Blue Delta Energy

June 17, 2022

Securities and Exchange Commission
100 F Street, NE,
Washington, D.C. 20549
email: rule-comments@sec.gov

Re: S7-10-22/RIN 3235-AM87: Securities and Exchange Commission, Proposed Rule, The Enhancement and Standardization of Climate-Related Disclosures for Investors ("Proposed Rule")

Blue Delta Energy, LLC ("Blue Delta") appreciates this opportunity to provide our input regarding the SEC's Proposed Rule related to enhanced ESG disclosure for public corporations. Blue Delta works with clients including electric cooperatives, municipal agencies, and pension and asset funds who invest in renewable generation assets that qualify for environmental instruments. Our role is to evaluate their eligibility in the various compliance as well as voluntary programs that utilize these instruments and then perform the necessary steps to register the assets in those programs. Once registered, we assist in the creation of the various instruments and then pursue strategies to optimize their value. We also provide ongoing market and policy support to our clients so that they can assess the risks and opportunities associated with their asset portfolios.

Blue Delta strongly supports the utilization of markets that incorporate environmental instruments such as Renewable Energy Credits ("RECs"), Renewable Thermal Certificates ("RTCs") and carbon offsets to achieve environmental policy goals. These instruments have a long track record and are well defined in both state and federal law as well as by voluntary stakeholder associations. Well-designed markets yield many benefits including, but not limited to, transparent price signals determined through competition, risk mitigation opportunities, incentives for technological innovation, efficient allocation of capital and resources, investor certainty, and rate payer protection. We believe that our clients' investments in sustainably focused projects should not be discounted and their value judged on some arbitrarily derived standard. Rather, the SEC should follow its mission of "protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation" by supporting the established standards and practices that have led to such investments. That is why we find it extremely worrisome to read in the Proposed Rule what might potentially be a bias against the use of environmental instruments. We also wish to highlight our concerns over a possible redefining of the use of market-based instruments as a part of the review process of the GHG Protocols being conducted by the World Resource Institute on which the Proposed Rule intends to rely, and request that the Proposed Rule does not incorporate any such actions that would radically impact the value of our clients' assets.

While our comments generally pertain to the whole proceeding at large, we believe question 24 strikes at the heart of our concerns in which the SEC asks:

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> If a registrant has used carbon offsets or RECs, should we require the registrant to disclose the role that the offsets or RECs play in its overall strategy to reduce its net carbon emissions, as proposed? Should the proposed definitions of carbon offsets and RECs be clarified or expanded in any way? Are there specific considerations about the use of carbon offsets or RECs that we should require to be disclosed in a registrant's discussion regarding how climate-related factors have impacted its strategy, business model, and outlook?

The use of environmental instruments has a long history and have been well defined by both various state and federal laws as well as stakeholder associations that have crafted voluntary standards widely in use for RECs, RTCs, and offsets. The environmental credit markets have succeeded in directing tremendous amounts of capital into sustainable projects and technologies – for example most parties would agree that the implementation of REC based programs is largely responsible for the rapid decline in the cost curves associated with both the solar and wind industries. With this growth we have also seen significant investment in the infrastructure needed to accurately record these transaction as well as to efficiently direct the capital flows. In the spirit of "maintaining fair, orderly and efficient markets" as well as "facilitating capital formation" we would recommend that the SEC refrain from taking any actions that would restrict their use; there is simply no need and doing so would only serve to create confusion among investors and conflict with the many agencies and programs who have been involved with this effort for the past several decades. Nor should there be any required disclosures other than providing "full transparency" as to the specific credits being used, including the standard for which they have been approved. And as we will discuss below, industry groups are currently at work on promulgating standards that would increase the transparency associated with these credits, combining enhanced data reporting with science-based practices to provide ever increasing levels of transparency.

Regarding the WRI's GHG Protocols' current review of Scope 1, 2 and 3 accounting standards, there is a fundamental disagreement regarding whether environmental instruments are "additional" and lead to actual emission reductions, and therefore should be eligible to be utilized for GHG reporting purposes. The parties making these challenges argue that power purchase agreements ("PPAs") where the commodity and its environmental attributes are bundled and sold directly to a corporate buyer are some how superior in that they can be proven to be "additional" while environmental instruments that are separated or unbundled from the physical commodity are not. Adopting this argument in the context of the Proposed Rule once again runs counter to the SEC's mission of "protecting investors" and "facilitating capital formation" in that it would penalize the developers of such projects who have relied and continue to rely on market based instruments in making their capital investment decisions – in effect a developer who believes the current market price for bundled energy is inferior to the opportunity to earn a greater return by taking market risk for their environmental instruments would not be allowed to participate in this program, and only those developers who submit to the long term price bundled PPAs would be deemed as eligible to be counted under the Proposed Rule. Given the SEC's mission statement, you should understand and encourage the use of markets to price risk and for participants to deploy make capital as they see fit, and not prohibit parties who elect to take such risk from having the instruments generated by their facilities qualify for inclusion under the Proposed Rule.

To be clear, we believe that the purchasers of these renewable and sustainably focused projects should also be recognized as investors under the Proposed Rule. Off-takers including utilities, cooperatives and deregulated load serving entities as well as speculative entities have and continue to make their capital investment decisions for numerous reasons. Some organizations invest in projects based on their potential future exposure to either federal or state level regulation, others seek to meet the perceived demands of their customers, and others believe they represent profitable business opportunities. However, the environmental benefits are universally regarded as a valuable revenue stream in making these investment decisions. The critical consideration is that capital is being deployed on actual projects which collectively are leading to real emissions reductions. As mentioned previously, these investments also serve to drive down the cost curves associated with these technologies – besides wind and solar technologies we are seeing similar declines in battery storage and even RNG. It should not be the SEC's or any other party's role to sit in judgment of the merits of those investment decisions based on what might be considered an arbitrary and perhaps even capricious standard. These investors should not be penalized for reselling these benefits, whether thru a utility tariff, a competitive load product offering, or to a large corporate purchaser. The SEC should "facilitate", not "dictate", the terms and rationale for capital formation.

Our support for the use of environmental instruments does not mean that we do not see room for improvement as to how they are created and utilized. Given the advances in data collection over the past two and a half decades, and especially given the increased penetration of renewable resources such that they no longer represent a de minimis of the total generation mix, Blue Delta has participated in stakeholder driven efforts currently underway to transition the use of RECs to more closely correspond with a purchaser's actual usage of electricity as well to provide an accurate accounting of the marginal GHG intensity which the REC represents. Global efforts to define products such as "green" hydrogen and ammonia as well as to support the emerging sustainable aviation fuel industry are also being designed using environmental instruments. These stakeholder associations are committed to supporting companies, projects and technologies that hold the key to meeting our environmental challenges by creating instrument standards that give investors the confidence to deploy their capital to achieve real, tangible benefits.

In summary, Blue Delta clients have invested and continue to invest significant amounts of capital in renewable and sustainably focused assets. Those investment decisions are partially predicated on the expectation that those assets will earn a rate of return from the environmental instruments that they generate. Any attempt to alter how these instruments might be used by voluntary corporate purchasers could significantly threaten their value and we believe would run counter to the SEC's mission. We appreciate this opportunity to provide our insights and encourage the SEC to contact us with any follow up questions or concerns you may have regarding environmental instruments and their potential role under the Proposed Rule.

Sincerely,

Kenneth R. Nelson
President
Blue Delta Energy, LLC