Testimony Supporting SB1/HB267 Retail Energy Reform
February 15, 2024

Hello, my name is David Saunders. I'm a resident of Baltimore City, District 41.

After spending 40 years in business and industry, I retired and to do something useful, I joined the Maryland Climate Leadership Academy. After taking many classes and passing four exams I earned a certificate as a climate change professional.

Before purchasing green energy, I researched the Maryland Public Service Commission website which read that "All retail electricity suppliers, brokers and marketers must have a license."

I then went to the BGE electrical supplier website and chose Washington Gas and Electric which clearly indicated I was purchasing 100% wind power. I gladly paid extra.

I believed my monthly commodity payments went to a wind farm and that my carbon footprint decreased significantly.

I believed that the Maryland Legislature and the PSC assured that Renewable Energy Certificates were a legitimate way to track renewable energy.

I calculated that my 8300 kWh per year would no longer produce 3.6 metric tons of greenhouse gas. I bragged that for a few extra dollars a month I was now avoiding 3.6 metric tons of greenhouse gas.

When I did more research, I was shocked to learn that a100% wind power renewable energy certificate was in fact only a certificate. It was an electronic document. It was not energy.

Going back to my contract I read: "Renewable Energy Certificates (RECs) do not contain electricity."

It's not even the fine print. It's in full 12-point type: "Renewable Energy Certificates (RECs) do not contain electricity." Even I, a trained climate change professional, was misled.

My carbon footprint was unchanged and my monthly commodity fees did not go to a wind farm.

I've since come to learn that a 2012 Federal Trade Commission ruling meant to limit misleading green energy claims has resulted in unintended consequences.

I urge you to protect Marylanders from misleading claims and vote favorably for HB 267.

All retail electricity suppliers, brokers and marketers must have a license from the Maryland Public Service Commission (PSC). Retail electricity suppliers use various means of communicating with customers and may contact you in person, by mail, by telephone, or over the Internet. You need to know that:

- The utility customer (the person whose name is on the bill) must agree to the contract.
- A retail electricity supplier cannot switch your service without your permission.
- Retail electricity suppliers do not work for your utility. Your utility may have an affiliated company that uses the utility name or logo and sells competitive electricity, or other services. This is permitted under Maryland law. Affiliated retail electricity suppliers cannot claim that they work for the utility or that customers will receive better service because the retail electricity supplier is affiliated with the utility.

https://www.psc.state.md.us/electricity/choice/

2021 PROSPECTIVE PRODUCT CONTENT LABEL[1]
National WindPower from WGL Energy

WGL Energy
A WGL Entity

Renewable Energy Certificates (REC) do not contain electricity. A REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity. National WindPower from WGL Energy is a Green-e Energy certified REC product. WGL Energy is also supplying your electricity. Green-e Energy has only certified the RECs, which may be sourced from outside of your local electricity distribution area. Learn more at www.wglenergy.com/RECs.

National WindPower matches 100% of your electricity usage. Each 1,000 kWh is equal to one REC. In 2021, National WindPower will be made up of the following renewable resources.

Green-e Energy Certified New[2] Renewables in National WindPower 2021		Generation Location
-Wind	100%	100%: National
Total Green-e Energy Certified Renewables	100%	100%: National

COMMENTS SUBMITTED TO THE FEDERAL TRADE COMMISSION

"Green Guides Review, Matter No. P954501"

PART 260 - GUIDES FOR THE USE OF ENVIRONMENTAL MARKETING CLAIMS
https://www.ecfr.gov/current/title-16/chapter-I/subchapter-B/part-260

260.15 Renewable energy claims. (2012)

a. It is deceptive to misrepresent, directly or by implication, that a product or package is made with renewable energy or that a service uses renewable energy. 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.**

Comments on "unless the marketer has matched such non-renewable energy use with renewable energy certificates."

2012 - RECs were legitimate
The 2012 edition of the Green Guide established a prudent and considerate guideline mandating that advertisers utilize Renewable Energy Certificates (RECs) when making assertions of utilizing renewable energy. This was a commendable measure at the time of its implementation.

Intervening Years - Unintended Consequences
However, in the intervening years, the use and representation of RECs has become problematic. It has become apparent that RECs are currently more of an indicator of renewable energy "attributes" rather than being a tangible representation of the energy itself.

As of 2023, it has become quite evident that the utilization of Renewable Energy Certificates (RECs) has not resulted in a reduction of Greenhouse Gas (GHG) emissions. In fact, it may have had the unintended consequence of allowing entities to assert the use of renewable energy despite their GHG emissions remaining unchanged or increasing.

