



September 14, 2020

Glenn Blackmon, PhD
Manager, Energy Policy Office
Washington State Department of Commerce
1011 Plum Street SE
P.O. Box 42525
Olympia, WA 98504-2525

**RE: COMMENTS OF CENTER FOR RESOURCE SOLUTIONS (CRS) ON SECOND DISCUSSION DRAFT
RULE LANGUAGE FOR IMPLEMENTATION OF THE CLEAN ENERGY TRANSFORMATION ACT (CETA)**

Dear Dr. Blackmon,

CRS appreciates this opportunity to submit comments on the August 14, 2020 Second Discussion Draft Rules. Our comments below are organized by proposed Washington Administrative Code (WAC) section number as presented in the Second Discussion Draft.

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

COMMENTS

194-40-060 - Reporting fuel mix and greenhouse gas emission

1. We support draft rules requiring consistency between annual CETA reporting and the fuel mix source and disposition report.

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

This is consistent with RCW 19.405.070(1) and RCW 19.405.100(4).²

2. We recommend adding a reference to RCW 19.29A.150 to subsection (1).

We understand draft rules for WAC 194-40-060 to effectively require annual renewable energy certificate (REC) retirement for CETA compliance as currently written. But the addition of a reference to RCW 19.29A.150 would clarify that a greenhouse gas content calculation for CETA that is, “based on the quantities and fuel sources, including unspecified sources, of electricity identified in the source and disposition report required under subsection (1),” means that, “a retail supplier must retire any renewable energy certificates included in its source and disposition report within one year after submitting its report” per RCW 19.29A.150(3). Banking or holding RECs for CETA compliance beyond one year after submitting the source and disposition report would mean that they cannot be used that year to report use of a renewable resource, and consequently the greenhouse gas content calculation for CETA could not be based on the quantities and fuel sources identified in the report.

194-40-320 - Use of electricity from renewable resources and nonemitting electric generation

3. The state can consider the following revision to subsection (1): “For the purposes of RCW 19.405.040(1)(a)(ii), a utility uses electricity if it generated the electricity using its own generating facility or if it acquired, ~~in a single transaction,~~ ownership of the electricity and the nonpower attributes of that electricity from a single generating facility located in the same grid region as the customer.”

Subsection (1) defines bundled use of renewable and nonemitting electricity, for at least 80% of compliance, as acquisition of both energy and attributes in a “single transaction.” The state could consider whether energy and attributes from the same facility but acquired at different times (e.g. within the same year or shorter period of time) and through different transactions also represents bundled procurement and use consistent with RCW 19.405.040(1)(a)(ii). If so, this may provide additional flexibility to utilities and promote the use of regional markets for compliance outside of the 20% of load met through alternative compliance (e.g. unbundled procurement).

For example, for compliance using the Western Energy Imbalance Market (EIM), use of some resource-specific allocation mechanism for Washington in the EIM (which would need to be invented³) plus acquisition of the RECs from that resource could be considered bundled under this suggested revision.

² “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.”

³ Washington cannot use the same EIM allocation or “deeming” method that is currently used for California, the GHG adder, because there is no carbon price in Washington. For example, this could be done based on the timing of the purchase—the EIM/EDAM could tell Washington utilities what the facility-specific mix was when the utility was taking delivery, and then

Furthermore, additional revisions to this section could define bundled use in the context of market purchases (e.g. EIM or Extended Day-ahead Market [EDAM]) in particular to include an EIM purchase plus procurement of RECs from the pool of EIM resources (or “EIM RECs”). This may avoid having to match hourly RECs with real-time purchases in the EIM.

4. We support subsection (2), allowing for compliance with RCW 19.405.040(1)(a)(ii) where the energy from owned generation or bundled procurements is later sold as unspecified.

The power from a renewable generator may be sold wholesale with unspecified or “null” attributes (except where the power that is sold is imported to California, see comment 6 below) and, in this case, the renewable energy is procured bundled from a single generator and the attributes are retained for a credible renewable energy use claim for the state. In this case, the power that is sold is replaced with other power. But the physical electrons are indistinguishable and interchangeable, and as long as the power that is sold is not renewable and the replacement power is also unspecified or cleaner (see comment 5 below), there is no double counting—i.e. the utility is exporting unspecified power and importing unspecified power.

