



June 29, 2020

Mr. Mark Johnson
State of Washington Utilities and Transportation Commission
621 Woodland Square Loop S.E.
Lacey, Washington 98503
P.O. Box 47250
Olympia, Washington 98504-7250

RE: DOCKET UE-191023. COMMENTS OF CENTER FOR RESOURCE SOLUTIONS (CRS) IN RESPONSE TO THE JUNE 12, 2020 NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS (“JUNE 12 NOTICE”) RELATING TO CLEAN ENERGY IMPLEMENTATION PLANS (CEIPS) AND COMPLIANCE WITH THE CLEAN ENERGY TRANSFORMATION ACT (CETA)

Dear Mr. Johnson:

Center for Resource Solutions (CRS) appreciates this opportunity to respond to the questions for consideration in the June 12 Notice. Below please find our responses to questions 1, 2, 2.a, 2.b, and 2.c.

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 provides technical guidance to policymakers and regulators at different levels on matters related to renewable energy policy design, accounting, tracking and verification, market interactions, and consumer protection. CRS also administers the Green-e® programs. For over 20 years, Green-e® has been the leading independent certification for voluntary renewable electricity products in North America. In 2018, Green-e® certified retail sales of over 62 million megawatt-hours (MWh), serving over 1.2 million retail purchasers of Green-e® certified renewable energy, including 61,000 businesses.¹

RESPONSES TO QUESTIONS FOR CONSIDERATION IN THE JUNE 12 NOTICE

¹ See the 2019 (2018 Data) Green-e® Verification Report here for more information: <https://resource-solutions.org/g2019/>.

1. Do you agree with Staff's preliminary interpretation [that "use" in RCW 19.405.040(1)(a) means delivery to retail customers of "bundled" renewable and nonemitting electricity]? Please explain why or why not and how the term "use" should be interpreted.

Yes. Since CETA identifies use of unbundled renewable energy credits (RECs) as an alternative compliance approach that can be used for up to 20% of compliance, this implies that at least 80% of compliance should be "bundled." On the one hand, since compliance is defined for "an electric utility," unbundled (and implicitly, bundled) "use" should be evaluated from the perspective of the utility—i.e. a utility must procure bundled renewable and nonemitting electricity (RE). On the other hand, a utility's use of bundled RE to meet retail sales could be interpreted to mean delivery of bundled RE to retail customers, from the perspective of the customer—i.e. a utility is using bundled RE to meet retail sales.

It is worth unpacking what it means to "use" renewable electricity and what use of "bundled" renewable electricity means from a utility and a customer perspective.

"Use" of renewable or other specified generation should be interpreted as where the generation is verifiably, contractually serving or delivered to retail load, retail sales, or retail customers. Use of specified generation on a shared grid can only be determined contractually. It therefore depends on the exclusive ownership and retirement (or "use") of generation attributes for retail load, sales, and/or customers, regardless of whether the attributes are procured or delivered together with or separately from physical power. For renewable resources, the generation attributes are embodied in RECs.²

Use of bundled RE, *from a customer's perspective*, should be interpreted as delivery of the nonpower attributes from generators in the same grid region as the customer plus the procurement of the power from either the same generators or generators in that grid region with an emissions rate that is less than or equal to the grid average emissions rate (e.g. unspecified power) to serve those customers. The nonpower attributes (e.g. the RECs for renewable electricity) should be retired on behalf of customers. In other words, a customer's use of bundled RE can include delivery of RECs and power from different generators in the same grid region, which is functionally equivalent to sourcing electricity and RECs from a facility based on the physics of the grid. This is distinct from a customer's use of unbundled RECs, in which case RECs are purchased separately by the customer.

Use of bundled RE, *from a utility's perspective*, should be interpreted as procurement of nonpower attributes (e.g. RECs) and power from the same generators located in the same grid region as the customer. If a utility's use of bundled RE also included procurement of RECs and power from different generators in the same grid region, there would be no difference between this and "using unbundled

² RCW 19.29A.010(20), 19.285.030(20), and 19.405.020(31).

RECs” from the perspective of the utility—in both cases RECs are purchased separately by the utility—besides perhaps that unbundled RECs may be procured from a different grid region.

We’d like to draw the Commission’s attention to two points related to this interpretation under CETA. First, electricity generated by a renewable resource may be considered “delivered” or “used” regardless of whether the electricity is generated at a different time from consumption by a Washington end-use customer. If “bundled RE” for 80% of retail load were further limited to situations where the physical power is delivered with the attributes at the same time (e.g. no “firming and shaping”), different customers may receive different amounts of renewables based on their load shape and the timing of the renewable generation (until the 100% target is achieved). This inequity stands in contrast to the fact that all Washington customers are paying for CETA and should receive equal benefits. Developments like increased storage may make it even more complicated to allocate bundled RE generation to load on a time-specific or real-time basis. See our response to question 2.a below for further discussion.