Action Needed: Assure the RECs Lead to Lower GHG Emissions

This has led to significant confusion within the industry, and it is of the utmost importance that the Federal Trade Commission (FTC) takes prompt action to clarify that the possession of a REC must be accompanied by a genuine decrease in GHG emissions. Furthermore, the FTC should define the distinction between bundled and unbundled RECs.

References

Peltier, L. (2022, September 16). *Retail Energy's Greenwashing: How fictional renewable energy certificates became "100% renewable" electricity*. https://issuu.com/greenlaurel7/docs/retail_energy_greenwashing

Gillenwater, M. (2008). *Redefining RECs—Part 1: Untangling attributes and offsets*. Energy Policy. https://doi.org/10.1016/j.enpol.2008.02.036.

Gillenwater, M. (2008b). *Redefining RECs—Part 2: Untangling certificates and emission markets*. Energy Policy. https://doi.org/10.1016/j.enpol.2008.02.019

Brander, M., Gillenwater, M., & Ascui, F. (2018). Creative accounting: A critical perspective on the market-based method for reporting purchased electricity (scope 2) emissions. *Energy Policy*, *112*, 29–33. https://doi.org/10.1016/j.enpol.2017.09.051

Gillenwater, M., Lu, X., & Fischlein, M. (2014). Additionality of wind energy investments in the U.S. voluntary green power market. *Renewable Energy*, *63*, 452–457. https://doi.org/10.1016/j.renene.2013.10.003

Discussion

THE PROBLEM WITH RECS

Does this situation sound familiar?

A salesperson catches you at a farmer's market, a big box store, or even on your front doorstep and pitches you an enticing idea: Help save the planet by switching to a "renewable" retail energy supplier.

Millions have enrolled in these retail "green energy" plans out of such a desire. But if you dig deeper, consumers are not paying for clean energy when they sign up. Instead, they're getting the same local utility grid electricity as their neighbors who didn't enroll with an energy supplier. They also don't know that the average $320 "green" premium each of the 1.5 million families paid in 2020 went mostly toward energy supplier bottom lines, and not toward repairing our climate.

There are two things that allow this bait-and-switch to happen: a little-known market instrument called a Renewable Energy Certificate, or REC; and the Federal Trade Commission's Green Guide, the agency's de facto rule book in which a mischaracterization of RECs provides legal cover for renewable marketing claims that are not only confusing, but also incorrect.

None of this would have been possible without promises from industry leaders that consumers would benefit from more competition in energy markets.

RETAIL ENERGY SUPPLIER BACKSTORY

Beginning in the 1980s and lasting throughout the 1990s, America experienced a wave of free-market deregulation. Many industries were forced to welcome new competitors, and among them were monopolistic electrical utility companies. Consumers were told that such retail competition for electricity would lead to cheaper, innovative, more reliable, and cleaner electricity.

In Texas and most northeastern states, regulated utility monopolies were required to sell off their power plants and purchase electricity and natural gas from wholesale markets. Further, they were required to allow retail energy suppliers to enter the consumer electricity and gas supply markets. This was supposed to let commercial, small business and residential consumers shop around, save money, and buy innovative energy products. Source: https://issuu.com/greenlaurel7/docs/retail_energy_greenwashing

Video REC Greenwashing
https://youtu.be/4jAHkJ3DA4w

DISCUSSION (CONTINUED)

Redefining RECs—Part 1: Untangling attributes and offsets
By Michael Gillenwater

Renewable energy and greenhouse gas emissions markets are currently in a state of confusion regarding the treatment of Renewable Energy Certificates (RECs). Should consumers buy RECs or emission offsets? After examining this question, the author concludes that RECs are not equivalent to emission offset credits, and as currently defined, the retiring of a REC may have no impact on emissions from electric power generation.

Consumers who purchase RECs in voluntary green power markets are providing financial assistance to renewable generators in the form of a production subsidy. Generators that sell RECs are not transferring emission reductions, since they are unlikely to have ownership or the ability to quantify reductions using a commonly accepted standard.

More importantly, RECs currently sold in voluntary markets do not pass credible additionality tests and can, at best, be expected to have a market demand effect, which will be less than the

supply of RECs on the market. REC definitions that use the term ‘‘environmental attributes’’ or ‘‘environmental benefits’’ are almost universally ambiguous, providing the mistaken impression that consumers are purchasing a good instead of subsidizing a public good.

