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October 24, 1997

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Dear Tom:

Thank you for the opportunity to comment on your final New England Disclosure Project report:

Uniform Consumer Disclosure Standards for New England: Report and Recommendations to the New England Utility Regulatory Commissions

By the Regulatory Assistance Project (Tom Austin, David Moskowitz, and Cheryl Harrington), October 6, 1997

As you know, I attended many of the New England RAP workshops.

To begin, the authors are to be commended for producing a thoughtful, well-reasoned, fair and balanced report. The tracking/tagging hybrid proposed is a reasonable plan which does, as argued, mitigate many of the potential drawbacks of both tracking and tagging. However, on balance, I believe that a rather different hybrid is preferable. In addition, the proposed treatment of imports seems to disadvantage more than necessary out-of-region generators who may wish to sell into the New England market. These two points will be discussed together, as treatment of imports is a key part of the hybrid sketched herein.

The authors note several disadvantages to tracking which remain even though their hybrid offers elements of tagging regarding spot market transactions and system contracts. Most importantly, they note: "Tradeability could create more flexible and liquid markets for both electricity and environmental characteristics" (Section 4.2). Secondly, they note difficulties with handling certain types of contracts (Section 4.1).

But the authors pass too rapidly over the point about "flexible and liquid markets", even though they earlier noted that one of the agreed "three fundamental goals of disclosure" is "Make the electricity market more efficient" (Section 3.1). Fungibility of the commodity is a key component of maximum market efficiency. Under tracking of bilateral unit contracts, some trades would not occur because environmental characteristics would present an additional challenge in matching buyers and sellers (added to price, timing, location, etc.). By definition, these trades would have been otherwise efficient and cost-minimizing. In addition, sub-markets in renewables, small and thus inefficient and subject to manipulation, might emerge.

While they note (purportedly not insurmountable) difficulties with tracking some types of contracts, they otherwise assume that the ISO can meaningfully track all transactions as called for. This is not necessarily the case, as the New England ISO has reportedly pointed to problems with "loop transactions" in which LSEs sell electricity to generators who in turn sell it to other LSEs, creating ownership chains without a clear beginning and end. Also, contracts for differences may permit gaming of tracking more easily than of tagging.

More generally, I believe that tracking would clearly impose administrative burdens greater than tagging's on the ISO, traders, generators, LSEs, and the administrative authority. Tagging offers the efficiency and elegance of needing verification only at generation and final sale, not through possibly myriad transactions in-between.

Cognizant of these arguments, RAP remarks: "The tradeable tag approach is not recommended at this time because of uncertainty about consumer acceptance" (page vii). And: "In fact, if we could assume away the problem with customer acceptability, tags may be preferred" ((Section 4.2). This isn't a convincing reason for rejecting tagging.

It is not clear that tagging will have less public credibility than tracking. True, the connection of the actual kWhs between the supposed source and the end user is even more abstract than for tracking. ***But the connection for the premium dollars is much more direct.*** If a customer chooses to pay a little more for cleaner power, (s)he wants assurance that the above-average--market-price dollars will go to the "green" producer to stimulate that industry. Tracking requires the customer to have faith that the system is working through possibly dozens of transactions, many of them involving the splitting up of and then blending of packets of kWhs, with various possibilities for gaming or fraud. In a world of insider trading scandals, white collar fraud cases and the like, will customers have this confidence?

With tagging, the inherent indeterminacy of the route of the actual kWhs would be undisguised, while the route of the premium dollars would be one-step and direct between the LSE and the "green" generator.

It should be made clear that the tagging system herein envisioned would be one of mandatory, universal labeling. An LSE would have to acquire and disclose undesirable

tags with no market value or disclose a worst-case default or a regional average of undesirable power for which no tags could be sold.

Turning to imports, RAP proposes to treat imports simply as "imports" (without credit for desirable environmental characteristics) unless they come from a state/region with similar tracking and customer disclosure systems in place (Section 4.3). Two reasons for this policy are offered. The first is the necessity to verify the generation source of the electricity (hence, the tracking requirement). The second is to prevent "flooding" of the New England market with the cleaner portion of another state's generation, while the dirty generation with emissions transport continues unabated, selling its kWhs at home without disclosure (hence, the disclosure requirement).

Neighboring states or regions, including New York, may at some point develop tracking/tagging and disclosure systems satisfactory to New England. Presumably then a single market could cover the combined regions. But many states/regions seem to be behind New England in the development process, so there will likely be an interim period. And, short of a national plan, there will always remain states/regions outside of the system.

But out-of-region states/regions may be willing and able to cooperate in verification and tracking prior to, or without, setting up their own disclosure system. The flooding of "green" electricity sales into New England would be limited by significant transmission constraints (other states may have more exposure in this regard). Whether New England adopts tracking or tagging, it should permit imports with environmental characteristics attached, provided: (1) an ISO verifies generation source and no double sales, and (2) a contract and tracking path to the border of New England can be proven. Actual wheeling arrangements and a contract with a within-region purchaser would be required (the purchaser could then receive tradeable tags). Combined with transmission constraints, this should impede flooding.

In brief, the proposed hybrid would consist of tagging within a region of compatible systems with one market (New England alone or with neighboring states/regions) and contract path tracking to the borders of the region.

Thank you for your attention.

Yours truly

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