January 25, 2008

Bureau of Consumer Protection
Enforcement Division
Federal Trade Commission

Re: Carbon Offset Workshop – Comment Project No. P074207

To Whom It May Concern:

The Members of the Renewable Energy Marketers Association (REMA) are pleased to submit the following comments to the Federal Trade Commission (FTC) Bureau of Consumer Protection on the question of renewable energy certificates and carbon offsets. REMA represents the collective interests of both for-profit and nonprofit organizations that sell or promote renewable energy products through voluntary markets, including renewable electricity and renewable energy certificates (RECs), to individuals, companies and institutions throughout North America.

As our name suggests, the Renewable Energy Marketers Association is a trade association of interested entities involved in the creation, supply, purchase, sale, advocacy, and education about renewable energy and RECs. Our comments therefore emphasize issues to be clarified around the marketing of REC and renewable electricity. Some questions posed by the FTC ask about carbon offsets and RECs in the same sentence as if they were the same thing. They are not. Standards, market infrastructure, substantiation and consensus on issues may be quite different for offsets than for RECs.

Our comments address the use and acceptance of RECs, the important role of electronic registries or tracking systems in substantiation of claims, uncertainties about marketing claims, the critical role of emission reduction claims, and lastly, understanding offsets. These comments do not necessarily match precisely the specific questions posed by the FTC, and in fact some comments intentionally overlap into the parallel inquiry into revisions to the FTC's Environmental Marketing Guidelines, in which we hope these comments will also be considered.

We begin with an overview of green power markets and the infrastructure that is in place to substantiate claims and to prevent marketing abuses. We then turn to some of the questions posed by the FTC, focusing on those questions most directly related to RECs.

Green Power Markets

In understanding RECs and REC marketing, it is important to place them in context of the total market for green power. In 2005, consumers made voluntary purchases of renewable energy totaling about 8.5 million MWh and 2006 purchases are estimated to total about 12 million MWh. The voluntary market grew by 62% in 2004, 37% in 2005, and 40% in 2006. Currently, the voluntary market represents nearly one-fifth of the overall renewable energy demand from both compliance and voluntary markets on a MWh-basis. If the voluntary market continues to grow at a rate of 35% annually, it will reach about 40 million MWh by 2010 and represent about one-quarter of the total demand from voluntary and compliance markets.[1]

The green power market (encompassing utility green pricing programs, competitive green power electricity products, and unbundled RECs) is increasingly relying on RECs. While the combined market sales growth has averaged 46% per years since 2003, "REC sales have been driving much of the growth, increasing 75% in 2006, after more than doubling in 2005."[2] In 2006, REC sales accounted for 57% of total MWh green power sales, and this statistic includes only RECs sold to end-use customers separate from electricity.[3]

One further statistic is relevant, and that is that nearly all unbundled REC sales were to nonresidential consumers, while residential consumers played a larger role in utility green pricing programs and competitive markets, where they accounted for nearly 60% of renewable energy sales.[4] Even in these more common residential markets, RECs play an important role, because RECs are often purchased wholesale to supply utility and competitively marketed products and then rebundled with electricity. Including these rebundled products, the role of RECs is even more significant.

These statistics demonstrate that RECs are now the established currency of trade in renewable energy attributes.

Renewable energy marketers are selling a differentiated product that supports the production of energy with environmental benefits. Marketers that sell RECs bundled with electricity are not required to disclose that they acquired RECs to create their product, presumably because consumers are familiar with buying electricity. Marketers that sell unbundled RECs without electricity, on the other hand, are encouraged to disclose that they are selling RECs and explain what RECs mean.[5]

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[1] Bird, L., Lokey, E.. *Interaction of Compliance and Voluntary Renewable Energy Markets* Golden, CO: National Renewable Energy Lab, October 2007.

[2] Bird, L., L. Dagher and B. Swezey, *Green Power Marketing in the United States: A Status Report (Tenth Edition)*. Golden, CO: National Renewable Energy Lab, December 2007.

[3] Ibid.

[4] Ibid.

[5] National Association of Attorneys General, Environmental Marketing Subcommittee of the Energy Deregulation Working Group, "Environmental Marketing Guidelines for Electricity," December 1999. http://www.eere.energy.gov/greenpower/markets/pdfs/naag_0100.pdf. Hereafter NAAG Guidelines.

