

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 2273

In the Matter of

PUBLIC UTILITY COMMISSION OF  
OREGON,

Investigation Into House Bill 2021  
Implementation Issues.

REPLY BRIEF OF THE WESTERN  
POWER TRADING FORUM

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## **I. Introduction**

In accordance with the direction provided in Order No. 23-194, the Western Power Trading Forum (WPTF) respectfully submits this reply brief on Implementation Issues under House Bill 2021 (HB 2021). WPTF limits our comments to issues related to potential requirements for retirement of Renewable Energy Credits (RECs) to demonstrate compliance with HB 2021. We specifically respond to arguments made in favor of requiring REC retirement for HB 2021 compliance, such as those made by the Green Energy Institute (GEI).

WPTF shares the Commission's concern with ensuring no double-counting of delivered energy and associated energy. However, we strongly disagree that requiring Electricity Suppliers retire RECs would be necessary or effective in addressing this concern. Rather, in the Department of Environmental Quality's (DEQ) existing GHG reporting rule, and the willingness of the organized electricity market operators to address this issue, the appropriate tools are available to prevent double counting of electricity and associated emissions.

## **II. HB 2021 Is an Emission Reduction Program.**

Several intervenors argue that because HB 2021 is characterized as a clean energy program, RECs must be used for compliance. WPTF disagrees with this interpretation. HB2021 is characterized as clean energy program, not because it requires that utilities procure clean energy equal to a certain percentage of retail load, similar to how a Renewable Energy Standard (RPS) or some other state clean energy programs, such as Washington's Clean Energy Transformation Act (CETA) operate, but rather because the end goal of HB2021 is for electricity used to serve load for Oregon customers to be 100% clean.

HB2021 is clearly an emission reduction program, as evinced by the fact that compliance targets for the program are established as reductions against 2010-2012 baseline emissions levels.

**A. The compliance framework for HB 2021 is based on the assignment of emissions to *delivered* electricity.**

HB2021 provides that compliance with the GHG reductions targets must be determined based on emissions reported pursuant to ORS 468A.280. DEQ's rules, which predate the passage of HB2021, require reporting of emissions associated with delivered electricity. In the case of electricity purchased or sold pursuant to a contract, the assignment of emissions to that energy depends on contract terms; only delivered energy that has been purchased pursuant to a "specified contract" may be reported using the emission rate of that resource, including any energy sourced from a renewable resource. If a specified contract is in place for non-emitting energy, but energy was not delivered to the Supplier, the undelivered energy cannot be reported as specified and thus the clean energy 'procurement' cannot support compliance with HB2021.

**B. The fact that HB 2021 is load-based is irrelevant.**

The fact that the compliance obligation under HB2021 falls on load-serving entities is irrelevant, as there is no overarching policy reason that load-based emission reductions programs must rely on RECs for compliance. California's SB100 in California is a 100% clean load-based electricity standard, and there is no indication that retirement of RECs will be required for compliance for the portion of above the state RPS requirements (which does require retirement of RECs for compliance.) This conclusion is not undermined in any way by the fact that some clean energy programs, such as Colorado's and Washington's, require RECs for compliance -- the salient point is not that Colorado and Washington are load-based programs, but rather that they are load-based programs *that require retirement of RECs*. This is not the case in California, nor should it be for HB2021 implementation.

### **III. RECs Are Inappropriate for HB 2021 Compliance.**

There are several reasons why RECs are not appropriate to be used as an accounting and compliance mechanism under 2021.

#### **A. RECs do not convey the actual emission rate of the underlying resource that provides the energy.**

As discussed above, HB 2021 compliance entails demonstration of reductions in the actual emissions of delivered electricity used in the state. RECs were not designed to track compliance with emission mandates, but rather to account for renewable energy procurement with Renewable Portfolio Standards and similar procurement mandates. To the extent that REC definitions address GHG emissions, these definitions generally refer to “avoided GHG emissions.” Where definitions do not explicitly address GHG emissions, they instead refer more broadly to environmental benefits, as is the case in Oregon. Avoided GHG emissions, which are accounted as negative emissions, is a clear environmental benefit of renewable generation and clearly captured under Oregon’s definition. In contrast, the actual emissions of renewable generation are zero or positive, such as for biomass. To suggest that for GHG accounting purposes, RECs convey both a negative value representing avoided emissions of displaced generation *and* a zero or positive value representing the actual emissions or emission rate of the resource is contradictory.

#### **B. RECs are not generated for all generating sources covered by HB 2021.**

Determination of a retail electricity supplier’s compliance with HB 2021 targets requires accounting of emissions for all electricity used to serve load. As DEQ and others have noted, RECs are created only for a relatively small portion of energy generation: generation from fossil resources, nuclear energy and most large hydroelectric projects are not eligible to create RECs.

Additionally, Oregon’s expanded small-scale renewable energy procurement mandate<sup>1</sup> in HB 2021 will result in significant nameplate capacity, most of which does not generate RECs. Because emissions associated with *all* delivered energy must be reported for HB 2021 compliance, RECs are an inappropriate tracking and compliance metric.

**C. RECs cannot provide sufficient granularity to support HB 2021 compliance.**

DEQ requires Oregon Electricity Suppliers to report delivered energy and to match this to contracts to determine the emission factor to be reported. Although delivered energy and associated emissions are rolled-up and reported on an annual basis, identification and tracking of delivered energy occurs much more granularly. For bilaterally transacted energy, Electricity Suppliers must track delivered mega-watts (MW) on an hourly basis. This is because the NERC e-tags that are used to schedule electricity transmission across balancing areas are created and maintained for hourly intervals. Similarly, for electricity delivered from organized electricity markets such as the EIM, the delivered energy is identified by the market operator’s settlement of an Energy Supplier’s net energy purchases. These settlement calculations are made on a sub-hourly basis.

