

Center for Resource Solutions (CRS) appreciates this opportunity to respond to three questions (paraphrased) related to Issue I(a)(1) asked by the Commissioners during Oral Argument.

1. Commissioner Decker: Is the decision between “load-based” and “generation-based” needed and determinative with respect to renewable energy certificates (RECs)?

Yes, a decision is needed, and it is determinative about RECs. The Commission must answer the question: Does HB 2021 create targets for greenhouse gas (GHG) emissions associated with electricity delivered to retail consumers in Oregon? The answer is either yes or no.¹ It cannot be both or neither. If the answer is yes, then HB 2021 requires attribution of generation to retail load (i.e. it is “load-based”). RECs are used to attribute emissions from renewable energy to retail load. The *emissions* from renewable energy cannot be assigned to *different* load than the renewable generation. So, double counting is *unequivocal* if HB 2021 is load-based and REC retirement is not required. The same generation is counted (or delivered to load) twice. Regardless of what is in the law, regardless of what authority the Commission has, regardless of intent, regardless of what the markets are doing, it is double counting. And if it is double counting, then it is broken. Worse yet, it would affect future standards and create uncertainty for billions of dollars in renewable energy investment that rely on REC integrity.

There are *only* two ways to avoid double counting: 1) require the RECs where the emissions from renewable energy are used to meet the targets, or 2) determine that HB 2021 is generation-based and not measuring emissions from generation delivered to customers. A generation-based determination—not tracking to load—has clear disadvantages *in this case*, here and now for Oregon, for the region, for customers, and indeed for the utilities in terms of what they can say to customers. We and others have described these disadvantages in previous comments. We strongly encourage the Commission to require RECs as a part of compliance where renewable energy is used to meet HB 2021 targets.

2. Commissioner Tawney: Would a load-based policy determination and REC requirement for HB 2021 be inconsistent and potentially disruptive to generation-based programs, e.g. accounting for imports under cap-and-trade programs in California and Washington?

As explained in previous comments,² requiring RECs for a load-based HB 2021 would not conflict with cap-and-trade programs in California and Washington, since 1) those programs are generation-based and make no explicit claim for customers in those states, and 2) to the extent that Oregon nevertheless finds that electricity imported or attributed to those states for those programs does affect a load-based HB 2021, unlike both the state Renewable Portfolio Standard (RPS)³ and Washington’s Clean Energy Transformation Act (CETA), unbundled RECs cannot be

¹ If the question is not answered, it will be assumed that the answer is yes (i.e. HB 2021 is load-based), as that is the conservative assumption needed to prevent double counting and maintain exclusive retail claims and investment in renewable energy.

² See pg. 5 of our July 24, 2023 comments in this Docket.

³ Electricity imported or attributed to those states for those programs would potentially affect Oregon’s RPS. But no determination was reached under a previous investigation by the Oregon Department of Energy (see <https://www.oregon.gov/energy/energy-oregon/Pages/RECs-EIM-Stakeholder-Meetings.aspx>).

used under HB 2021. So, there is no chance that the associated RECs could be used in Oregon for HB 2021. Not requiring RECs for a load-based HB 2021 would not automatically create more alignment with imports accounting in California and Washington, and the accompanying attribution mechanism in the California Independent System Operator's (CAISO's) markets. There would still be a need to ensure that the generation counted as imports in those states (or deemed delivered in the market) is not also counted and claimed in Oregon. Importantly, a generation-based determination for HB 2021 also does not obviate the interaction between HB 2021 and cap-and-trade imports. Generation used for compliance with HB 2021 in Oregon should not also be reported as an import and used for emissions compliance in Washington or California, even if none of these states are claiming the attributes for retail load. In short, neither a load-based determination nor a generation-based determination is better aligned with cap-and-trade. Both would require consideration of imports reported to other states and requiring RECs for a load-based HB 2021 does not create additional conflict, though it would support a legal retail claim in Oregon. Again, the only outcome of not requiring RECs for HB 2021 compliance is the potential for double counting.

3. Commissioner Tawney: Would a load-based or generation-based determination foster greater regional consistency?

A load-based HB 2021 would create greater regional consistency with load-based programs, accounting, and claims. A generation-based HB 2021 would be inconsistent both with neighboring load-based programs and neighboring generation-based programs in California and Washington. HB 2021 is dissimilar to those programs. A load-based policy without RECs would create double counting and would be the most disruptive.

HB 2021 will affect regional market participation regardless of RECs because it regulates the attributes (emissions) of delivered energy and requires the attribution of specified energy to load-serving entities (LSEs) in Oregon. It does not depend on what the Commission decides about RECs. Double counting does though, and that would almost certainly disrupt markets.

Not requiring RECs will not help CAISO, for example, address the problem statements that the PUC has submitted to its GHG Coordination Working Group. A generation-based determination also will not solve those problems, because those problems are not about RECs or load-based policy. Rather, they are about how LSEs and entities in states *without* GHG pricing, but that *do* have GHG mandates for suppliers (whether they deliver retail claims to load or not) get to choose or have attributed clean supply in the market on a resource-specific basis or get resource-specific information from the market so they can comply with the mandate. With a generation-based HB 2021 and even if RECs are not required, Oregon utilities will still need to know and ideally choose what they are getting from the market.

States and utilities need to work on those problems with the market operators, regardless of what the Commission decides about RECs, to get more information from the market, to move toward comprehensive tracking in the West, and to build in new mechanisms for attribution that do not double count. Requiring RECs for a load-based HB 2021 will *not* make that more difficult. In fact, certificates may be part of a solution.

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

Sincerely,

_____/s/_____
Todd Jones
Director, Policy