Renewable Energy Markets Association

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Ms. Brenda Edwards
U.S. Department of Energy
Building Technologies Program, Mailstop EE–2J
1000 Independence Avenue, SW.
Washington, DC 20585–0121

RE: Comments of the Renewable Energy Markets Association on Docket ID: EERE– 2010–BT–STD–0031 and/or RIN 1904– AB96, Notice of Proposed Rulemaking for Fossil Fuel-Generated Energy Consumption Reduction for New Federal Buildings and Major Renovations of Federal Buildings

Dear Ms. Edwards:

The Renewable Energy Markets Association (REMA) is a trade association dedicated to maintaining and growing strong markets for renewable energy in the United States. REMA represents the collective interests of both nonprofit and for-profit organizations that sell or promote renewable energy products through voluntary markets, including renewable electricity and renewable energy certificates, to individuals, companies, and institutions across North America. REMA also engages in education and advocacy efforts on behalf of renewable energy marketers, utilities, manufacturers, developers, and others in renewable energy markets.

REMA is pleased to submit the following comments in response to the Department of Energy's Notice of Proposed Rulemaking on Fossil Fuel-Generated Energy Consumption for New Federal Buildings and Major Renovations of Federal Buildings.

Regarding the Department of Energy's (DOE) concerns over the purchase of renewable energy-generated electricity via Renewable Energy Certificates (RECs) or direct Power Purchase Agreements, REMA provides the following comments and recommendations. REMA's comments address three points of concern with the DOE's proposed rulemaking: a misinterpretation of REC functionality and accounting; the apparent dismissal of the impact of RECs on renewable energy sector growth; and a noticeable inconsistency with DOE and other agency practices.

Registering Concern on the Treatment of RECs for Federal Energy Procurement Requirements

The Department of Energy (DOE) is concerned that the "purchase of renewable energy-generated electricity via Renewable Electricity Certificates or direct Power Purchase Agreements may simply reduce the amount of renewable energy available for purchase by other entities within the U.S. and may not necessarily lead to an overall decrease in domestic fossil fuel-generated energy consumption."[1] REMA is concerned that this argument misses the important supply/demand functionality of the REC market. The purpose of voluntary REC purchases is precisely to reduce the amount of renewable energy available for consumption by other parties. As demand outstrips supply, more new renewables must be built to provide renewable energy and RECs for the growing demand.

Additionally, REMA is concerned that the agency is "leaning toward allowing [PPAs] with a long-term contract to count toward meeting the fossil fuel-generated energy consumption reduction requirements, but not allowing [RECs]. Under this approach, agencies would be allowed to subtract the annual electricity generated by the renewable energy-generation facility from the building's annual site electrical energy consumption."[2] In fact, it is important to note that it is the REC, not the physical electricity, which contains the emission-free attributes of renewable energy generation. If a PPA is to count toward meeting the "fossil-fuel generated energy consumption

[1] U.S. Federal Register, Vol. 75, No. 199, 15 Oct. 2010, pg. 63410, http://edocket.access.gpo.gov/2010/pdf/2010-25852.pdf
[2] Ibid

reduction requirements," it must be a PPA that includes the purchase and retirement of the RECs associated with the electricity generation. Otherwise, there is a risk of double-counting emission reductions. For DOE to allow for such an apparent double-counting opportunity places the structure and credibility of the voluntary market at risk.

DOE's Proposed Action Ignores the Real Impact of the Voluntary Renewable Energy Markets

REMA believes that the proposed DOE actions will have a detrimental effect on the thriving voluntary renewable energy market. Currently, many businesses, households, government agencies, and other organizations voluntarily purchase "green power"— renewable electricity or renewable energy certificates— or install on-site renewable electricity generation like solar power as part of their commitment to reducing their carbon footprint. The market for green power (renewable electricity and RECs sold independently of electricity) is strong and growing. The National Renewable Energy Laboratory (NREL) has reported that in 2009, U.S. consumers made voluntary purchases of renewable energy totaling over 30 million mega-watt hours (MWh), a 17% increase over 2008 levels. For market credibility reasons, voluntary demand is served almost exclusively by new renewables, meaning renewable generation that began commercial operation since the beginning of 1997. Further, voluntary purchases of renewable energy have grown at an average annual rate of 41% since 2005.[3]

The voluntary market continues to be an important driver of clean energy development across the United States, responsible for millions of dollars in new investment. Voluntary purchasers of renewable energy are motivated primarily by a desire to reduce their greenhouse gas emissions, and increasing the utilization of renewable energy, as the DOE aims to do, is necessary for reducing greenhouse gas emissions. Allowing the use of RECs is essential because it affords buyers additional sourcing options for reducing Scope 2 emissions.

