

Code of Conduct

Version XXI

Green-e Renewable Electricity Certification Program

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FILED⁴

JUL 13 2005

Missouri Public
Service Commission

Exhibit No. 21
Case No(s) EO-2005-0329
Date 6-23-05 Rptr RF

Exhibit 21
Case No. EO-2005-0329
In re Proposed Experimental Regul. Plan of KCPL
Mo. Public Service Comm'n

I. PREAMBLE

Creating environmentally preferable electricity services and products provides customers with choices that make a positive difference in the environment, encourages the development and deployment of clean renewable energy technologies, and opens exciting new market opportunities for entrepreneurs in the energy sector. In order to realize this potential, and to maintain and improve customer confidence, power marketers must provide customers with easily understood information about their electricity products and services, and adhere to the highest standards of professionalism in business practices. Signatories of this Code of Conduct pledge to abide by the standards reflected in this Code, and to cooperate with the Green Power Board in ensuring that these standards are effective in providing customers information about environmentally superior services and products in competitive electricity markets.

All power marketers committed to providing electricity supply from renewable resources, as defined by this Code of Conduct, are eligible to become signatories to the Green Power Board's Code of Conduct. Power marketers that meet the minimum standards established below are eligible to use the Green-e logo, once they have received Green-e certification. Retail marketers with a blended product that reflects less than 50% renewable electricity content, but more than that contained in system power (to the nearest higher 10% increment), may sign the Code of Conduct and have the product verified. **However, blended products that do not meet the 50% renewable threshold or do not meet the block products criteria may not display the Green-e logo, which is reserved for products that meet the minimum criteria established in the Green-e Competitive Electricity Standard - All Regions.**

Environmental performance is at the heart of the classification of electric generation technologies as "environmentally preferable." The Green Power Board has adopted a definition for renewable energy primarily based upon the existing law in states where the program is active. In addition, the Board is committed to developing and incorporating improved emissions and other environmental performance standards. The Board anticipates that any substantive changes made to the Code of Conduct will be done with the advice of marketers and generators, and that most changes will be made on a prospective basis. The content of the Code of Conduct could also change to be consistent with changes in state and federal laws and regulations.

II. MISSION STATEMENT

The Green Power Board seeks to:

1. Bolster consumer confidence in the reliability of retail electricity products reflecting renewable energy generation.
2. Expand the retail market for electricity products incorporating renewable energy, including expanding the demand for new renewable energy generation.
3. Provide consumers clear information about retail renewable electricity products to enable them to make informed purchasing decisions.
4. Encourage the deployment of electricity products that minimize air pollution and reduce greenhouse gas emissions.

III. DEFINITIONS

Eligible Renewable Resource: Qualifying sources of renewable energy as defined in the Green-e Competitive Electricity Standard - All Regions.

Eligible Retail Renewable Resource Product: A retail electricity product that, (1) contains at least 50% of its total electricity supply from "eligible renewable resource facilities" and meets the conditions laid out in *Green-e Competitive Electricity Standard - All Regions*, or, (2) a retail electricity product that meets the block product criteria laid out in Section IV of *Green-e Competitive Electricity Standard - All Regions* and meets the others conditions laid out in *Green-e Competitive Electricity Standard - All Regions*. Please note that the definition of an eligible renewable resource product or a "Green-e certified" product varies by region.

Eligible Retail Customers: Customers who satisfy their total external electricity need (i.e., power not generated on-site) from an "eligible renewable resource product."

Environmentally Superior Product: A product that reflects 1) a greater proportion of renewable energy and 2) lower emissions per kilowatt-hour of SO_x, NO_x, and CO₂ than system power.

Fossil Resources: Electric generation using natural gas, oil, coal, or petroleum coke or other petroleum based fuels.

Green Power: For the purposes of this contract, this term is synonymous with "eligible retail renewable resource product."

Green Power Board (Board): The Governing Board for Green-e standards policy (see Section X: Governance Policies). The Board meets twice annually as a full board, and may convene meetings in subcommittee as necessary.