Source: https://doi.org/10.1016/j.enpol.2008.02.036

Redefining RECs—Part 2: Untangling certificates and emission markets
By Michael Gillenwater

Renewable energy and greenhouse gas emissions markets are currently in a state of confusion regarding the treatment of Renewable Energy Certificate (RECs). How should emission-trading schemes treat RECs? How can emission mitigation policies provide real incentives for renewable generation?

The objective of REC markets should be to promote additional renewable energy investments. The author asserts that defining RECs in terms of attributes, especially off-site attributes, does not further this goal. Ambiguous language such as “environmental attribute” or “environmental benefit” creates confusion in the marketplace while failing to address the relevant coordination issues with Renewable Portfolio Standard compliance markets, voluntary emission offset markets, or emission cap-and-trade markets.

Specifically, defining RECs in terms of off-site attributes creates a number of problems, including that once an emissions cap-and-trade scheme is in place, such definitions of a REC can become indefensible.

The author proposes to redefine RECs in terms of on-site attributes, which resolves the aforementioned problems and allows compliance and voluntary renewable energy and emission markets to function without conflicts. Ideally, environmental commodities should be homogeneous, first best measures of the relevant environmental good, as well as easily measured and verified. The author proposes tradable environmental commodities that achieve these characteristics.

Source: https://doi.org/10.1016/j.enpol.2008.02.036.

Creative accounting: A critical perspective on the market-based method for reporting purchased electricity (scope 2) emissions, by Matthew Brander, Michael Gillenwater, Francisco Ascui,

Abstract: Electricity generation accounts for approximately 25% of global greenhouse gas (GHG) emissions, with more than two-thirds of this electricity consumed by commercial or industrial users. To reduce electricity consumption-related emissions effectively at the level of individual firms, it is essential that they are measured accurately and that decision-relevant information is provided to managers, consumers, regulators and investors. However, an emergent GHG accounting method for corporate electricity consumption (the ‘market-based’ method) fails to meet these criteria and therefore is likely to lead to a misallocation of climate change mitigation efforts.

We identify two interrelated problems with the market-based method: 1. purchasing contractual emission factors is very unlikely to increase the amount of renewable electricity generation; and 2. the method fails to provide accurate or relevant information in GHG reports. We also identify reasons why the method has nonetheless been accepted by many stakeholders, and provide recommendations for the revision of international standards for GHG accounting. The case is important given the magnitude of emissions attributable to commercial/industrial electricity consumption, and it also provides broader lessons for other forms of GHG accounting.

Source: Energy Policy, Volume 112, 2018, Pages 29-33, ISSN 0301-4215, https://doi.org/10.1016/j.enpol.2017.09.051. (https://www.sciencedirect.com/science/article/pii/S0301421517306213)

Additionality of wind energy investments in the U.S. voluntary green power market, Renewable Energy, by Michael Gillenwater, Xi Lu, Miriam Fischlein

Abstract: In the United States, electricity consumers are told that they can "buy" electricity from renewable energy projects, versus fossil fuel-fired facilities, through participation in voluntary green power markets. The marketing messages communicate to consumers that they are causing additional renewable energy generation and reducing emissions through their participation and premium payments for a green label.

Using a spatial financial model and a database of registered Green-e wind power facilities, the analysis in this paper shows that the voluntary Renewable Energy Certificate (REC) market has a negligible influence on the economic feasibility of these facilities. Nevertheless, voluntary green power marketers at least implicitly claim that buying their products creates additional renewable energy.

This study indicates the contrary. Participants in U.S. voluntary green power markets associated with wind power, therefore, appear to be receiving misleading marketing messages regarding the effect of their participation. In the process of completing this analysis, a potentially relevant factor in explaining investor behavior was identified: the potential for the overlap of voluntary REC markets with compliance REC markets that supply utilities need to meet their obligations of Renewable Energy Portfolio Standard (RPS).

The majority of state RPS rules allow for regional or even national sourcing of RECs, meaning that projects are generally eligible to provide compliance RECs to utilities not only in their home states, but in several other states.

Source: Energy Policy, Volume 63, 2014, Pages 452-457, ISSN 0960-1481, https://doi.org/10.1016/j.renene.2013.10.003. (https://www.sciencedirect.com/science/article/pii/S0960148113005338)

Respectfully submitted:

David Saunders, CC-P
410-456-8542
davidsaunders107@gmail.com
Climate Change Professional (CC-P), Certified by the Association of Climate Change Officers and the State of Maryland
Co-author, “Four Days with Dr. Deming” (10th printing)

ID Number

ldy-tky9-8450