



CRS

center for
resource
solutions

October 5, 2018

Mr. Dallas Burtraw, Chair
Independent Emissions Market Advisory Committee (IEMAC)
c/o California Environmental Protection Agency
1001 I Street
Sacramento, CA 95812

RE: Comments of Center for Resource Solutions (CRS) on IEMAC Meeting Materials for Sept. 21, 2018 and Draft Subcommittee Reports

Dear Mr. Burtraw,

CRS appreciates this opportunity to submit comments on the September 21, 2018 IEMAC Meeting and Subcommittee Reports. Our comments are focused on potential double counting and leakage due to accounting for the emissions associated with imported electricity under the Mandatory Reporting Regulation (MRR). This pertains to both the Subcommittee Report on Overlapping Policies and the Report on Emissions Leakage. We encourage the Committee to include reference to this issue in its reports to the California Air Resources Board (CARB).

Background on CRS and Green-e®

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy. CRS has broad expertise in renewable energy policy design and implementation, electricity product disclosures and consumer protection, and greenhouse gas (GHG) reporting and accounting. Among others, CRS administers the Green-e programs. Green-e is the leading certification program for voluntary renewable electricity products in North America. For over 20 years, Green-e staff have worked with independent third-party auditors to annually verify renewable energy purchases in the voluntary market and ensure purchasers receive full environmental benefits and sole ownership of each megawatt-hour (MWh) of renewable energy they purchase. Verification procedures ensure there is no double counting between voluntary and compliance markets, and that other renewable energy or carbon policies do not claim any of the environmental benefits of certified renewable energy. In 2017, Green-e certified retail sales of over 60 million MWh, representing over 1.6% of the total U.S. electricity mix. In 2017, there were over 1.1 million retail purchasers of Green-e certified renewable energy, including 63,400 businesses.

Greenhouse Gas Reporting for California Electricity Imports

Broadly speaking, source-based carbon regulation (e.g. cap-and-trade) does not affect the the usage and delivery claims of renewable energy purchasers and suppliers, and Renewable Portfolio Standard (RPS) programs. In other words, it will not affect the claims of renewable energy certificate (REC) holders to the direct emissions and other attributes of renewable generation, due to the distinction between

production and consumption. However, where emissions associated with imported power are included in and accounted for under cap-and-trade, this may affect RECs.

As you know, California's cap-and-trade program does cover emissions associated with imported electricity in addition to emissions from in-state power generation. Whereas emissions from in-state generation facilities are reported and regulated at the source, I'm also sure that you know that California regulates emissions associated with electricity imports at the point of the first in-state importer, where emissions cannot be directly measured, and in this case, assigns emissions to imported power.

Section 95111(a)(4) of the MRR requires that electricity imports be reported as specified source (and that the applicable specified emissions factor be assigned to determine compliance obligations) if that electricity is from the generation providing entity (GPE) or the importer holds a contract to obtain power from that resource:

"Imported Electricity from Specified Facilities or Units. The electric power entity must report all direct delivery of electricity as from a specified source for facilities or units in which they are a generation providing entity (GPE) or have a written power contract to procure electricity."

The MRR does not require that associated RECs must also be imported in the case that the resource is renewable in order for the importer and the state to report a zero-emissions import from a renewable energy generator. As a result, RECs associated with imported power can be used outside of California for RPS compliance or voluntary sales in other states.

Sec. 95111(g)(1)(M)(3) of the MRR requires reporting entities to report the serial numbers of RECs associated with specified renewable imports and whether or not they've been retired. But based on Sec. 95111(a)(4), failure to report RECs with specified renewable imports is treated as a nonconformance that does not affect reported emissions and therefore does not lead to an adverse verification statement.

Double counting and leakage

The fact that electricity imported to California can be assigned a specified renewable emissions factor regardless of whether the RECs associated with that power are used in California and the potential for these RECs to be used in other states has led to concerns about double counting—among market participants, Western Renewable Energy Generation Information System (WREGIS) stakeholders, and regulators in neighboring states. The same MWh may be reported as zero-emissions power imported/delivered to California (and thereby avoiding a compliance obligation under cap-and-trade) and also delivered to customers as zero-emissions renewable energy in Oregon through the RPS or to voluntary purchasers.