Second, an interpretation under CETA that at least 80% of compliance must be met by demonstrating procurement of nonpower attributes (e.g. RECs) and power from the same generators (i.e. “bundled” from the utility’s perspective) may be generally unresponsive of markets like the Energy Imbalance Market (EIM) and regional market expansion in general. For example, EIM purchases paired with RECs would not meet the definition of a bundled RE procurement and therefore, could not be used for at least 80% of retail sales. If use of bundled RE is defined by the state such that it effectively requires a bilateral agreement for 80% of sales, that will limit use of regional markets like the EIM. This may have significant negative impacts on regional, cost-effective RE development and efficient grid decarbonization.

The Commission should consider whether and how entities can make a bundled RE procurement or “use” bundled RE to serve retail sales through the EIM or other organized markets. There may still be options, if the EIM can show delivery of a specified resource and the utility can buy the RECs from that resource, and the Commission allows for procurement of RECs and power from the same facility at different times and through multiple transactions to be “bundled” and used for 80% of compliance.

The Commission can allow for the power from a renewable generator to be sold wholesale with unspecified or “null” attributes and replaced with regional unspecified or other specified power from within the region that has an emissions factor that is cleaner or as clean as the grid average to be paired with the attributes (excluding where the power that is sold is imported to California). In this case, the RE is procured bundled from the same generators, the attributes are retained, the electricity is sold as unspecified and the RECs are paired with other “as clean or cleaner” regional generation for an equivalent bundled RE use claim for the state. However, due to California’s accounting policy for the emissions associated with imported electricity under its Mandatory Reporting Regulation (MRR), which

can assign the emissions factor of the RE resource to the power,³ if the power is sold and subsequently imported to California (even if it is sold as unspecified power), this generation should not also be counted as RE delivered to Washington, either as bundled or unbundled RE. See further explanation under question 2 below and in an August 22, 2019 letter from CRS to the California Independent Emissions Market Advisory Committee (IEMAC).⁴

The Commission can also allow for the attributes and power from the same generator or group of generators to be procured at different times and through multiple transactions. This may allow markets like EIM to demonstrate the delivery of specified power which when bundled with RECs from the same generators can be used to satisfy “use of bundled RE” for 80% of CETA compliance.

2. If Staff’s preliminary interpretation were memorialized in rule, how should the Commission require a utility to demonstrate that it delivered “bundled electricity” to its customers and ensure that the nonpower attributes are not double counted either within Washington programs or in other jurisdictions, as required by RCW 19.405.040(1)(b)(ii)?

In general, in order to demonstrate a utility’s use of bundled RE for Washington customers, the Commission should require the following:

1. Retirement of the REC associated with the generation.
2. Proof of purchase of electricity to match the customer’s load from the same generator that created the REC.
3. Proof that power from the generator that created the REC is delivered to the customer’s grid region. For example, part of the state of Montana is located in Midwest Reliability Organization (MRO). The RE generator should be located in the Western Electricity Coordinating Council (WECC) portion of that state.

In order to prevent double counting of RE, the Commission should require the following:

1. Use of a credible REC tracking system (e.g. Western Renewable Energy Generation Information System [WREGIS]) to ensure that there is no double issuance, proper tracking and retirement of RECs, and verification of static and dynamic generation data.
2. RECs are retired on behalf of the Washington customers of the regulated entity.
3. RECs are fully aggregated. No attributes (e.g. GHG emissions) have been sold off or otherwise counted by other customers or in other jurisdictions (as generation serving other customers or load in other states).

³ See Sec. 94511(a)(4) of the MRR.

⁴ <https://resource-solutions.org/wp-content/uploads/2019/12/CRS-Letter-to-IEMAC-8-22-2019.pdf>.

4. The underlying electricity has not been counted or claimed as renewable or assigned the attributes (e.g. GHG emissions) of the renewable generator based on an alternative accounting instrument, contractual documentation or other methodology.
5. No double claims. The generation attributes have not been reported, transacted, or claimed by or on behalf of any other customers.