On the surface, this distinction might appear to be problematic for REC marketers, but whether the product is electricity bundled with renewable energy attributes or RECs sold separately from electricity, there is no difference in the environmental benefits that the consumer gets. The renewable attributes do not flow through the grid to the consumer's electric meter in either case. In electricity grids, generally the power supply flows to the nearest load, and there is no way to trace the physical electrons. A utility that owns a renewable energy generator and sells power to an end-use customer cannot demonstrate that the electrons from the renewable energy plant moved across the wires to a specific customer.

An entity selling "green power" to an end use customer may simply be selling generic electrons with RECs bundled. This product is no different from the "product" end users gets when they buy generic electricity from their energy provider and RECs from a different provider. The only difference is the point of the "bundling."

A recent report from the National Renewable Energy Lab also makes this point. Only 10% of the energy sold through utility green power programs (as distinct from REC marketers) came from utility-owned renewable generators. Nearly 90% of the green power sales was from purchased power or RECs. Utility reliance on RECs increased by 70% between 2005 and 2006, and increased by 17 times from 2002, to the point where RECs represented nearly half of all utility green pricing sales in 2006.[6]

There is no difference between the environmental benefits of RECs and those of renewable electricity.

This was recognized by the National Association of Attorneys General in 1999:

> *The Attorneys General recognize that it is physically impossible to determine the sources of the electrons used by any given consumer. Thus, when a consumer chooses a particular electricity product based on the environmental attributes associated with how and where that power was generated, what s/he is actually doing is financially supporting the chosen generation source, not buying the precise energy generated by that source. The Attorneys General believe that such financial support is consistent with what consumers who prefer a certain type of generation for environmental reasons would seek to do—that is, direct the flow of their payments for electricity toward preferred generation sources.*[7]

Because RECs were new and unfamiliar, however, the NAAG Guidelines recommended that marketers make a clear and prominent disclosure if they are selling RECs only. The Green-e Energy[8] Certification Program, acting on this recommendation, requires

[6] Bird, L. and M. Kaiser, *Trends in Utility Green Pricing Programs (2006)*. Golden, CO: National Renewable Energy Lab, October 2007.
[7] NAAG Guidelines, op. cit.
[8] Green-e, a program of the Center for Resource Solutions, was created in 1997. See www.green-e.org.

disclosure as part of its product certification standard if the product is unbundled RECs, and as a result most marketers do follow this practice.

But where RECs are rebundled with electricity, as in utility and competitive green power products, no explicit disclosure of the use of RECs is required when the RECs and the generic electricity are from the same power grid.

If a REC has the same effect as renewable electricity, we question whether it is a meaningful distinction or a necessary consumer protection to continue this practice. If there is no effective difference in environmental benefits between RECs and renewable electricity, we do not believe it is deceptive not to make a prominent disclosure of the use of RECs. We believe we should continue education about RECs and what they represent, but in terms of the product claims, we fail to see any harm done to consumers who buy RECs. Since the environmental impacts and benefits are identical between RECs and renewable electricity, there is no need to cause additional confusion in consumers' minds.

The FTC Guidelines should eliminate the recommendation, made in the NAAG Guidelines, to disclose prominently that a product is RECs without electricity. Ten years of experience, acceptance and growth of green power markets supports this view.

Just as there is little difference between the environmental benefits of RECs and renewable energy, there is also no difference with respect to substantiating REC or renewable energy claims. Over the past ten years, the industry has moved from talking about a "tagging system" to verify claims (discussed in the 1999 NAAG Environmental Marketing Guidelines for Electricity) to having designed and implemented several regional certificate tracking systems.

Certificate tracking systems are electronic accounting systems that use metered generation data as the basis for issuing RECs. For each unit of electricity generation, usually denominated in megawatt-hours (MWh), one certificate is issued and deposited in the certificate owner's account. Each certificate is given a unique serial number for identification purposes. When transactions are made, both parties must confirm the transaction and then the certificates are transferred to the new owner's account. When certificates are used or claimed, they are retired within the system so they cannot be used again to guard against double-counting.[9]

Some tracking systems issue and track certificates for all generation, not just for renewable generation, but they all track certificates as though they are unbundled from electricity. Buyers and sellers may be transacting certificates and energy, or certificates only, but tracking systems do not differentiate between RECs and renewable electricity.