In contrast, RECs are created monthly for all MW generated by a renewable resource in that month. It is therefore not possible to determine the hour in which any particular MW were generated by looking at a REC, and thus also not possible to determine the hour of delivery of the underlying energy. Thus, RECs do not provide sufficient granularity to support reporting of GHG as required to demonstrate HB2021 compliance.

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<sup>1</sup> [Oregon Revised Statutes 469A.210](#) – Ten percent (10%) of the aggregate electrical capacity of electric companies that make sales of electricity to 25,000 or more retail electricity customers in the state.

**IV. DEQ Already Has the Means to Ensure No Double-Counting of Delivered Energy and Associated Emissions Under HB 2021 Without Requiring Retirement of RECs.**

Double counting of delivered energy and associated emissions would undermine the environmental integrity of HB 2021. For this reason, WPTF encourages the Commission and DEQ to continue to consider means to improve the accounting of GHG emissions for HB 2021 and avoid double counting of these emissions. DEQ's reporting program already provides the appropriate framework, but additional coordination with organized energy market operators is needed to develop approaches to better account for both specified energy owned or purchased by Oregon Suppliers that is dispatched in those markets, and to ensure that this energy and associated emissions is not inappropriately included in the determination of market emission factors.

Requiring REC retirement for specified energy purchases is in no way necessary to avoid double counting of delivered energy and associated emissions.

**A. Reliance on RECs does not prevent double-counting of delivered energy and associated GHG emissions.**

The simple fact that RECs may be unbundled and utilized in some mandatory or voluntary renewable procurement programs without concomitant purchase and delivery of energy is what creates the potential for double-counting of claims to renewable energy. This is the heart of the concerns raised by GEI and other intervenors who advocate for mandatory REC retirement to demonstrate compliance with HB 2021. While WPTF supports the objective of aligning REC-based renewable procurement accounting programs with GHG accounting programs, we would argue that the deficiency that creates the potential for double-counting lies with some of the existing renewable procurement programs, not with the GHG accounting programs, such as that for HB 2021. To the extent that regulators of RPS or clean energy

programs that require REC retirement wish to address the use of unbundled RECs for use in compliance if the underlying energy has been claimed under a GHG reduction program that does not require RECs, those regulators can include appropriate provisions in their program rules.. The Washington energy agencies have done just that in their CETA rules. Similarly, commercial buyers who voluntarily purchase RECs can include such provisions in their contractual terms. In short, GEI and other entities that are concerned about the perceived sanctity of unbundled RECs have other means to achieve their concerns -- this proceeding is not the place to address deficiencies in renewable procurement programs.

**B. DEQ’s existing reporting approach provides the basis for preventing double-claims to emissions associated with energy delivered and reported for HB 2021 compliance.**

DEQ’s requirements for reporting delivered energy from a specified source requires that the Electricity Supplier either owns/operates the resource in question or has explicitly contracted for electricity from that resource. In the West, energy contracts typically conform with the WSPP’s “Schedule C” contract, which is a Federal Energy Regulatory Commission approved tariff. Provisions in the Schedule C contracts, including for liquidated damages in the event of violation of the contract’s terms, are enforceable by the counterparties against each other. The Schedule C-SS confirmation (SS for Specified Source) provides additional language that can be added to a Schedule C contract to enable the power to be transacted as a specified source. Thus, if an Electricity Supplier purchases energy via this contract, the supplier has the ability to ensure that underlying energy cannot be claimed by other entities or reported as specified in other state GHG emission programs.



**C. DEQ should work with stakeholders and organized market operators to develop a mechanism to ensure that energy owned by or contracted to Oregon Energy Suppliers as specified, and dispatched in the organized market is not included in market operator calculations of default emission factors.**

As DEQ noted in its presentation at the June 29th Hearing, the Southwest Power Pool is considering how to address the needs of states with clean energy programs in its “Markets+” design. (Similar consideration is also expected under the California Independent System Operator’s recently reconvened GHG Workgroup for the Extended Day Ahead Market.) While only one proposal on this matter has been made to date in these discussions, WPTF believes that there would be value in considering alternative approaches that rely on a two-way flow of information between Oregon Electricity Suppliers and the organized market operators. Specifically, the market operator could provide a mechanism to enable Electricity Suppliers to designate specific resources that, if dispatched, should be considered to serve the Supplier’s own load. The market operator could then ensure that energy from those resources is not included in the pool of resources and dispatched energy that supports unspecified market purchases. Such an approach would also enable the market operator to calculate a residual emission factor, representing the generation-weighted average emissions of energy that is not reported as specified in any of the state GHG programs. Such an emission factor would be an improvement in accuracy relative to a static default emission factor.

**V. Conclusion**

WPTF appreciates the Commission's consideration of our comments on these issues.

Respectfully submitted,

A handwritten signature in cursive script that reads "Clare Breidenich".

Clare Breidenich, Director  
Carbon and Clean Energy Committee  
Western Power Trading Forum  
4202 Ashworth Avenue N  
Seattle, WA 98103  
Telephone: (206) 697-4946  
Email: [cbreidenich@aciem.us](mailto:cbreidenich@aciem.us)

Date: August 21, 2023