

Montana Announces Multistate Investigation of Big Tech Renewable Energy Claims

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Last week, Attorney General Austin Knudsen of Montana [announced](#) a 16-state Republican investigation into four “big tech” companies regarding purportedly deceptive renewable energy claims. AG Knudsen and the states sent a letter to the companies to “raise serious concerns and request further information” regarding claims that the companies are 100% powered by renewable energy. The AGs request a response to a list of questions by October 27.

The letter alleges that the companies buy unbundled renewable energy certificates (RECs) in order to make their claims, but that claims to consume, use, or be powered by 100% renewable energy based on RECs may be misleading. A REC does not prove that additional renewable energy would be generated with the purchase or that the purchaser actually used renewable energy. Further, because the tech companies use electricity from the power grid, reliant on fossil-fuel-generated baseload power, they are not being powered 100% by renewable energy even with REC purchases. The letter explains that a contractual right to make a representation from an REC can still mislead consumers – just as if they had purchased the right to make a Made in the USA claim. And, for the same reasons, matching electricity consumption with unbundled RECs does not reduce emissions despite the companies’ claims. Rather, those companies have actually created emissions through the use of fuel-generated baseload power.

The AGs admit that the FTC’s [Green Guides](#) suggest renewable energy claims *can* be made using renewable energy certificate matches, but they argue that this language does not apply to emissions claims. And they further state that Green Guides are nonbinding and not preemptive – signaling these AGs intend to interpret their UDAP laws broader than the Green Guides at least in this instance.

The states also express concerns that the tech companies have both caused increased demand for electricity (including from AI products) while seeking to “lock up” nuclear power -- seeking to hook data centers directly to nuclear plants for energy. The AGs assert that rather than adding new green energy, this will deprive consumers of reliable energy, as wind and solar are not reliable. The emphasis companies put on renewable energy pressures utilities to move away from fossil-fuel-generated baseload power. This shift to shut down fossil fuel generation combined with increased energy needs of these companies “threaten[s] the integrity of the electric grid.”

The letter concludes with a list of 21 questions directed at all four companies requesting information on the purchases of unbundled RECs and how RECs support usage claims or reduced emissions claims.

There are multiple takeaways from this letter. First, this letter is the latest in the ongoing focus of

state AGs on “big tech” and potential misrepresentations made by these companies. Second, companies should recognize that even where AGs may not have available pre-suit discovery tools, or may choose not to use those tools, AGs can use the power of the press release and informal letters to obtain relevant information. Finally, this action demonstrates a continued focus by Republican AGs in particular in ensuring adequate access to fossil fuel generated power. The crux of the AGs’ concern is that by misleading the public that they are 100% powered by renewable energy, these companies may drive the closure of coal and natural gas plants, threatening the power grid. Continued reliance on fossil fuels is a focal point of other challenges like the ongoing lawsuit against major investment firms alleging they used their ownership interest in the coal market to further green policy initiatives.