Certificate tracking systems have the backing and endorsement of state utility commissions that regulate retail energy markets. This is because tracking systems are

[9] Wingate, M. and E. Holt, *Design Guide for Renewable Energy Certificate Tracking Systems*. National Wind Coordinating Committee, July 2004. http://www.nationalwind.org/publications/rec/rec_guide.pdf.

designed to support several different state programs or policies. Tracking systems are used to verify ownership of RECs, to support environmental disclosure requirements (electricity labeling), to verify compliance with state renewable portfolio standards, and to substantiate marketing claims of renewable electricity. In fact, many states require the use of RECs for environmental disclosure and RPS compliance.

Tracking systems are currently in operation or development as shown in Figure 1.

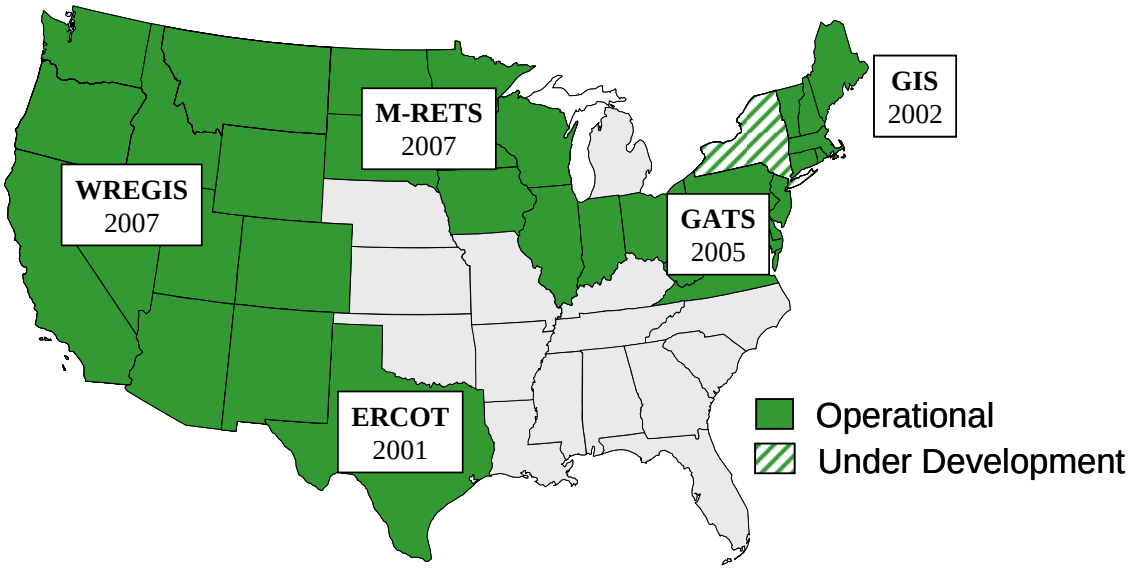

Figure 1. Electronic Certificate Tracking Systems and Year of Initiation

The dominant service provider for these tracking systems, APX, has announced plans to put in place a tracking system to serve the region from Nebraska through the southeast down to Florida. When that happens, the United States will be covered except for Alaska and Hawaii.

These tracking systems satisfy the substantiation needs for marketing claims, and significantly address issues related to consumer confidence and REC credibility.

Beyond the infrastructure to easily substantiate claims, there are also several safeguards against double-counting. First, most of the industry is self-regulated in this regard. The Green-e Energy product certification standards require that voluntary REC or renewable energy products be additional to what is required by mandates or legal requirements, be new as defined by an online date of 1997 or later, and this is reinforced by EPA's voluntary purchasing program called the Green Power Partnership.[10] Green-e Energy performs an annual audit of participating marketers to determine whether they in fact have purchased and retired on behalf of their customers renewable energy or RECs of the type and quantity promised to customers in their product disclosures and marketing.

[10] The reason 1997 is used to denote "new" renewables is that is when the voluntary market first began to grow and have an effect on the development of renewable generating facilities.