Regarding no. 4, if there are other, neighboring jurisdictions or markets that allocate emissions, fuel type or other generation attributes to customers or load using a mechanism other than the REC, there is a potential for double counting with Washington's program. For example, California's MRR calculates the emissions associated with imported electricity without requiring REC retirement.⁵ The EIM also allocates generation and emissions to California, for the purpose of calculating the emissions associated with imported electricity, based on an optimization method that does not consider RECs. See Washington's definitions of REC⁶ and nonpower attributes.⁷ Also see California's definition of imported electricity.⁸ Also see the August 22, 2019 letter from CRS to the California IEMAC.⁹

For bundled procurements, and across the compliance options provided by the Commission in the June 12 Notice, the same requirements to prevent double counting above apply. There may be less risk that the underlying electricity can also be counted as renewable or assigned renewable attributes, depending on whether RECs and power must stay bundled through to the end user, and depending on whether Washington requires the same documentation that is used in other jurisdictions to demonstrate use or delivery of renewable or specified power, particularly those that do not require RECs. We recommend that the Commission require the same non-REC-related documentation (e.g. for the procurement of the power component of the bundled transaction) that other jurisdictions (and in particular, California) require.

2.a [Please explain your position on the following compliance option:] The source and amount of all power injected into the bulk electric system is known and documented at the time retail load is being served. In setting the requirements for demonstrating compliance with RCW 19.405.040(1)(a), should that information and supporting documentation be required? If not, why not?

⁵ See Sec. 94511(a)(4) of the MRR: "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."

⁶ RCW 19.29A.010(20), 19.285.030(20), and 19.405.020(31): "The [REC] includes all of the nonpower attributes associated with that one megawatt-hour of electricity."

⁷ RCW 19.285.030(15)(a) and 19.405.020(29)(a): "Nonpower attributes' means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity." GHG emissions are not excluded from these attributes in subsections (b) of RCW 19.285.030(15) and 19.405.020(29).

⁸ Sec. 95802(a) California's Cap-and-trade Regulation: "Imported Electricity' means electricity generated outside the state of California and delivered to serve load located inside the state of California."

⁹ <https://resource-solutions.org/wp-content/uploads/2019/12/CRS-Letter-to-IEMAC-8-22-2019.pdf>.

We interpret this compliance option to be demonstration that the timing of RE power generation matches the timing of load. In this case, both the attributes and physical electrons could go anywhere and as a result it does not verify exclusive delivery of RE to customers. Coincident RE generation does not constitute delivery of RE to customers on a shared grid. Therefore, the risk of double counting is not different or reduced with this compliance option, and the same requirements to prevent double counting listed above apply.

In addition, if this option is adopted, it should be accompanied by specific disclosure to customers. For example, “X% of this RE was generated at the same time period as your consumption.” This may be difficult to demonstrate for an individual customer. Or “X% of this RE was generated at same time period as the utility served its retail load for X time period.” There should also be disclosure that regardless, time-coincident generation does not mean that a customer’s home or business is physically powered by a RE facility.

In addition to the criteria above, for this compliance option, there should be also be “hourly” or “time-based” RECs—RECs that contain information about the time of day at which the generation occurred—to prevent double counting. We would be happy to provide the Commission with additional information and resources around the potential creation and use of time-based RECs to support these claims.

Finally, if this option is adopted, the Commission should address the fact that, up until the 100% target is met, it would mean that some customers are receiving more RE than others based on their load shape relative to the renewable generation.

2.b [Please explain your position on the following compliance option:] Is it possible to use the utility’s fuel mix disclosure, as required by RCW 19.29A.060, to demonstrate compliance with Staff’s preliminary interpretation of RCW 19.405.040(1)(a) [delivery to retail customers of “bundled” renewable and nonemitting electricity in an amount equal to one hundred percent of the utility’s retail electric loads over each multiyear compliance period]? How would the Commission ensure that the nonpower attributes are not double counted?

This question asks about the Fuel Mix Disclosure program in particular. We also understand it to be asking more generally about annual matching of generation to load vs. the more “real-time” option above (option 2.a). Matching of generation to load over an annual or other time period to demonstrate compliance is possible and would be appropriate. In fact, it may have some advantages over the option above (see response to question 2.a above). See further below for discussion of annual vs. multiyear compliance reporting in Fuel Mix Disclosure and under CETA, respectively.

Regarding the Fuel Mix Disclosure program, first, we assume the Commission's question pertains not only to RCW 19.29A.060, but to other parts of the chapter as well. In particular, the source and disposition report, described in RCW 19.29A.130-150, is where the utilities make claims to resources and is the basis for disclosure to customers, described in RCW 19.29A.060.