Green-e Logo: The certification mark, registered and owned by the Center for Resource Solutions, representing an electric power product conforming with and used in conformance with the requirements of this Code.

Net System Power: Mix of electricity fuel sources (based upon governmental reporting and record collection activities for electricity generation sources) that are not disclosed or marketed as specific purchases.

New Renewable Resource Power: An eligible new renewable generation facility that meets the new renewable requirement in Section VIII.

Product: Under the Green-e Program a product is defined as a mix of specific purchase and possibly system power resources offered to consumers that conforms to the Program's resource content and emissions guidelines. Pricing variations that do not change a given product's resource mix, SO_x, NO_x, or greenhouse gas emissions, do not constitute different products. One product may be sold in more than one state provided that the resource content is the same in both states and the supply for the product sold in both states comes from the same supply pool.

Renewable Resources: Technologies using biomass; geothermal; small hydropower (≤ 30 MW); Low Impact Hydropower Institute certified hydropower; solar; wind or ocean-based renewable resources to generate electricity. Eligible renewable resources are defined for each Green-e regional standard and may vary by region.

Secondary Use of the Green-e Logo: Secondary use of the Green-e logo includes any and all uses of the logo by eligible retail customers, whether in advertising, public display or otherwise. Secondary use of the Green-e logo must be in accordance with all logo use requirements.

Specific Purchases: Electricity transactions which are traceable to specific generation sources by an auditable contract trail or equivalent, such as a tradable commodity system, that provides commercial verification that the electricity source claimed has been sold once and only once to retail consumers.

Supply: Specific purchases of power reflected in the product produced for ultimate sale and sold over the electric grid. This Code does not intend to assert that products reflect an actual physical relationship between electrons generated at a particular facility and those used by a particular customer.

IV. ETHICAL GUIDELINES

The following ethical guidelines, policies for censure, data for verification, and required customer contract information apply to a participating company's non-eligible products as well as their to eligible products.

Each company wishing to use the Green-e logo or to claim Green-e certification for any of their power products agrees to do the following:

1. Provide all residential customers, during customer subscription and agreement fulfillment period, contract pricing, terms and conditions written in clear, simple and easily understood terms. Retail suppliers should adhere to state guidelines for format and content of contract terms and conditions, provided that the minimum Green-e requirements are met. If a state does not have a mandated format or content for the contract terms and conditions, then retail suppliers should follow the default Contract Pricing, Terms and Conditions found in *Green-e Customer Disclosure Requirements*.
2. Provide a disclosure statement to prospective customers that lists the resources or fuel sources from which the electricity in the product being marketed will be generated (prospective disclosure). The fuel source disclosure statement shall be provided with all product specific marketing materials, before switching a customer and no less than once per year thereafter. If applicable, this information will also be posted on the company's website. Retail suppliers should adhere to state guidelines for format and content of fuel source disclosure, provided that the minimum Green-e requirements for product content labels are met. If a state does not have a mandated fuel source disclosure law or format, marketers should use the default Green-e product content label found in *Green-e Customer Disclosure Requirements*.
3. Provide customers with an annual report that includes data on the resources used to generate the past year's electricity purchased by the customer (historic disclosure - format consistent with state law or Green-e default fuel source disclosure format found in *Green-e Customer Disclosure Requirements*).
4. Agree to conduct an annual independent verification of product sales and purchases according to the *Green-e Annual Process Audit Protocol*.