Based on NREL estimates and data from the 2006 Green-e Verification report, more than 80% of RECs and green power are certified at the retail or wholesale level by the Green-e certification program.[11]

Second, most states with an RPS forbid using a REC that was sold to a voluntary customer for compliance with the RPS.[12] In the only two states where it is not prohibited, Wisconsin and Arizona, we believe that the utilities under the RPS obligation avoid using renewable energy (or RECs) sold in green pricing programs to satisfy their RPS obligation. Third, the tracking systems allow a REC to be used for only one purpose. If a REC were to be intentionally double-counted, it would have to take place outside a tracking system, and that would be discovered in any substantiation audit.

We should also note that even where there is no tracking system, ownership of RECs can be substantiated through audits of contracts; and if there are also no state RPS rules prohibiting double-counting, the industry consensus (including Green-e) is against double-counting.

Consumer protections against double-counting are built from several sources.

Questions Posed by FTC

(1) What express claims are sellers making for carbon offsets and RECs? What claims, if any, are implied by that advertising? How do consumers interpret these claims? Please provide any supporting evidence. What evidence constitutes a reasonable basis to support these claims? What challenges do offset and REC sellers face in substantiating their claims? Is there evidence that any claims in the current marketplace are unsubstantiated or otherwise deceptive?

Marketers are often asked whether buying renewable electricity or RECs help build new renewable energy generating capacity. This is a benefit that many customers probably expect, though we have no survey data on this.

Renewable generators benefit from REC sales because they can demonstrate that source of revenue to investors or lenders when financing their next plant. Generators and developers consistently reflect REC revenue in their financial projections, and this affects whether new projects are determined to be financially feasible. We know, from developers themselves, that REC revenue is essential to the development of most new projects.

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[11] Bird, L., L. Dagher and B. Swezey, *Green Power Marketing in the United States: A Status Report (Tenth Edition)*. Golden, CO: National Renewable Energy Lab, December 2007.

[12] Holt, E. and R. Wiser, *The Treatment of Renewable Energy Certificates, Emissions Allowances, and Green Power Programs in State Renewables Portfolio Standards.* Berkeley, CA: Lawrence Berkeley National Laboratory, April 2007. http://eetd.lbl.gov/ea/EMS/reports/62574.pdf.

Further, NREL provides support for the claim that voluntary demand for renewable electricity or RECs supports the development of new renewable capacity. "At the end of 2006, kWh-sales of renewable energy in voluntary markets represented a generating capacity equivalent of about 3,500 MW, with about 3,100 MW of that from "new" renewable energy sources…Since 2000, the amount of renewable energy capacity serving green power markets has increased nearly 20-fold."[13] Nationally, voluntary green power markets provide support for nearly 30% of "new" renewable energy capacity additions.

In other areas of commerce, consumers generally accept that by purchasing organic produce, they are supporting a market that will enable the farmer to plant more acres to organic crops. Similarly, the growing demand for Toyota Priuses leads to greater investment in manufacturing capacity and also influences other manufacturers to start producing hybrid vehicles.

It is reasonable to claim that "your purchase will help create more renewable energy." The FTC Guides should acknowledge the reasonableness of this claim because it can be substantiated by fundamental macroeconomic forces, given the basic interaction of demand and supply and the correlation between the growth of renewable energy and the growth of voluntary demand.

Depending on what claims are being made, it may be important to substantiate the origin of the RECs. For example, if claims of local economic benefit are being made, it would be important to be able to substantiate that the RECs originate from a plant located within the region where the RECs are being marketed. If claims of carbon benefits are made, then the location of origin is not important to disclose because carbon benefit are global. If specific quantitative CO2 reduction claims are made then the location of origin is important, because the grid emission factors published by EPA's eGRID vary by power pool.

If claims of a local environmental benefit are made, then the marketer should be able to substantiate the geographic origin of the RECs. Even the benefits of RECs from a plant located in a different region can be localized if the RECs are accompanied by the import of equivalent amounts of renewable energy to the region of REC purchase, because the imported renewable energy will displace marginal power resources in the local power grid, and these tend to be fossil fuels. Note that in states where NOx and SO2 emissions are capped, these specific emission reductions should not be claimed unless NOx or SO2 emission allowances are retired.

