



January 11, 2023

Oregon Public Utility Commission (OPUC)
201 High St. SE, Suite 100
Salem, OR 97301-3398

RE: Docket UM 2225: Comments of Center for Resource Solutions Regarding Application for Rehearing or Reconsideration and the November 1, 2022 Public Meeting.

Dear Commissioners,

Center for Resource Solutions (CRS) is providing information regarding both the Application for Rehearing or Reconsideration of Community Renewable Energy Association, Oregon Solar Energy Industries Association, and NewSun Energy LLC (“Application for Rehearing or Reconsideration”), and comments made by the Commissioners in their discussion following public comment at the November 1, 2022 Public Meeting.

Comments in Response to Application for Rehearing or Reconsideration

The Application for Rehearing or Reconsideration addresses “Issue 2” on the topic of “REC Accounting.”¹ It argues that “REC Retirement” was “Not Addressed in [Order Nos. 22-390, 22-446 and 22-477]”² and requests that the Commission, “Require that RECs be retired for renewable resources used to comply with HB 2021 or at a minimum to expeditiously resolve this issue in the near-term.”³

As detailed in both our June 10, 2022 and September 30, 2022 written comments,⁴ conflicting language in HB 2021 makes it unclear whether emissions-free generation or retail *sales or delivery* of emissions-free generation to Oregon customers is being regulated/measured. If HB 2021 creates targets and compliance for greenhouse gas (GHG) emissions associated with electricity delivered to retail consumers in Oregon, then ownership and retirement of the renewable energy certificates (RECs) associated with generation from renewable resources used for compliance on behalf of retail

¹ See pg. 2 of the Application for Rehearing or Reconsideration.

² See pg. 11 of the Application for Rehearing or Reconsideration.

³ See pg. 2 of the Application for Rehearing or Reconsideration.

⁴ Available at <https://edocs.puc.state.or.us/efdocs/HAC/um2225hac93431.pdf> and <https://edocs.puc.state.or.us/efdocs/HAC/um2225hac144239.pdf>, respectively.

customers in Oregon must be required to prevent double counting of this generation in different programs.

The Commission should resolve the issue of whether REC retirement is required for HB 2021 as soon as possible. We recommend that REC retirement should be required. As we have stated previously, actual or perceived double counting could have a number of profound effects, including legal challenges to power contracts and REC purchases, and eligibility and market limitations for Oregon RECs in other states, voluntary programs, and/or for federal purchasing, which could also affect renewable energy project development and contracting decisions.

This is a particular concern for Washington's Clean Energy Transformation Act (CETA) program, which is a load-based clean energy standard that uses RECs for compliance,⁵ and permits use of unbundled RECs for up to 20% of compliance.⁶ If Oregon's clean energy standard assigns a zero-emissions attribute to electricity from renewable sources delivered to Oregon customers without REC retirement, the use of that REC for compliance with CETA may result in double counting.

Double counting would also affect the integrity of Oregon's own programs. Oregon's Renewable Portfolio Standard (RPS) program, which is not modified by HB 2021,⁷ accounts for renewable energy delivered or sold to customers using RECs. If the Commission allows generation to be reported as delivered to load without the REC by one provider for HB 2021 compliance while the REC could be used by a different provider under the RPS, this could result in the same generation being counted twice and by two different customers in Oregon, damaging the integrity of the Oregon RPS program.

Oregon's Clean Fuels Program (CFP) uses RECs to assign emissions to electricity and demonstrate use of zero-emissions power for electric vehicle charging.⁸ If the Commission allows the same zero-emissions power reported as delivered to utility customers under HB 2021 to be used to charge electric vehicles by different customers under the CFP, that double counting could also damage the integrity of that program.

Actual or perceived double counting may limit other markets for RECs associated renewable generation used for compliance with HB 2021 as other programs may consider them to be counted. Voluntary demand, in particular, for renewable energy that is being double counted can be expected to be quite low or zero. The Green-e[®] program, which certifies the majority of the U.S. voluntary renewable energy market, explicitly prohibits double counting and will not allow double counted renewable energy to be included in certified voluntary sales.

⁵ See RCW 19.405.040(1)(c).

⁶ RCW 19.405.040(1)(b)(ii).

⁷ Section 13 of HB 2021.

⁸ Administrative Order No. DEQ-7-2021.

Currently, the voluntary market for renewable energy in Oregon is among the largest and most vibrant in the country—representing a quarter of the national Green-e® certified voluntary market. Two and a half (2.5) million megawatt-hours (MWh) of renewable energy generation from Oregon was sold in Green-e® certified transactions last year. That number has increased 251% over the last five years, and by an average of 39% per year during that time. That puts Oregon in the top ten states supplying Green-e® certified retail sales nationwide.⁹ That demand, those programs, and the economic and environmental value that they bring to the state are potentially at stake.

