uploads/2018/10/CRS-Comments-for-IEMAC-10-5-2018.pdf> and <https://resource-solutions.org/wp-content/uploads/2019/12/CRS-Letter-to-IEMAC-8-22-2019.pdf>, respectively. In these letters, CRS uses Washington's programs as an example, but the concern is equally as applicable to CFP and programs using RECs to verify delivery of renewable energy to load in Oregon.