If a marketer is making any claims about local benefits for RECs originating within the local power pool, the marketer should not be required to disclose anything about the region of origin, but must be able to substantiate the fact. Even RECs originating in another region need not be disclosed unless a claim of local benefit is being made, though many marketers choose to do so as a matter of good practice.

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[13] Bird, Dagler & Swezey, op. cit.

To the extent that disclosing or substantiating region of origin is called for, we believe that this should be to the level of the electricity power pool, and not state or utility, because power pools are operated as a whole for the electricity loads within that region.

The regional tracking systems are sufficient to address verification of the point of origin of RECs.

In voluntary markets, attributes that are typically ascribed to RECs include the resource type, the date of commercial operation (determining whether it meets a definition of "new"), the date the REC was issued, the geographic location of the power plant, and the plant's direct emissions. Further, if no emission caps are in place, as is still the case today for CO2 and in some states for NOx, emission reductions result from renewable generation and those reductions are often attributed to the RECs representing that generation. In this pre-cap world, the fossil plants that are generally displaced do not attempt to sell their emission reductions, perhaps because there is no market for them but also the plants' owners did not cause those reductions but only reacted to changes in electricity supplies delivered to the grid (in essence, conducting business as usual). On the other hand, the renewable plants that caused the displacement do claim credit for the reductions because that is what consumers expect to result from the addition of renewable energy to the grid.

The EPA supports such claims of GHG reductions, as do the World Resources Institute, a leading non-profit developing GHG accounting protocols, and Green-e, the leading certification organization for renewable energy and RECs. Consistency with the Federal programs and with these leading standard-setting bodies provides a reasonable basis for making claims regarding GHG reductions related to a customer's electricity supply in an uncapped market.

A marketer may quantify emission reductions or may a simply claim that the buyer is reducing greenhouse gas emissions. If the emission reductions are quantified, the benefits are often substantiated using EPA's eGRID or Greenhouse Gas Equivalencies Calculator at the Clean Energy website. Although there are different and legitimate ways to calculate emission reductions, the theory is well-established and is not as uncertain as may have been characterized at the January 8 workshop. EPA provides good guidance.

The ability to make emission reduction claims, whether quantified or not, is extremely important because we believe that our customers are largely motivated to buy renewable energy or RECs because of the greenhouse gas emission reductions.

The FTC should confirm that renewable electricity or REC marketer claims of emission reductions in uncapped markets are reasonable and can be substantiated using recognized accounting protocols and emissions calculators.

Once an emissions cap is established, we believe that consumers will still want to purchase renewable energy and RECs as part of a strategy to do more than is required by the emissions regulation. It will still be extremely important that they can legitimately

claim that they are reducing emissions. In a post-cap world, the only way they will be able to do so is if emissions allowances are retired or the cap is reduced as a result of their voluntary purchase of renewable energy products.

Some statements at the January 8 workshop may have left the erroneous impression that once a cap is in place, the question of renewable energy's impact on emissions will be moot. It's true that renewable energy generation and RECs originating within the capped region will not qualify as regulatory offsets[14], but voluntary purchases of renewable energy and RECs can still result in allowances (distinct from offsets) being retired, depending on the law or regulations. For example, RGGI includes a provision by which participating states may reserve and retire allowances equivalent to voluntary demand for renewable energy or RECs.

The FTC should recognize that under certain cap-and-trade provisions, retiring allowances (or lowering the cap) as a result of voluntary REC sales will provide substantiation of emissions reduction benefits and support marketing claims.

(2) What express claims are companies making for their products and services based on their purchase of carbon offsets or RECs (e.g., "our product is made with renewable energy")? What claims, if any, are implied by that advertising? How do consumers interpret these claims? Please provide any supporting evidence. What evidence constitutes a reasonable basis to support these claims? Is there evidence that any claims in the current marketplace are unsubstantiated or otherwise deceptive?

Some business consumers purchase RECs equivalent to the amount of electricity used in the manufacture of products.[15] These businesses may use the Green-e Energy logo on their products and claim that the product is, for example, 100% wind powered. Because RECs are the environmental equivalent of buying renewable electricity, REMA believes that a company buying RECs equal in quantity to its electricity use should be able to claim that it is 100% wind powered, just as if it had purchased wind energy directly from the power plant, as long as the claim can be substantiated.