Finally, failing to require REC retirement for renewable energy used for HB 2021 compliance would likely slow overall progress toward state and regional climate and renewable energy goals. Double counting would quite simply mean less renewable energy generation, and a determination that HB 2021 requires generation-based (production-based) emissions accounting, while it would technically avoid double counting of attributes, would nevertheless allow utilities to use the same generation for compliance in multiple states (for both generation-based and load-based compliance), which again results in less clean energy. Interpreting HB 2021 as a load-based policy for emissions associated with electricity delivered to customers and properly accounting for RECs associated with renewable energy would make it consistent with and incremental to load-based programs in neighboring states and create the greatest benefit for the region.

Comments in Response to the November 1, 2022 Public Meeting

In response to comments made by the Commissioners in their discussion following public comment at the November 1, 2022 Public Meeting, CRS is providing the following information.

First, the question posed by CRS and other stakeholders is about requiring REC retirements for renewable energy generation that is used for compliance with HB 2021. We recommend that REC retirement should be required. We are not recommending allowing utilities to use unbundled RECs for compliance with HB 2021.

Second, REC retirement is not required for generation-based reporting or compliance—to report that generation occurring at a certain location, or that owned or contracted generation, is emissions-free. RECs are required to report sold or delivered generation from a renewable resource as renewable or emissions-free. Whether RECs are affected is not a question of whether HB 2021 is an “emissions-based” or renewable energy standard. It is a question of whether it is a “generation-based” or a “load-based” standard. If it is load-based—reporting and regulating what is sold/delivered to customers and setting retail delivery targets for either GHG emissions or renewables—then RECs are required to avoid double counting because emissions must follow fuel type and RECs are used to track renewable generation

⁹ See the 2022 (2021 Data) Green-e® Verification Report here for more information: <https://resource-solutions.org/g2022/>.

and all attributes to load. Emissions and fuel type cannot be separated in terms of where they occur or where they are delivered. The emissions accounting and reporting is not distinct from renewable energy claims. For more information, please see: *Guide to Electricity Sector Greenhouse Gas Emissions Totals* (November 2022).¹⁰ We recommend that the Commission interpret HB 2021 as creating a load-based emissions compliance policy and require REC retirement for the reasons stated above and in previous comments.

Third, requiring REC retirement for load-based emissions-based reporting/compliance is not equivalent to using RECs as “offsets” or “papering over emissions.” On the contrary, it uses RECs entirely as intended in Oregon and across the country—as the full suite of environmental attributes for the purposes of verifying sales, delivery and use of renewable energy—and prevents the emissions from being delivered and counted separately from the fuel type. It would prevent generation from being double counted as zero-emissions generation and again and/or somewhere else as renewable generation, for example.

Fourth, a requirement to retire RECs associated with renewable energy generation used for HB 2021 compliance does not “create an annual total” or program. Electricity generation and associated emissions can be reported for compliance on an hourly basis, for example, and retirement of RECs (issued on a monthly basis) associated with renewable generation reported is still needed and can still be required to prevent double counting and verify exclusive ownership and delivery of attributes. More precise hourly or time-stamped RECs can be used if and when available.

Fifth, regarding comparisons to California’s programs and program requirements, HB 2021 does not create a cap-and-trade program. While it is true that California does not require REC retirement to determine compliance obligations for its cap-and-trade program, that is not a zero-emissions electricity standard or a requirement to provide nonemitting electricity to retail electricity consumers. If this program in Oregon regulates the emissions associated with retail electricity sales without requiring REC retirement, that is very different. Requiring RECs for the Oregon clean energy standard would not put it in conflict or double count with California’s program. It would simply require providers to keep the RECs in Oregon. California’s other load-based programs all require RECs, including power source disclosure to customers (which requires RECs for GHG emissions intensity calculations)¹¹ and SB 100.¹² Oregon should seek to harmonize accounting under its clean energy standard with these and similar load-based programs in the West.

Finally, regarding the context of regional wholesale power market expansion in the West, the HB 2021 program may affect regional wholesale market development to the extent that it requires resource-

¹⁰ Available at: <https://resource-solutions.org/document/guide-to-electricity-sector-greenhouse-gas-emissions-totals/>.

¹¹ 20 CCR 1393(b)(1) and 20 CCR 1393(c)(1)(B)

¹² See Section 1(c) of SB 100. See CAL. PUB. UTIL. CODE § 454.53(a) and (b)(4)

specific delivery and allocation to load in the state, regardless of the allocation mechanism used. That is not a problem specific to use of RECs. Not using RECs as a part of verification and compliance does not improve such a program's alignment with or friendliness toward organized wholesale markets. The market will still need to accommodate a requirement to deliver/report specified generation to load, if compliance entities are to use the market. The existing GHG attribution mechanism in the Western Energy Imbalance Market (EIM), and that which is proposed for California ISO's Extended Day-ahead Market (EDAM), does not attribute to utility load and so it would still need to be reconciled with whatever accounting that Oregon does for emissions delivered to utility load. In general, regional organized market expansion and load-based state policies can coexist without double counting. In fact, inconsistent tracking and accounting requirements for state programs present a more significant problem for regional organized market expansion and efficiency.

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

Sincerely,

_____/s/____

Todd Jones
Director, Policy