DOE's Proposed Action is Inconsistent with Established Industry and Government Practices

REMA strongly advises the DOE to revise its proposed rulemaking on the use of RECs for new federal buildings based upon the agency's past practices. As it stands today, the proposed rulemaking is completely inconsistent with a long history of guidance offered by private and federal institutions, including the Environmental Protection Agency (EPA), the White House Council on Environmental Quality (CEQ), environmental bodies, and the DOE itself. These agencies and numerous others have all stated that RECs are a suitable mechanism for government agencies, businesses, and residents to purchase renewable energy.

—U.S. Department of Energy

The DOE has been one of the most vocal supporters of RECs among the federal agencies. First and foremost, the DOE has led by example; it is currently the third largest purchaser of green power products from various generation sources and suppliers.[4] Also, the DOE has presented annual awards to utility and non-utility suppliers of renewable energy—suppliers that sell RECs—recognizing them as leaders in their fields.[5]

In addition to its leading actions on RECs, the DOE has partnered with the EPA, World Resources Institute (WRI), and the Center for Resource Solutions (CRS) to publish *The Guide for Purchasing Green Power*, a how-to for private and public entities that endorses the purchase of RECs to meet financial, environmental, and regulatory goals. The *Guide* affirms that RECs incentivize renewable energy development and generation:

> "RECs help overcome a major barrier to renewable facility development—the fact that the best renewable resources may not be located close to population centers. The sale of RECs allows these more remote facilities to benefit from support for green power… The advantage of this approach is that it promotes

[3] L. Bird, J. Sumner, *Green Power Marketing in the United States: A Status Report (2009 Data)*, Golden, CO: National Renewable Energy Laboratory, pg. v, Sep. 2010, 2 Nov. 2010, http://www.renewablemarketers.org/pdf/resources/NREL_2009_VRE.pdf.
[4] U.S. Environmental Protection Agency, Green Power Partnership: Top 10 Federal Purchasers, 5 Oct. 2010, http://www.epa.gov/greenpower/toplists/top10federal.htm.
[5] U.S. Environmental Protection Agency, 2010 Green Power Leadership Awards, 24 Oct., 2010, http://epa.gov/greenpower/awards/winners.htm

> new renewable facilities by providing up-front financial assistance for their development and construction."[6]

The DOE's established (and published) guidance on RECs *stands in direct conflict* with its proposed rulemaking, the questionable assertion that RECs reduce the amount of renewable energy available instead of bringing additional sources online.

—White House Council on Environmental Quality

Signed in 2009, Executive Order 13514 requires federal agencies to make greenhouse gas emission reductions a priority for federal agencies, and begin reporting greenhouse gas emissions from direct and indirect activities.[7] Moreover, on October 6, 2010, the White House Council on Environmental Quality (CEQ) released its Federal Greenhouse Gas Accounting and Reporting Guidance, which clearly states that *RECs are among the limited number of instruments that may be used to reduce the purchaser's Scope 2 emissions* associated with conventional energy purchase and consumption.[8] The CEQ reached this position after a comment and review period where it evaluated numerous emissions reduction approaches, but DOE's proposed rulemaking seemingly dismisses the CEQ's guidance and pursues a line of REC reasoning that abandons established practice.

—U.S. Environmental Protection Agency

In its October 2010 draft report, *The Environmental Value of Purchasing Renewable Energy Certificates Voluntarily*, the EPA reiterated the environmental significance of RECs, saying that they are "critical, effective, and valuable instruments for expanding renewable energy across the United States."[9] RECs allow electricity customers to buy renewable electricity regardless of whether it is offered by a local electricity provider, and their flexibility is key to the emergence of a commercial and institutional customer-driven national voluntary market for renewable energy.