The FTC should confirm that it is appropriate for the manufacturer to claim that the product was powered or made by renewable electricity if it purchased RECs instead of bundled renewable electricity.

Another customer claims situation arises when a customer with a photovoltaic or other small renewable energy generator is installed on the customer's premises, and the customer has sold the RECs to another party (or has transferred them to the manufacturer

[14] In a post-cap world, renewable energy is unlikely to qualify for offsets for two reasons: first, if allowed at all, offsets will have a specific definition in the law or regulation, much narrower than what is discussed in uncapped emissions markets; and second, renewable energy projects located within the capped region or sector (i.e., power) will not qualify as additional.

[15] See Green-e Marketplace at http://www.green-e.org/getcert_bus_what.shtml.

or installer as part of a financing deal). Clearly, if the customer has sold the RECs from the onsite system, it cannot claim to be solar-powered, for example.

As marketers in this situation, we are sometimes asked for guidance on just what the customer can say about what may be obvious to a viewer. The language that we feel is appropriate to this situation is that the customer is hosting a solar generator or PV system, or has the particular technology installed on its roof, but it may not say that it is solar-powered. Nor should the customer lay claim to the associated environmental benefits of that renewable generation.

The FTC should confirm that "hosting a [renewable energy system] is appropriate language when the RECs have been sold.

(3) When consumers purchase carbon offsets or RECs, what property rights do they acquire?

A REC is a property right that gives the owner or purchaser the right to make claims about its renewable energy attributes and specifically its non-energy environmental benefits. Green-e RECs require an attestation to be signed by each renewable generator attesting to the transfer of ownership of the REC.

(4) When consumers purchase carbon offsets or RECs, what do they think they are buying? Please provide any supporting evidence.

One of the challenges for REC marketers and those providing oversight to the markets relates to the meaning of the commonly used term "offset" in its various forms.

In regulatory cap-and-trade program, an offset has a specific meaning, and must be developed according to strict eligibility requirements and performance standards. In addition, these programs have often have rules about which kinds of emissions can be addressed by offsets and the overall volume of offsets that are allowable as well as eligible project type. The term offset also has specific meaning in voluntary emission reduction certification programs. Regulators and non-profits have set a variety of standards for projects that may create offsets, and the term is often used as a noun.

Then there is the colloquial use of the term offset, which is not burdened with specific technical standards. In colloquial use, and in marketing terms, "offset" is often used as a verb. According to greenhouse gas accounting rules that are widely accepted, it is acceptable to state that a corporation purchasing RECs is offsetting its indirect emissions from electricity use, meaning that it is subtracting the emissions reduction represented by the purchased RECs from the emissions caused by its electricity purchases.

When purchasing renewable energy or RECs, consumers are less interested in the nuances of offsets and are primarily interested in addressing their carbon footprint according to the protocols mentioned earlier. In everyday speech, a customer may say it

has “offset” a portion of its GHG emissions. In practice, that means the customer has adjusted the GHG emissions resulting from its electricity purchases.

While there are some providers using RECs in the formal sense of the noun offset, the origin of the REC is a substantiation instrument for renewable energy sales and the majority of REC marketers offer RECs in that fashion.

If it addresses the marketing of offsets in its Guides, the FTC should clearly distinguish between “offsets” (noun) as defined in technical standards promulgated by various bodies, and “to offset” (verb) used in everyday vernacular, including marketing language.

(5) What impact do consumers believe their carbon offset purchases will have on the future quantities of greenhouse gasses in the atmosphere? Please provide any supporting evidence.

(6) Do consumers understand that some activities supported by carbon offset programs do not result in immediate carbon emission reductions? If so, when do consumers expect such offset programs will have an impact? Please provide any supporting evidence.

(7) What is the relationship between the concept of “additionality” in carbon offset markets and the FTC’s standard for deception under the FTC Act?

