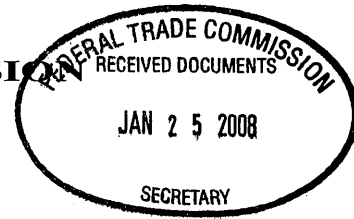


**FEDERAL TRADE COMMISSION
16 CFR Part 260**



Guides for the Use of Environmental
Marketing Claims; Carbon Offsets
and Renewable Energy Certificates

Carbon Offset Workshop Comments
Project No. P074207

**COMMENTS
OF
PEPCO ENERGY SERVICES, INC.**

I. Introduction

On January 8, 2008, the Federal Trade Commission (“FTC” or “Commission”) conducted a public workshop to examine the emerging market for carbon offsets (i.e., greenhouse gas emission reduction products) and renewable energy certificates and related advertising claims. The Commission’s notice announcing the workshop provided that any interested entity could submit comments by January 25, 2008.

Pepco Energy Services, Inc. (“PES”), a licensed competitive retail energy supplier, attended the public workshop on January 8, 2008. PES is licensed to provide competitive retail energy supply service in Maryland, the District of Columbia, Virginia, Pennsylvania, New Jersey, Delaware, New York, Ohio, Texas, and Massachusetts. As a licensed energy supplier PES must comply with certain Renewable Portfolio Standards (RPS) enacted by the various state legislative bodies in which it conducts business.

Given PES experience with various RPS requirements it would like to share its experiences with the Commission with comments focusing on the marketing of renewable energy certificates (RECS). In particular, PES' comments will address questions numbered 8 and 9 as delineated in the Commission's notice.

II. COMMENTS

As noted above, these comments will respond to two of the questions posed by the Commission.

Question No. 8

Please identify state laws that specifically address consumer protection issues in the carbon offset and REC markets.

Please explain how the laws address these issues and whether they are effective.

PES believes that it would be helpful to briefly explain the current regulatory oversight of state public service commissions with regard to the marketing of RECs by competitive energy retail suppliers.

In general, most states that restructured their energy markets to permit competition in the retail supply of electricity included in their legislative enactments the ability of public service commissions to license suppliers and impose certain consumer protection rules. Thus, in order to conduct business in restructured states competitive suppliers must satisfy certain regulatory requirements in order to obtain a license and retain it. Among the many requirements is to comply with the state public utility laws, all applicable federal and state laws as well as the commissions' consumer protection laws and regulations.

As the state legislatures enacted RPS requirements, the commissions then implemented regulations consistent with state laws. The commissions via the legislative mandates have established regulations with regard to their oversight of the sale, verification, and retirement of RECs. All electric suppliers, both regulated and unregulated, must submit documentation to the state public service commissions reflecting their compliance with the laws and regulations. As can be expected, each state's RPS may have differing requirements with regard to which type of resources are eligible and the required percentages, but all states consistently require some form of verification and retirement mechanism. Also, as noted previously, in the course of doing business electric suppliers must also comply with federal laws such as the FTC's for advertising campaigns (prohibition against deceptive and unfair practices) which is the same standard adopted by most state public service commissions in their consumer protection regulations.

Thus, there is an abundance of federal and state laws that presently address competitive energy suppliers' activities with the marketing, verification and retirement of RECs as well as general consumer protection rules. Attached for illustrative purposes is a list of public service commission website links where the various commissions' regulations can be viewed. Please note that although this list is not exhaustive, it is representative of the general industry practice.

Question No. 9

Please identify third-party and self-regulatory programs that address consumer protection issues in the carbon offset and REC markets. Please explain how the programs address these issues and whether they are effective.

As previously stated, state public service commissions in carrying out their responsibilities to implement RPS legislative initiatives have in conjunction with independent regional transmission organizations (such as PJM Interconnection, LLC, via its subsidiary, PJM-EIS, Inc.; ISO New England, and Electric Reliability Council of Texas (ERCOT)), established

independent third party verification processes. Most of these regional transmission organizations (RTOs) are regulated by the Federal Energy Regulatory Commission (FERC) (ERCOT is regulated by the Texas Public Utility Commission). With oversight by the federal or state governments, the RTOs have created tracking systems which permit electric suppliers to have their REC purchases verified and retired. The state public service commissions in turn receive independent reports from the RTOs with respect to the electric suppliers subject to their jurisdiction and also require the electric suppliers to submit annual reports to substantiate their compliance with the RPS requirements.

For the Commission's convenience, included in the previous mentioned attachment is a website link to PJM-EIS, Inc., ERCOT, and ISO-New England.

Given the tracking systems and the reporting requirements noted above, it is clear that electric suppliers are already subjected to extensive oversight with regard to the REC market.

To date it appears that there has been a relatively smooth transition in the creation of these independent third party tracking systems. The state public service commissions have the ability to receive independent reports from these entities as well as receipt of the individual electric suppliers.

III. CONCLUSION

PES hopes that the Commission finds these comments helpful as the Commission reviews the need for any further guidelines for REC advertising. Given the stringent oversight of the marketing, verification, and retirement of RECs by state public service commissions as it pertains to electric suppliers, PES believes that any additional specific regulation by the Commission is unnecessary and potentially harmful by creating yet another regulatory overlay

on a market that is adequately regulated. Additional oversight may result in additional costs to consumers with no attendant benefit.

PES would be willing to examine these issues with the Commission and offer our assistance to the Commission and its staff as part of this initiative.

Respectfully submitted,

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ATTACHMENT

1. Maryland

http://www.dsd.state.md.us/comar/subtitle_chapters/20_Chapters.htm

2. New Jersey

<http://www.bpu.state.nj.us/>

3. Delaware

<http://dep.sc.delaware.gov/documents/10-1-07%20Registers%20Revised%20Rules.pdf>

4. Pennsylvania

http://www.puc.state.pa.us/electric/electric_alt_energy.aspx

5. PJM-EIS, Inc.

<http://pjm-eis.com/>

6. ISO New England

<http://www.nepool.com/>

7. ERCOT

<http://www.ercot.com/>