5. Agree to sell renewable energy only once and to take reasonable measures, to ensure that wholesale renewable energy suppliers (if different from the marketer) also do not sell renewable energy more than once.
6. Ensure by reporting agreements and other contractual obligations with generators and wholesalers that any emission reduction credits or emission allowances allocated to or otherwise received by the generator for the generation output that supports the Certified Product have been transferred to the ultimate end use customer purchasing the Certified Product and have not been sold separately, or, in the alternative that the generator or marketer has, on behalf of the end use customer, permanently retired such emission reduction credits or emission allowances without their having been used for compliance with any air quality requirement of local, state or federal government.
7. Ensure by reporting agreements and other contractual agreements with generators that generation output that supports the Certified Product has not been used for compliance with any government procurement, renewable portfolio standard or other renewable energy requirement of local, state or federal government.
8. Agree to use only environmental marketing claims in advertising that are factually based (and be objectively verifiable to the extent technically possible) and:
 - Be sufficiently clear and prominent to prevent deception;
 - Not represent that customers are actually delivered electrons from specific generation facilities;
 - Not overstate environmental attributes or benefits, expressly or by implication; and
 - Present comparative claims in a manner that makes the basis for the comparison sufficiently clear to avoid customer deception.
9. Disclose information, but not make specific claims about the attributes of system power purchased as part of an electricity product.
10. Agree to be clear and prominent in all advertising materials to prevent deception. Do not represent that customers are actually being delivered electrons from the specific generation facilities or that TRC purchases result in delivery to the customer of electrons from specific generation facilities.
11. When advertising both electricity and TRC products on the same marketing piece, clearly differentiate the products.
12. Use the Green-e logo only in compliance with the logo usage requirements and guidelines outlined in the contract under "Use of Logo" and in accordance with the *Green-e Customer Disclosure Requirements*, including using the specified artwork and colors as indicated. Violators of the usage standards and guidelines can lose their eligibility to use the Green-e logo upon action by the Board. Board certified providers may not use the Green-e logo in conjunction with any product unless the product reflects not less than 50% of its energy supply from renewable resources or meets the block product renewable content and size criteria and meets all additional eligibility requirements outlined in *Green-e Competitive Electricity Standard - All Regions*.

13. Submit to the Board applications for licensed secondary logo use only from "eligible retail customers," as defined above.
14. Notify customers and the Green Power Board annually if/when an eligible product does not meet its eligibility requirements (e.g., if the renewables fraction is reduced by over 5 percent even after the three month remedy period) and:
 - i) Allow the customer the option of canceling the service if the product reflects a lower renewable content than that for which they have contracted;
 - ii) If this change results in a product that does not meet threshold criteria, notify customers that this product is no longer eligible to use the Green-e logo.
15. Notify customers in writing if the Green-e certified product they are purchasing (1) loses Green-e certification for any reason, or (2) the Company decides to opt out of the Green-e Program; clearly state that the Green-e certified product they are purchasing is no longer Green-e certified; and:
 - i) Provide these customers with a list of alternative Green-e certified products and contact numbers and web addresses for the companies selling those products; or
 - ii) Provide these customers with the Green-e website, www.green-e.org, and toll free number, (888) 63- GREEN, with instructions that the customer can find alternative Green-e certified products through the Green-e website and toll free number; or
 - iii) Provide the Center for Resource Solutions with the names and addresses of customers who were purchasing the Green-e certified product that is no longer certified.

V. GUIDELINES FOR PRESENTING CUSTOMER TERMS OF SERVICE INFORMATION

A summary of primary contract terms and provisions must be provided to potential residential customers so they have information for making informed decisions. A guideline for the format of contract terms and pricing disclosure is found in the *Green-e Customer Disclosure Requirements*. The Green Power Board will coordinate with appropriate regulatory officials to ensure that the content and format of this information is compatible with state regulations. The Green Power Board reserves the right to require additional information beyond that required by law and regulation. This information at a minimum must include:

- Name of the Company and/or joint venture partners with whom the customer is contracting (if a subsidiary or joint venture, list name of parent company).
- Company customer contact information, including customer service number, company billing address and email or website, if available.
- Duration of the contract (contract length in months).
- The proposed rate structure, including fixed and variable charges and taxes.

- Price volatility or other price, environmental, or availability risks associated with the product.
- A prospective fuel source disclosure statement indicating the percentage of the energy portfolio that will be contributed by various resources in the format prescribed in Section IV. 2.
- The obligations/charges associated with terminating the contract or changing from the current portfolio.
- Information on how the customer will be billed.