Introduced in the late 1990s to verify and make flexible consumer electricity labels and renewable portfolio standards compliance, RECs stimulate renewable energy development by giving generators and consumers access to broader markets than just their interconnected utilities. They are market-based instruments that convey the environmental value of renewable energy between buyers and sellers. Each REC provides exclusive proof that 1 MWh of renewable energy has been generated.[10] As such, they are the common currency in both compliance and voluntary markets.

The EPA has concluded that voluntary REC purchases create demand that is over and above the demand created by the compliance requirements of state Renewable Portfolio Standards (RPSs) and allow organizations of all sizes to leverage their collective purchasing power to positively influence utility-scale generation. As a result of this flexibility, voluntary demand for new renewable energy is currently roughly equivalent in size to the demand for new generation created by the compliance requirements of existing state RPSs. The voluntary market has an inherent degree of additionality. By requirement, RECs sold into the voluntary market cannot also be applied in the compliance market. If the voluntary market buys all of the RECs intended for a state's RPS, new renewable energy must be created to meet the mandates.

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[6] U.S. Environmental Protection Agency et al, *Guide to Purchasing Green Power: Renewable Electricity, Renewable Energy Certificates, and On-Site Renewable Generation*, March 2010, pg. 11, http://www.epa.gov/greenpower/documents/purchasing_guide_for_web.pdf

[7] Executive Order 13514 of October 5, 2009, "Federal Leadership in Environmental, Energy, and Economic Performance," Federal Register Vol. 74, No. 194. Thursday, 8 Oct., 2009.

[8] U.S. Council on Environmental Quality, Federal *Greenhouse Gas Accounting and Reporting Guidance*, 6 Oct. 2010, pg. 23-25, http://www.whitehouse.gov/sites/default/files/microsites/ceq/GHG%20Guidance%20Document_0.pdf.

[9] U.S. Environmental Protection Agency's Green Power Partnership, *The Environmental Value of Purchasing Renewable Energy Certificates Voluntarily*, October 2010, http://www.epa.gov/greenpower/documents/gpp_basics-recs_voluntary.pdf.

[10] A certificate tracking system issues a uniquely numbered certificate for each MWh of electricity generated by a generation facility registered in the system, tracks the ownership of certificates as they are traded, and retires the certificates once they are used or claims are made based on their attributes or characteristics. EPA Green Power Partnership's REC Tracking Web page (August 2010): http://www.epa.gov/greenpower/gpmarket/tracking.htm.

Concluding Remarks

RECs offer critical environmental value, and encourage the development of new renewable energy sources because they capture and enable the trade of specific environmental benefits associated with renewable energy generation, a key incentive for REC purchasers. Allowing businesses, and, under Administration requirements, U.S. federal buildings, to help grow the U.S. renewable energy capacity in a cost-effective and efficient manner, RECs create an accessible and efficient national voluntary market for renewable energy and provide an additional revenue stream for renewable energy project developers. With negotiated contracts that can span several decades, RECs also provide certainty to a booming market, ensuring the longevity of projects and encouraging the development of additional renewable energy sources to help purchasers meet their environmental goals.

REMA encourages the DOE to take its recommendations under serious consideration and return to the agency's established guidance on REC procurement and use. Such a conclusion is obvious given the consistent industry and governmental consensus on RECs from the CEQ, CRS, WRI, EPA, NREL, and DOE itself. The DOE can eliminate this bureaucratic dissonance through bringing the proposed rule back in line with the department's accepted practices.

Again, REMA appreciates having the opportunity to submit these comments to the Department of Energy's Office of Energy Efficiency and Renewable Energy, and hopes that the agency will consider more fully the important impact of Renewable Electricity Certificates in meeting the Administration's goals in reducing fossil fuel-generated energy consumption for federal buildings.

For either questions or clarifications regarding REMA's formal comments, please contact Kyle Gibeault, REMA General Manager, at 202-596-3974 or kgibeault@ttcorp.com.