



June 17, 2022

The Honorable Gary Gensler
Chair
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: The Enhancement and Standardization of Climate-Related Disclosures for Investors

Submitted via email: rule-comments@sec.gov ; S7-10-22

The American Clean Power Association (ACP)¹ appreciates the opportunity to submit the following comments in response to the request for public comment on the Securities and Exchange Commission's (SEC or Commission) proposed rule, The Enhancement and Standardization of Climate-Related Disclosures for Investors (File Number S7-10-22).² ACP generally supports the main elements of the climate-related disclosure approach contemplated by the Commission. SEC's initiative will improve transparency, consistency, comparability, and reliability of climate-related reporting and, in turn, enable climate-minded investors to make the best possible decisions. However, ACP believes that additional clarification is needed surrounding Renewable Energy Certificates (RECs) and offers these limited comments on that issue for the Commission's consideration.

I. INTRODUCTION

ACP supports the proposed rule's intent to give investors the information they need to factor-in climate actions into their market strategies. Corporate disclosure on Environmental, Social and Governance (ESG) is widespread, albeit not universal, and investors are increasingly requesting information on ESG and climate-related topics. In fact, a large segment of investors and other market participants are demanding more decision-useful information, in a form that is consistent and comparable across companies. Further, efficient and transparent capital markets are critical to attracting investment and deployment. By enhancing confidence and clarity in climate-related disclosures, this reporting will help harness the efficiency of the free market to help address climate change. The Commission's focus on ESG and climate change disclosures

¹ ACP is the national trade association representing the renewable energy industry in the United States, including in all aspects of offshore wind energy, bringing together over 1,000 member companies, 120,000 members, and a national workforce located across all 50 states with a common interest in encouraging the deployment and expansion of renewable energy resources in the United States. By uniting the power of wind, solar, storage, and transmission companies and their allied industries, ACP seeks to enable the transformation of the U.S. power grid to a low-cost, reliable, and renewable power system.

² Available at <https://www.sec.gov/rules/proposed/2022/33-11042.pdf>.

has the opportunity to improve data collection and dissemination that will aid investors in making decisions that support the deployment of clean energy infrastructure and, in turn, mitigate climate change.

II. LIMITED COMMENTS: REC Guidance

ACP largely agrees with the SEC's proposed treatment of RECs and offsets in climate-related disclosures. RECs and carbon offsets are important tools to assist registrants in meeting their greenhouse gas emission reduction and sustainability goals, especially as companies seek to achieve net-zero targets.

The proposed approach for registrants to report carbon offsets and RECs should be part of their mitigation strategy, not as part of their emissions accounting. As proposed, registrants should be required to disclose the amount of carbon reduction represented by offsets or the amount of generated renewable energy represented by a REC, the source thereof, the nature/location of the underlying project, any registries or other authentication of the reduction, and the cost. This transparency will ensure integrity and an equal playing field for registrants.

We also support the definition of a carbon offset as the equivalent of one ton of carbon dioxide equivalent that has not been emitted. This definition can be refined to differentiate a ton that has been removed, reduced, or avoided. The definition of a REC, which defines a REC as a credit or certificate representing each megawatt-hour (1 MWh or 1,000 kilowatt-hours) of renewable electricity generated and delivered to a power grid, is also largely satisfactory.³ However, in the explanation portion of the REC definition, there is an added portion (which does not exist in EPA's definition thereof), that would limit RECs to those "delivered to a registrant's power grid."⁴ Not all RECs are purchased from generation sources within the same power grid. If delivered to the registrant's power grid means that a REC must be generated within the same power grid, then this definition would unnecessarily limit RECs available for purchase and potentially increase costs associated with their purchase. As such, ACP recommends that SEC not limit the geographic scope of RECs and instead define RECs as a credit or certificate representing the purchase of one megawatt-hour of renewable energy, regardless of the geographic scope in the continental U.S.