Whether or not there is double counting depends on whether the emissions associated with imported power calculated and assigned under the MRR (including zero-emissions imports) can be claimed by or said to be produced for electricity customers in California. In other words, if the policy for reporting imported emissions under the MRR represents a consumption claim for electricity consumers in California, then this policy determines the environmental attributes (namely the GHG emissions profile) of power used in California. In this case, since the REC includes all environmental attributes of

renewable generation,¹ and is required to verify delivery of zero-emissions renewable energy on the grid across the West,² the MRR double counts and infringes on the rights and claims of REC owners where RECs associated with imported power are used by or on behalf of consumers outside of California.

In this case, California's policy on reporting imported emissions under the MRR does not properly account for emissions entering the state as it counts zero-emitting power that is actually being used in other states. By double counting, the state may not actually be addressing the emissions associated with imported electricity.

This can also be framed as leakage in the cap-and-trade program. If RECs are not required for specified renewable imports, there can be decreased GHG removals outside the cap-and-trade program's boundary due to the effects of the program on renewable energy markets. Alternatively, it can be viewed as the state simply failing to account for emissions—allowing emissions to be imported without a compliance obligation or allowing what would otherwise be California's emissions reductions to be exported and counted in other states/programs.

Impacts and Implications

Oregon, the Western Renewable Energy Generation Information System (WREGIS), and the western Energy Imbalance Market (EIM), are all currently evaluating questions around RECs associated with imports into California. Oregon is considering whether to allow those RECs for compliance in its RPS,³ and WREGIS has been asked to clarify its certificate definition and whether or not California's policy represents a claim on WREGIS certificates. This issue is also affecting power source and emissions disclosure in both California and Washington. The California Energy Commission (CEC) staff has proposed methodologies that are not in alignment with renewable energy trading and emission reporting schemes adopted across the U.S. and especially at odds with GHG reporting for corporate renewable procurement.⁴

CARB's accounting policy for renewable electricity imports is disrupting neighboring RPS programs as well as regional wholesale power markets. Double counting of zero-emissions power threatens the integrity of RPS markets and may either limit supply and drive up costs or reduce the impact of RPS on the development of renewable energy. Concerns about double counting are already causing confusion and reducing the amount of renewable energy participating in the Energy Imbalance Market (EIM).⁵ This problem is likely to grow substantially as the role of the EIM increases to support the regional wholesale market transactions of renewable energy that will be critical to meeting state renewable energy and carbon goals in the West. More alarmingly, this issue may result in changes to REC markets that threaten to eliminate the carbon reduction benefits of neighboring RPS programs entirely, along with the primary driver of voluntary and corporate renewable energy procurement, which represents a

¹ In California, Oregon, Washington, and WREGIS: see CAL. PUB. UTIL. CODE § 399.12 (h)(2), OR. ADMIN. R. § 330-160-0015 (16), WASH. ADMIN. CODE 480-109-060 (24).

² For example, see CAL. PUB. UTIL. CODE § 399.21(a)(2): "Each renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state."

³ See <https://www.oregon.gov/energy/energy-oregon/Pages/RECs-EIM-Stakeholder-Meetings.aspx>.

⁴ See California Energy Commission (CEC) Docket #16-OIR-05: https://www.energy.ca.gov/power_source_disclosure/.

⁵ See the presentation by PacifiCorp at the EIM Regional Issues Forum September 7, 2017: <https://www.westerneim.com/Documents/PacifiCorpPresentation-EnergyImportedIntoCaliforniaViaEIM.pdf>.

significant proportion of overall renewable energy development in the West.⁶ By simultaneously acknowledging the role of source-based carbon accounting in retail GHG claims and denying double counting with REC markets, the state effectively argues that carbon policy should be the basis of retail customer claims to specified power and emissions, which reduces the importance of both RPS and consumer preference as tools to meet state clean energy and carbon goals.

CARB Responses

In 2017, CARB adopted amendments to both the MRR and the cap-and-trade regulation. Included in those amendments was the removal of Sec. 95852(b)(3)(D) of the cap-and-trade regulation, which stated that if RECs were created for the electricity imported and reported pursuant to MRR, then the REC serial numbers must be reported and verified pursuant to MRR. CARB Staff interpreted this as being in conflict with Sec. 95111(a)(4) of the MRR, which again does not explicitly require RECs for specified renewable imports or exclude renewable energy where the RECs are sold off or not reported from being reported as specified. CARB also adopted changes to Sec. 95111(g)(1)(M)(3) of the MRR to clarify that failure to report RECs with specified renewable imports results in a nonconformance that does not affect reported emissions and that, absent other errors, leads to a qualified positive verification statement: “In such cases, the specified source emission factors assigned by ARB must still be used to calculate emissions associated with the imported electricity.”