5. The state may consider the following change to the end of subsection (2): “[...] unless the electricity transaction identified the electricity as unspecified electricity, ~~and the utility retained ownership of the nonpower attributes, and replacement electricity is either unspecified or~~ specified power from within the region that has an emissions factor that is lower than or equal to the regional grid average.”

This would prevent utilities from replacing the unspecified power they sell with specified, dirtier power (e.g. coal power) to be paired with the nonpower renewable attributes.

6. We recommend adding a requirement to this section that: “a utility using electricity as provided in subsection (1) may not use the nonpower attributes of electricity that is imported to California for compliance with the GHG Neutral Standard.”

Subsection (2) does not prevent power that is sold and imported to California from being assigned the emissions of the renewable generator (e.g. zero emissions) and counted as delivered to serve load in California by the California Air Resources Board (CARB). California’s accounting policy for the emissions associated with imported electricity under its Mandatory Reporting Regulation (MRR) assigns the emissions factor of the renewable resource to the imported power regardless of whether the power is sold as unspecified power and this is identified in the power contract.⁴

they utility would acquire the RECs to match. This may require tagging RECs by time of generation in WREGIS, and there would be a way to ensure that the same EIM generation is not delivered to both California and Washington.

⁴ See Sec. 94511(a)(4) of the MRR.

To prevent double counting of this generation, the associated nonpower attributes should not be used for CETA compliance in Washington. Otherwise, Washington can work with California to develop requirements that would prevent double counting. See further explanation in an August 22, 2019 letter from CRS to the California Independent Emissions Market Advisory Committee (IEMAC).⁵

194-40-400 - Documentation and retirement of renewable energy credits

7. We support the requirement in Subsection (2)(a) that utilities must retire RECs for all electricity from renewable resources used to meet a target in an interim performance period, in addition to the requirements of RCW 19.405.040 and RCW 19.405.050.

Without REC retirement in the year of the interim target, reporting for interim targets would not represent delivery of renewable energy to meet retail load in that year (i.e. that the interim target had been met) and it may not indicate real progress toward compliance with RCW 19.405.040.

8. The new subsection (2)(b) may not be necessary.

To the extent that there are benefits associated with not requiring RECs issuance and retirement for legacy hydropower until the compliance deadline in 2030, there are also benefits to having these facilities registered in the Western Renewable Energy Generation Information System (WREGIS) and issuing RECs sooner. It would create consistency with requirements for other resources, improve the ease and strength of verification, and build consistency between the CETA and Fuel Mix Disclosure program.

194-40-410 - Use of renewable energy credits other than unbundled RECs

9. We have no preference between draft rules WAC 194-40-410 and 194-40-320.

There are, however, important differences between them, including:

- Draft rules WAC 194-40-320 include annual reporting requirements for CETA that do not appear to be included in draft rules WAC 194-40-410;
- Subsection (3)(a) provides more detailed description of bundled use to meet RCW 19.405.040(1)(a) than draft rules WAC 194-40-320;
- Subsection (4) explicitly links CETA compliance and Fuel Mix Disclosure (see comment 12 below); and

⁵ <https://resource-solutions.org/wp-content/uploads/2019/12/CRS-Letter-to-IEMAC-8-22-2019.pdf>

- Subsection (5) requires that electricity that is later sold *cannot be identified as renewable*, whereas subsection (2) of draft rules WAC 194-40-320 requires electricity that is later sold *must be identified as unspecified*; the two are different (see comment 14 below).

The state may consider resolving these differences in whichever section is chosen.

10. The state can consider the following revision to subsection (2): “The utility must acquire the REC and the electricity associated with the REC in a single transaction from a single generating facility located in the same grid region as the customer through ownership or control of the generating facility or through a contract for purchase or exchange.”

Subsection (2), like subsection (1) of draft rules WAC 194-40-320, defines bundled use of renewable and nonemitting electricity, for at least 80% of compliance, as acquisition of both energy and attributes in a “single transaction.” The state could consider whether energy and attributes from the same facility but acquired at different times (e.g. within the same year or shorter period of time) and through different transactions also represents bundled procurement and use consistent with RCW 19.405.040(1)(a)(ii). If so, this may provide additional flexibility to utilities and promote the use of regional markets for compliance outside of the 20% of load met through alternative compliance (e.g. unbundled procurement).

For example, for compliance using the EIM, use of some resource-specific allocation mechanism for Washington in the EIM (which would need to be invented⁶) plus acquisition of the RECs from that resource could be considered bundled under this suggested revision.