VI. PRODUCT SUBSTANTIATION INFORMATION

A. Verification Process

Retail and wholesale power marketers who participate in the Green-e Program must conduct an annual verification process each year to substantiate product purchases and sales, as well as product claims. The marketer must employ an independent certified public accountant or certified internal auditor to conduct this verification in accordance with the procedures set forth in the Green-e Annual Verification Protocol. The results of the verification must be submitted to the Center for Resource Solutions no later than May 31 annually.

The verification process uses company contracts, invoices and billing statements to verify the following twelve items:

- 1) that the marketer purchased enough power in quantity and type to meet its customer demand for each specific power product;
- 2) that the power was purchased from eligible renewable generators;
- 3) that the information provided on the historic fuel source disclosure label is accurate (retail marketers only);
- 4) that the company did not make any specific purchases of nuclear power (retail marketers only);
- 5) that the renewable power purchased and sold by the marketer was not sold to more than one customer;
- 6) that the product contained enough new renewable resources to meet the Green-e new renewable requirement and any product marketing claims for new renewable power are accurate (retail marketers only);
- 7) that the marketer has purchased no power from fuel sources for which negative marketing claims were made, (e.g. no nuclear or coal were purchased for this product);
- 8) that the non-renewable portion of the electricity product meets the emissions requirements set out in the Green-e Standard (retail marketers only).
- 9) by generator attestation, the electrical energy associated with TRCs used in the Certified Product was delivered into the electric power system or consumed at the site of generation by an end-user of electricity and was not marketed or otherwise represented as renewable energy;
- 10) by generator and vendor attestation, that all the attributes of the renewable energy were bundled and conveyed to the end-use customer or retired on their behalf and not sold off separately;

- 11) For Retail Suppliers: Ensure by reporting agreements and other contractual obligations with generators and wholesalers that any emission reduction credits or emission allowances allocated to or otherwise received by the generator for the generation output that supports the Certified Product have been transferred to the ultimate end use customer purchasing the Certified Product and have not been sold separately, or, in the alternative that the generator or marketer has, on behalf of the end use customer, permanently retired such emission reduction credits or emission allowances without their having being used for compliance with any air quality requirement of local, state, or federal government;
- For Wholesale Suppliers: Ensure by reporting agreements and other contractual obligations with generators that any emission reduction credits or emission allowances allocated to or otherwise received by the generator for the generation output that supports the Certified Product have been transferred to the retail supplier purchasing the Certified Product and have not been sold separately, or used for compliance with any air quality requirement of local, state or federal government; and
- 12) by generator and vendor attestation, that the generation output that supports the Certified Product has not been used for compliance with any procurement, renewable portfolio standard or other renewable energy requirement of local, state or federal government;

Data for verification of non-eligible product claims, prices or contract conditions may be requested of a marketer if complaints relevant to the Green Power Board's Code of Conduct provisions are received by the Board about a participating marketer's product(s) and/or professional conduct.

If a product or the product's certification contract is terminated, the product is still required to undergo verification for the reporting year(s) in which it was certified.

B. Marketing Compliance Review

Retail power marketers who participate in the Green-e Program must periodically submit all residential marketing materials currently in use to the Green-e Program Staff to verify compliance with the ethical guidelines outlined in this Code and the disclosure requirements outlined in the *Customer Disclosure Requirements*. The Compliance Review occurs semiannually in February and August unless staff determine that a marketer's particular product qualifies for an annual review.

VII. CENSURE OF MARKETERS USING DECEPTIVE OR UNETHICAL PRACTICES OR ADVERTISING

Retail and wholesale power marketers who do not adhere to the Code of Conduct or knowingly use deceptive or unethical practices/advertising will be denied the right to use the Green-e logo or statement of verification on any of their electricity products for 18 months. A repeat or egregious offender could be permanently censured at the discretion of the Board, and may be liable for damages incurred by this program and/or its Board as a result of these offenses.