On August 2, 2017, CARB, CEC, and the California Public Utilities Commission (CPUC) submitted a joint agency letter to the Oregon Department of Energy (ODOE) as a part of its proceeding examining the eligibility of RECs associated with California imports for its RPS.⁷ Though not explicitly stated, the letter presents information that suggests that California’s policy does not affect Oregon’s RPS. The letter reflects some key misunderstandings. Most notably, it uses a CPUC Decision regarding avoided emissions attributes in RECs to support a conclusion that RECs do not convey the direct emissions factor of renewable energy. The joint letter states that RECs may not be used for GHG emissions reduction purposes and that they do not confer avoided emissions value under the cap-and-trade program. This is correct. But this has no bearing on whether RECs are used to report delivery of the emissions profile (direct emissions) of renewable energy to customers. Direct emissions (emissions factor) of generation and avoided emissions are two different attributes. The direct emissions of renewable energy are not affected by cap-and-trade.

Again, if emissions reported per the MRR represent emissions attributable to retail consumers in California, and RECs are not required for renewable energy imports/deliveries, then there is the potential for double counting where the REC is sold separately from the electricity. To date, CARB has not stated that the MRR has no effect on retail customer claims. In fact, as of the date of these comments, the MRR is still being proposed as the guiding methodology for supplier GHG emissions intensity reporting to customers in CEC staff proposals for power source disclosure.⁸

⁶ See Barbose, G. (July 2017). *U.S. Renewables Portfolio Standards 2017 Annual Status Report*. Lawrence Berkeley National Laboratory. pg. 15: <http://eta-publications.lbl.gov/sites/default/files/2017-annual-rps-summary-report.pdf>.

⁷ Available at: <https://www.oregon.gov/energy/energy-oregon/Documents/2017-Public-Comments-RECs-EIM.pdf>. Starting on pg. 8.

⁸ See California Energy Commission (CEC) Docket #16-OIR-05: https://www.energy.ca.gov/power_source_disclosure/.

Solutions

The simplest solution to avoid double counting is to synchronize the accounting for imports of specified renewable power in cap-and-trade with the accounting mechanism for delivering renewable energy to customers in renewable energy markets. In other words, require that the RECs associated with imported power also be imported in order for MRR reporting entities to report zero-emissions renewable imports and avoid a compliance obligation under cap-and-trade. Modifying Sec. 95111(a)(4) of the MRR would recognize the mechanisms and instruments used in the broader electricity market for tracking renewable energy delivery in the design and implementation of California's cap-and-trade program and in so doing avoid potential double counting.

If not, the state can explicitly state that the assignment of emissions to imported electricity under cap-and-trade does not automatically result in delivery of electricity with those emissions to retail customers in the state, and that delivery of renewable energy can only be supported with REC delivery and retirement by or on behalf of customers in that state.

Regardless, the RECs associated with power that has been counted as a zero-emissions import under cap-and-trade should be identified in WREGIS, so that other state and voluntary programs can identify and choose whether or not to accept them.

Additional Resources

- CRS Presentation at EIM Regional Issues Forum 9/7/2017: <https://www.westerneim.com/Documents/CRSPresentation-REC-GHGTreatmentinEIM.pdf>
- Aug 2017 Comments to Oregon Department of Energy (ODOE) on Renewable Energy Certificates Associated with Energy Imported into the California Energy Imbalance Market (CRS Comments start on pg. 17; Joint CPUC/CEC/ARB comments start on pg. 8): <https://www.oregon.gov/energy/energy-oregon/Documents/2017-Public-Comments-RECs-EIM.pdf>.
- CRS comments on proposed changes to the MRR 4/28/2017: https://resource-solutions.org/wp-content/uploads/2017/06/CRSCommentMRR_4-28-2017.pdf
- Corporate and Voluntary Renewable Energy in State Greenhouse Gas Policy An Air Regulator's Guide, Sec. 4.6.1: <https://resource-solutions.org/wp-content/uploads/2017/10/Corporate-and-Voluntary-RE-in-State-GHG-Policy.pdf>

Please let me know if we can provide any further information or answer any other questions.

Sincerely,



Todd Jones
Director, Policy and Climate Change Programs