Second, the terms "bundled" and "unbundled," while they are not defined or used in chapter 29A RCW, may be understood in the context of the Fuel Mix Disclosure program. Utilities must report use of "declared" resources, which include "a stated quantity of electricity tied directly to a specified generation facility or set of facilities,"¹⁰ if they were, "the direct or indirect owner of the generating facility or acquired the electricity in a transaction, supported by an auditable contract trail, in which the buyer and seller specified the source or set of sources of the electricity."¹¹ For renewable resources, the RECs must be included: "A retail supplier may not report a declared resource as a renewable resource if there exists a renewable energy certificate or other instrument representing the nonpower attributes of the electricity and the retail supplier does not own the renewable energy certificate or instrument."¹² Consequently, these could be referred to as bundled.

Then, the utility assigns resources to its retail load, for which no specific method is prescribed.¹³ Those resources can include both declared and unspecified electricity. A utility may also procure unbundled RECs (from either inside or outside of Washington) and pair them with unspecified power from the western grid in order to report that as renewable electricity delivered to and "used" by customers on the fuel mix disclosure label. So, in Fuel Mix Disclosure, bundled procurement by retail suppliers is equivalent to declared resources, but bundled use by customers can include RECs paired with unspecified power from the region. Again, these terms differ depending on the perspective. See the response to question 1 above. CETA clearly refers to use of unbundled RECs by a retail electric utility. In which case, use of bundled RE must be interpreted as procurement of RECs and power from the same facility.

Third, there is multiyear compliance under CETA, RCW 19.405.040(1)(a), and annual compliance in Fuel Mix Disclosure. In general, differences in compliance and reporting time frames between programs do not prevent reporting for CETA from aligning with renewable energy resource reporting and REC retirement under Fuel Mix Disclosure. Reporting entities always have the option to make annual retirements of RECs for both programs. Plus, changes could be made to the Fuel Mix Disclosure program to address the effect of banking or holding RECs for CETA, if permitted and where this is necessary. But this would require additional rulemaking. For example, reporting entities could be

¹⁰ RCW 19.29A.010(6).

¹¹ RCW 19.29A.140(2)(a).

¹² RCW 19.29A.140(2)(c).

¹³ RCW 19.29A.140(2)(b).

allowed to true up older fuel mix disclosure labels based on retirements of RECs for CETA that were held from previous years, provided that they disclose on the labels that the specified renewable energy percentage could change.

Requirements for consistency between reporting for CETA and Fuel Mix Disclosure, including RCW 19.405.070(1) and RCW 19.405.100(4)¹⁴, appear to effectively require annual REC retirement for CETA. Banking or holding RECs for CETA compliance beyond one year after submitting the report for Fuel Mix Disclosure would mean that they cannot be used that year to report use of a renewable resource under Fuel Mix Disclosure, per RCW 19.29A.150(3).

Banking or holding RECs also raises questions about whether this constitutes “unbundling,” in which case that RE could only be used for up to 20% of retail load. We’ve said earlier that electricity generated by a renewable resource may be considered “delivered” or “used” regardless of whether the electricity is generated at a different time from consumption by a Washington end-use customer. We’ve also said that the Commission can allow for procurement of RECs and power from the same facility at different times and through multiple transactions to be considered “bundled” and used for 80% of compliance, which may help to facilitate use of regional markets. But if the RECs associated with purchased generation are held and subsequently retired (i.e. “used” or claimed) in a different year, procurement of the RECs and power would each be reported differently under Fuel Mix Disclosure, and as a result, “use” of RE by the utility would be reported differently under Fuel Mix Disclosure and CETA. Though the sum of RE delivered to customers over the multiyear CETA compliance timeframe would be equal in both programs, the supplier would report null power in Fuel Mix Disclosure until the RECs are retired.¹⁵ In other words, the same “use” of RE by a utility would be considered unbundled in the fuel mix source and disposition report and potentially “bundled” to meet RCW 19.405.040(1)(a) under CETA. The Commission may therefore consider whether procurement and use of RECs and power from the same facility within the same year is a reasonable threshold for “bundling.”

2.c If the Commission relied on utility attestation for compliance with RCW 19.405.040(1)(a), what underlying documents would the utility rely on to make that attestation?

We do not recommend this compliance option. We do not believe that it is consistent with RCW 19.405.040(1)(a), which requires that “an electric utility must demonstrate its compliance with this standard.” Though attestation may contribute to demonstration, we do not believe a declaration alone is sufficient as proof. We also do not believe it is consistent with RCW 19.405.040(1)(f): “Nonemitting electric generation used to meet the standard under (a) of this subsection must be generated during

¹⁴ “The department must adopt rules establishing reporting requirements for electric utilities to demonstrate compliance with this chapter. The requirements must, to the extent practicable, be consistent with the disclosures required under chapter 19.29A RCW.”

¹⁵ RCW 19.29A.150.

the compliance period and must be verified by documentation that the electric utility owns the nonpower attributes of the electricity generated by the nonemitting electric generation resource.”

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy