



February 11, 2008

Bureau of Consumer Protection
Enforcement Division
Federal Trade Commission

Re: Green Guides Regulatory Review, 16 CFR Part 260, Comment, Project No. P954501

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 issue of the revisions to the FTC's Environmental Marketing Guidelines. 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.

On January 25th, REMA filed public comments with the FTC regarding both the Carbon Offset and RECs Workshop as well as the Environmental Marketing Guides. We have attached a copy of those comments to this letter and hope that you will consider these comments during your revisions of these guides.

We would specifically like to draw your attention to the following comments:

- **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.

- **It is reasonable [for sellers of RECs] 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.**

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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.

- **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.**

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.

- **REMA believes that the FTC should emphasize the guidance stated below in its Green Guides update.**

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 that first began operating in 1997.¹ These require that for marketers participating in Green-e 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.

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

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¹ 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.

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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.

In closing, we would like to thank the Federal Trade Commission for the opportunity to comment on the revisions to the *Environmental Marketing Guides*.

The views expressed by REMA in this regulatory filing do not necessarily represent the views of each individual member company.

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