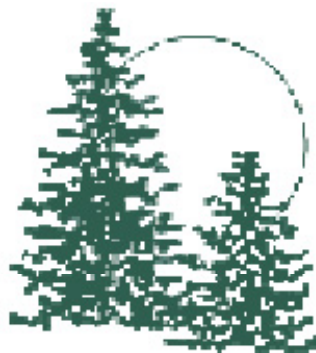


Clean Energy States Alliance
RPS Collaborative Webinar
7 April 2009

Federal-State RPS Interactions in Congressional Bills



ED HOLT
& Associates, Inc.

Energy Smart Consulting

28 Headland Road
Harpwell, ME 04079
Tel. 207.798.4588
Fax 207.798.4589
edholt@igc.org

No State Preemption

- Many states have adopted more stringent RPS
 - ▶ Nothing diminishes the authority of a state to adopt or enforce any law or regulation re: renewable energy
 - ▶ But of course states must meet Fed requirement
 - ▶ Markey and Udall specifically allow programs that exceed the required amount of renewable energy
- There are other dimensions to “more stringent”
 - ▶ More utilities covered, narrower resource eligibility, no banking or borrowing—not addressed by bills but would be allowed

Excess Federal RECs

- If state targets are higher than federal, utilities subject to both requirements will have more federal RECs than needed for their own federal compliance
 - ▶ Same is true for smaller utilities under state RPS but exempted from federal RPS—they will have unused federal RECs to sell
- If these excess federal RECs are sold to other utilities for federal compliance, the higher state requirements will be vitiated
- Bingaman's broad language about states' ability to regulate may be sufficient, but Markey and Udall explicitly give states the right to “regulate the acquisition and disposition” of federal RECs
- Better: Simply require that federal RECs associated with state RECs used in any way (for state compliance or to served voluntary demand) may not be transferred and must be retired

Dual REC System

- All bills contemplate a dual REC system—each unit of energy is the basis for issuing federal RECs and state RECs
 - ▶ May conflict with existing contracts if federal RECs are separate commodity
 - ▶ Potential double counting if generator sells federal REC and state REC to different parties, unless REC definition is addressed

REC Definition

- REC definition is missing or unhelpful
 - ▶ REC = one kWh, while existing tracking systems (and most states) use MWh
 - ▶ 1000 federal RECs issued for every state REC?
 - ▶ Most states include all generation or environmental attributes
 - ▶ Double claims against attributes (especially if dual REC system)
 - ▶ Confusion about who can claim the attributes

Possible REC Solutions

- In a dual REC system, the federal REC should have no attributes
 - It should not even allow any claim to have purchased renewable energy
 - Legislation should be clear: these are not even RECs, they are "compliance credits"
- Alternative: Single REC system where federal compliance eligibility is just another attribute
 - ▶ Avoids contention about who owns the federal REC, if RECs are already under contract
 - ▶ Consistent with REC denomination as = 1 MWh
 - ▶ Avoids double claims on environmental attributes

More REC Issues

- Limits on REC tradability
 - ▶ Bingaman prohibits unbundling of RECs from generators commencing operation before 1/1/2006
 - Serious problem for generators in contracts to sell unbundled RECs—what happens to the federal REC?
 - Their state RECs would go to the REC purchaser, but their federal RECs would have to go to whomever purchases the power, which might be the spot market
- Contracts that are silent about ownership of RECs
 - ▶ In such PPAs, RECs go to power purchaser based on when generator began operation (all bills)
 - ▶ Bills do not recognize similar problem with REC-only contracts
 - Many of these contracts do not name a federal REC, which can lead to legal disputes just as bad as in PPAs

REC Tracking Systems

- Should Feds develop a new national tracking system for federal RECs?
 - ▶ States are invested in tracking systems for reporting and to prevent double counting
 - ▶ Costly duplication of effort
 - ▶ Generators would have to register twice
 - ▶ Participants manage multiple accounts
- Bingaman unclear about intent—but nothing to prevent coordination
- Markey and Udall direct DOE to work with existing regional and state tracking systems “to the maximum extent practicable”
 - ▶ Existing systems could be modified to handle either a dual REC or a single REC system

Double Counting

- All bills prohibit double counting for compliance with federal RPS, but do not address other double counting opportunities
 - ▶ Can federal RECs be double counted with voluntary purchases?
- Bills should prohibit use of federal RECs for any purpose other than compliance
- All bills would issue triple RECs for distributed generation, and Bingaman and Udall would issue double RECs for generation on Indian lands
- In general, legislation should adhere to the principle of RECs being issued strictly based on metered generation, where one MWh = one REC
 - ▶ Each unit of generation should be issued a single REC, but may be counted for more by means of credit multipliers

Alternative Compliance Payments

- All bills would issue RECs to utilities based on state ACP payments
 - ▶ based on the quantity of RE resulting from “the payment of taxes, fees, surcharges or other financial obligations.”(Bingaman)
 - ▶ for “generation that is attributable” to such payments (Markey)
 - ▶ “shall be valued“ as 1 REC based on the quantity of generation “that results from the payments” (Udall)
- Bingaman and Markey clearly would issue RECs to utilities; unclear if Udall means to credit utilities without issuing RECs

ACPs - 2

- Issuing RECs to utilities based on generation presents a big risk of double counting
 - ▶ How do you know which (generators) MWh to attribute to ACP payments?
 - ▶ And if you can't tell, won't the generators also be issued RECs?
- Why is it even necessary to have state ACP payments count towards federal RPS?
 - ▶ Central procurement states: NY utility obligations could be easily handled by an accounting adjustment to utility obligations based on RECs acquired by NYSERDA

Renewable Energy Funds

	Bingaman	Markey and Waxman	Udall
Where the \$ Goes	State agencies	Obligated suppliers	State agencies or designee
Funds Allocation	Preference to states in regions with disproportionately small share of economic renewable capacity	In proportion to number of federal RECs retired for compliance	Based on retail sales subject to RES

- Alternative: Return \$ to states based on amount of money paid into fund from each state

Energy Efficiency

- Bingaman allows EE for compliance w/ RES
 - ▶ State may petition to allow max 25% of the obligation (5% in 2021)
 - ▶ EE credits fully tradable
- Not part of Markey or Udall bills
 - ▶ Markey has a separate EERS, Waxman too
- Waxman allows EE on condition
 - ▶ State may petition to reduce RES obligation by 20% if utility complies fully with separate EERS