Additionally, SEC should provide clarity of the definition and treatment of RECs, given the myriad of ways in which registrants and other entities utilize, procure, produce, and sell renewable energy. RECs can be bought and sold in compliance markets (where utilities are required to comply with a state's renewable portfolio standard) or in voluntary markets (a corporation's purchase of RECs to support the general deployment of renewable energy). Additionally, RECs can be bundled (both electricity and corresponding RECs are produced by or delivered to the company) or unbundled (REC only purchase).⁵ The current proposed rule seems to primarily focus on unbundled RECs, and ACP seeks clarity on several issues regarding RECs

³ See proposed 17 CFR 229.1500(n).

⁴ The Enhancement and Standardization of Climate-Related Disclosures for Investors, 87 Fed. Reg. 21334, 21355, (April 11, 2022).

⁵ EPA, *Guide to Purchasing Green Power 4-3*, <https://www.epa.gov/sites/default/files/2018-08/documents/guide-purchasing-green-power-4.pdf>.

and corresponding disclosures based on the nuances of bundled versus unbundled RECs and compliance versus voluntary RECs.

ACP recognizes that existing datasets often lack the granularity that is necessary to accurately report on carbon reduction. For instance, a recent paper, "Hourly accounting of carbon emissions from electricity consumption," found that existing accounting practices can over or underestimate emissions by as much as 35%. Therefore, it is imperative that the Federal Energy Regulatory Commission direct jurisdictional entities to release Locational Marginal Emissions data, as was done recently by PJM, to ensure that the data exists to perform this disclosure.

Regarding scope 2 emissions accounting, we support the SEC's decision to permit registrants to utilize both the location- and market-based methods as defined by the Greenhouse Gas Protocol. The market-based method is useful for providing information on corporations' individual procurement actions as well as supplier-specific data.

With respect to bundled RECs, companies may procure renewable energy in the following ways: through utility and retail providers, via power purchase agreements or financial contracts, or through self-generation, both on- and off-site. Where a company acquires bundled RECs in any of these manners, ACP seeks clarity regarding how reporting should be done. These procurement models are typically longer-term contracts, subject to less price volatility than spot procurements of unbundled RECs. SEC should provide clarity of how financial reporting for these RECs differ from reporting on unbundled RECs.

ACP also seeks clarity concerning how companies that generate renewable energy through on-site or off-site projects but sell their RECs to utilities in compliance markets should report. Under EPA guidelines, when RECs are sold, the ability to claim renewable energy production is lost.⁶ In many instances, companies will purchase replacement, voluntary RECs after selling compliance RECs, known as a REC swap, to still be able to claim renewable production, but this does not occur in every circumstance. Furthermore, in limited instances, companies will not sell the compliance REC at all and instead retire it on their own behalf rather than selling it to a compliance entity. ACP seeks clarity on how sales to compliance entities, REC swaps, and REC retirements should be reported. We also seek clarity on if compliance RECs versus voluntary RECs should be reported differently. Particularly considering the former's role in meeting state renewable energy mandates and reducing in-state and regional emissions.

Additionally, regarding Scope 2 emissions accounting, we seek clarification on whether bundled or compliance RECs are eligible to be used in a registrant's emissions accounting as emission reductions rather than just reported as part of a registrant's mitigation strategy, as seems to be currently proposed. ACP recommends that RECs be used in emissions accounting in calculating market-based Scope 2 emissions consistent with EPA guidance.⁷

⁶ EPA, *Guidance for Making Claims*, <https://www.epa.gov/green-power-markets/guidance-making-claims>.

⁷ EPA, *Offsets and RECs: What's the Difference?*, https://www.epa.gov/sites/default/files/2018-03/documents/gpp_guide_recs_offsets.pdf.

Overall, the utilization of RECs as a contractual instrument for the purpose of emissions accounting is critical to the verifiability of renewable energy claims and accurate emissions disclosure and ACP and its members would benefit from more clarity regarding reporting requirements.

III. CONCLUSION

ACP appreciates the opportunity to provide these comments and hopes the SEC will take them into account in fashioning its final rule.

Sincerely,

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