The question of additionality was discussed at some length at the January 8 workshop. For renewable energy and RECs, additionality has meant for the last ten years that no double-counting has occurred. Voluntary sales must be in addition to what is otherwise required by law, and RECs must originate from new renewable energy facilities brought online 1997 or later. For carbon offsets, additionality has meant something different. For offsets, the additionality standard poses several tests, including timing (does it pass as new, having been built after a specific date), legal and regulatory (not mandated, not least-cost, not where there is a cap, etc.), financial (would it have happened but for the offset revenue), and technology (is it standard practice).

Renewable energy projects are undertaken for a variety of purposes. In a single generating facility, some of the RECs may be used to comply with a mandate, some of the RECs may be sold in voluntary markets, and some of the RECs may be sold as offsets when complying with a specific offset protocol. The financial test is impractical when applied to a renewable energy project with multiple markets—which revenue stream is the marginal one that makes the project economically feasible? Instead, the technology or performance test is much more practical. We note that both the EPA Climate Leaders program and Green-e Climate standard support this approach. Green-e performed a sectoral analysis of renewable energy brought on line since 1997 and determined that 95% of all new generation built since 1997 was natural gas and that only 1.5% of all new generation built since 1997 was Green-e eligible.

Some of the confusion around RECs and offsets (in the formal sense of the word) stems from the fact that proponents of offsets often criticize RECs as not meeting what they consider to be an offset standard, when in fact many RECs have been meeting the Green-e quality standard since 1997. A REC can qualify as a REC under the Green-e standard or it can qualify as an offset under a variety of formal offset standards. In instances where a REC is being marketed as a REC it is unfair to criticize that REC as not meeting a given offset standard. To do so only results in consumer and public confusion.

Additionality is an issue of policy interpretation, not a consumer marketing question. The FTC should not insert itself in evaluating the merits of different additionality tests or interpretations.

(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.

See discussion in the introductory comments about tracking systems for a reference to state laws preventing REC double-counting and the role of tracking systems in clarifying ownership rights and preventing double-counting.

(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.

With respect to marketing claims and advertising, the renewable energy marketing industry has a well-functioning system of oversight through Green-e product certification standards which first began operating in 1997.[16] These require that customer communications undergo a biannual marketing compliance review to ensure that marketing materials comply with the Green-e Code of Conduct, and that customers be provided with adequate and accurate information on the green product as defined in the Green-e Customer Disclosure Requirements. Marketers must agree to use only environmental marketing claims in advertising that are factually based (and can be objectively verifiable to the extent technically possible) and that:

a. are sufficiently clear and prominent to prevent deception;
b. do not represent that customers are actually being delivered electrons from specific generation facilities;
c. do not overstate environmental attributes or benefits, expressly or by implication; and
d. present comparative claims in a manner that makes the basis for the comparison sufficiently clear to avoid customer deception.

[16] See Green-e Code of Conduct and Customer Disclosure Requirements at http://www.green-e.org/getcert_re_stan.shtml#coc, and also the Green-e Verification Audit Requirements and Marketing Compliance Review at http://www.green-e.org/getcert_re_veri.shtml#mcr.

These standards draw heavily on the guidance provided by the NAAG Environmental Marketing Guidelines for Electricity.

Many of our members promote products that are certified by Green-e. We would like to ensure that any claims that a product is certified be substantiated, and the claims should state by whom the product is certified. The NAAG Guidelines address claims of product certification:

> *It is deceptive to misrepresent, directly or indirectly, that the use of a "seal of approval" or third-party certification in connection with an electricity product or company indicates the superior environmental quality of the product or company. Such certifications should not be advertised unless they mean that the product or company is in fact environmentally superior in some substantial respect. In addition, to avoid consumer deception, such certifications should be accompanied by the name of the certifying organization, a brief statement of the criteria used to award them, and information sufficient to allow consumers to make further inquiry into the identities of financial sponsors of the certifying organization and any fees charged for certification. If a certification appears without adequate qualifying language, use of the certification should be treated as a general environmental benefit claim for the product or company with which it is associated. Finally, the certifier must have the expertise that it is representing that it has; any certification must be supported by an actual exercise of its expertise in evaluating product features or characteristics with respect to which it is expert; the certification must reflect the position of the certifying organization as a whole; and the certifier must be independent of the company or product to which its certification attaches.*

REMA believes that the FTC should emphasize this guidance in its Green Guides update.