In the event that the Board decides that a retail electric power marketer shall not be eligible to use the logo, the Board may require the marketer to:

- Immediately desist using the Green-e logo; and

- Refrain from making public reference to participation in the Green-e Program's activities in marketing and other materials; and
- Allow any customer to terminate (without penalty) any existing contracts for previously Certified products and offer to compensate any customer for switching expenses.

Further, pursuant to the terms of this Code of Conduct and participation in the Green Power Board's activities, the Board reserves the right to:

- Notify the censured power marketer's customers in writing of the marketer's loss of authority to use the Brand;
- Provide such customers with a list of alternative suppliers offering products authorized to use the Brand.

VIII. NEW RENEWABLE REQUIREMENT

A. Definition of New Renewable

An eligible new renewable generation facility must either be: (1) placed in operation (generating electricity) on or after the regionally specified new renewables date; (2) repowered on or after the regionally specified new renewables date such that at 80% of the fair market value of the project derives from new generation equipment installed as part of the repowering; (3) a separable improvement to or enhancement of an operating existing facility that was first placed in operation prior to the regionally specified new renewables date, such that the proposed incremental generation is contractually available for sale and metered separately than existing generation at the facility; or (4) a separately metered landfill gas resource that was not being used to generate electricity prior to the regionally specified new renewables date. Any enhancement of fuel source that increases generation at an existing facility, without the construction of a new or repowered, separately metered generating unit, is not eligible to participate, with the exception of new landfill gas resources identified (4) above. An eligible "new renewable generation facility" must be an "eligible renewable resource" as described in the Green-e Code-of-Conduct. Hydropower facilities may not contribute toward achievement of the new renewable requirement at this time except where defined as eligible in regional standards.

C. New Renewable Requirement Start Date

All retail products offered must meet the regionally defined new renewable requirement. CRS reserves the right to modify the standard start date on a state-by-state basis to increase consistency within a region.

D. Percentage Requirements for New Resources

Green-e commits to reviewing the percentage level, at least two years before a change is made, to assess whether and how much to increase the percentage level further. Green-e has a goal of increasing the percentage to at least 50% by 2008, in 5% or greater annual increments. This requirement is a strict minimum requirement.

E. Accounting/Audit Mechanism

The verification for new renewable resource content occurs during the Green-e annual process audit. Total new renewable demand for each certified product in a given year must be met with the appropriate level of new renewables in that year with a three-month grace period into the following year. This is consistent with Green-e Verification Protocol.

F. Customer Notification Requirements

All Green-e *certified* products must meet the new renewable requirement. Green-e respects the fact that some customers will remain with their existing products (i.e., those that were certified prior to the new standard "start date") and that marketers may decide not to upgrade those products to meet the new renewable requirement for existing customers. As these products no longer meet the Green-e Standard, they may no longer bear the Green-e logo and all communications with customers purchasing these products must not include any reference to the Green-e Program after the new renewable requirement "start date." In most cases, it is expected that to meet this requirement marketers will simply remove any reference to the Green-e Program from customer bills and other communications material. If requested by marketers, these products will be eligible for Green-e *verification* after the new renewable requirement "start date" (i.e., resource supply can be verified through completion of the Green-e audit) but marketers will not be able to claim *certification* of products that do not meet the new renewable requirement. On the new renewable requirement "start date," marketers are not required to immediately notify these customers that their product no longer meets Green-e certification criteria. However, such notification must be provided, with an offer to upgrade the customer's product at a cost if the customer so wishes, at the expiration of the customer-marketer agreement term (typically one year) or by one year after the new renewable requirement "start date," at the discretion of the marketer. Green-e staff will work with marketers to develop suitable notification language.

Green-e staff recommend to marketers that they begin marketing products meeting the new renewable requirement earlier than the new renewable requirement "start date," and at the same time they cease marketing "old" Green-e certified products that will no longer be certifiable on the "start date." This will reduce situations such as a customer signing up for a 1999 Green-e certified product that is marketed as such in December 1999, but not being served until February 2000.

IX. VERIFICATION OF PRODUCTS THAT DO NOT MEET GREEN-E CRITERIA

If requested by marketers, retail products that cannot meet the new renewable resource requirement will be eligible for Green-e *verification* (i.e., resource supply can be verified through completion of the Green-e audit) but marketers will not be able to claim *certification* of products that do not meet the new renewable requirement. Markets interested in this service should contact Green-e staff.

X. THE GREEN-E GOVERNANCE POLICIES

A. GOVERNING BOARD: THE GREEN POWER BOARD

The Green-e Renewable Electricity Certification Program (*Green-e*) is administered by a Governing Board called "The Green Power Board" (Board). The Board is comprised of representatives of stakeholder groups that: 1) support the greater use of renewable resources;

2) work for consumer protection; and 3) promote improvement of the environment. The Chair of the Power Marketers Advisory Committee is a non-voting member of the Green Power Board.

The Board ensures that the Program's standards and policies are appropriate and necessary to meet its stated goals and objectives, and that certification/verification is handled in a credible and effective manner. The Board regularly reviews the Program's standards and will amend them as necessary so that they remain consistent with changing circumstances. The Board will receive and act on recommendations from the Power Marketers Advisory Committee, Regional Advisory Committees, and the ad-hoc Government Group to ensure the Program is practical and consistent with broader public policies. The Board will meet at least twice annually. A sub-committee of the Board will meet as required to handle any complaints or actions to censure.

The Green Power Board includes the following representation:

Environmental Organizations	2	
Consumer Groups	2	
Energy Non-Marketers	2	
Public Policy Advocates – other	2	
Center for Resource Solutions Board Member	1	
Mid-Atlantic Regional Representative	1	
Chair of Marketer's Committee	1	<i>Non-voting Member</i>
PUC Commission Rep.	1	<i>Ex-Officio Member</i>
Total	12	

The Green Power Board may add representatives from new states or regions as the Green-e Program expands.

B. POWER MARKETERS ADVISORY COMMITTEE

The Power Marketers Advisory Committee is comprised of representatives of the Program's participating green marketers. It is anticipated that separate Power Marketers Advisory Committees will be established for each state or region into which the Green-e Program expands. The maximum membership of this group is ten. The participating marketers will select from their group those they wish to represent their interests. All participating marketers may suggest Program modifications to the Power Marketers Advisory Committees and request that such suggestions be forwarded to the Governing Board for consideration and approval. The Chair of this Committee sits on the Governing Board as a non-voting member, and has the responsibility of representing all state or regional marketer advisory committees.

The Power Marketers Advisory Committees will make suggestions to the Green Power Board on Program issues associated with the feasibility and practicality of various implementation options and details. In addition the Committees will provide advice on such issues as marketing the Green-e logo and implementing the public education campaign. The Committees' prime responsibility is to provide recommendations for changes that improve the effectiveness of the Program.

C. REGIONAL ADVISORY COMMITTEES

The Green-e Program relies on regional stakeholders to help develop a Green-e Standard that is appropriate for a specific state or region and that is consistent with the goals of the Green-e Program. Representatives from local environmental organizations, power marketers, renewable developers, energy policy experts and other interested parties meet regularly to consider the

regional issues relating to Green-e. Regional Advisory Committees make recommendations to the Green-e Power Board for modifications to the Green-e standard based on regional issues such as, the availability of renewable resources, the potential market in a region, environmental sensitivities, state laws, etc.

D. AD HOC GOVERNMENTAL GROUP

Representatives of local, state, federal, and other governmental organizations with interests in this area (e.g., the Federal Trade Commission, the U.S. Department of Energy, the U.S. Environmental Protection Agency, Air Resources Boards, Departments of Consumer Affairs, Attorney's General, utility regulatory commissions, etc.) will be asked periodically to provide input and recommendations for ensuring that the Program's standard remain high and that its implementation is consistent and compatible with broader public policies and programs.

[The Green-e Renewable Electricity Certification Program is administered consistent with the overall goals of the Center for Resource Solutions and the regulations under which non-profit organizations operate.]