Furthermore, additional revisions to this section could define bundled use in the context of market purchases (e.g. EIM or EDAM) in particular to include an EIM purchase plus procurement of RECs from the pool of EIM resources (or “EIM RECs”). This may avoid having to match hourly RECs with real-time purchases in the EIM.

11. We support that subsections (3) and (4) do not require hourly matching of generation to load.

Demonstration that the timing of renewable, zero-emissions power generation matches the timing of load is not necessary to demonstrate delivery in compliance with CETA. 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. Coincident

⁶ Washington cannot use the same EIM allocation or “deeming” method that is currently used for California, the GHG Adder, because there is no carbon price in Washington. For example, this could be done based on the timing of the purchase—the EIM/EDAM could tell Washington utilities what the facility-specific mix was when the utility was taking delivery, and then they utility would acquire the RECs to match. This may require tagging RECs by time of generation in WREGIS, and there would be a way to ensure that the same EIM generation is not delivered to both California and Washington.

renewable generation does not constitute delivery of renewable energy to customers on a shared grid. The risk of double counting is not reduced with hourly matching of generation to load, and the same requirements to prevent double counting apply.

In addition, hourly matching of generation to load would require “hourly” or “time-based” RECs—RECs that contain information about the time of day at which the generation occurred—to prevent double counting. These do not yet exist in WREGIS.

Finally, up until the 100% target is met, hourly matching of generation to load would mean that some customers are receiving more RE than others based on their load shape relative to the renewable generation. The state would need to address that fact with customers.

12. We support subsection (4), which creates further alignment between Fuel Mix Disclosure and CETA compliance by effectively aligning bundled “use” in CETA with “declared” resources in Fuel Mix Disclosure.

This is consistent with RCW 19.405.070(1) and RCW 19.405.100(4).

The terms “bundled” and “unbundled,” while they are not used in chapter 19.29A 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,”⁷ 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.”⁸ 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.”⁹ It is appropriate that these also be considered bundled in the context of CETA.

We understand subsection (4) to effectively require annual REC retirement for CETA, consistent with draft rules at WAC 194-40-060. There do not appear to be specific or different REC retirement requirements for declared resources in Chapter 19.29A RCW. Banking or holding attributes or 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).

⁷ RCW 19.29A.010(6).

⁸ RCW 19.29A.140(2)(a).

⁹ RCW 19.29A.140(2)(c).

While it is not necessary that electricity generated by a renewable resource occur at the same time as consumption, and the state can consider allowing energy and attributes from the same facility to be acquired at different times through different transactions to meet RCW 19.405.040(1)(a)(ii) (see comments 3 and 10 above), if the RECs associated with purchased generation are held and subsequently retired (i.e. “used”) 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 renewable energy by the utility would be reported differently under Fuel Mix Disclosure and CETA. Though the sum of renewable energy 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.¹⁰ The state may therefore consider procurement and retirement of RECs and power from the same facility within the same year is a reasonable threshold for bundled “use.”

13. We recommend adding a reference to RCW 19.29A.150 to subsection (4).

This would clarify that bundled renewable energy used for compliance with this section that is “included as a declared resource of the utility in its source and disposition report” means that, “a retail supplier must retire any renewable energy certificates included in its source and disposition report within one year after submitting its report” per RCW 19.29A.150(3). Banking or holding RECs for CETA compliance beyond one year after submitting the source and disposition report would mean that they cannot be used that year to report use of a renewable resource, and consequently the electricity associated with the REC could not be included as a declared resource of the utility in its source and disposition report.

14. We support subsection (5), effectively allowing for compliance where the energy is later sold but prohibiting compliance where it is sold as renewable. However, we prefer the language in subsection (2) of draft rules WAC 194-40-320 that more directly requires that the “electricity transaction identified the electricity as unspecified electricity.”

The power from a renewable generator may be sold wholesale with unspecified or “null” attributes (except where the power that is sold is imported to California, see comment 16 below) and, in this case, the renewable energy is procured bundled from a single generator and the attributes are retained for a credible renewable energy use claim for the state. The power that is sold is replaced with other power. But the physical electrons are indistinguishable and interchangeable, and as long as the power that is sold is not renewable and the replacement power is also unspecified or cleaner (see comment 15 below), there is no double counting—e.g. the utility is exporting unspecified power and importing unspecified power.

¹⁰ RCW 19.29A.150.

However, requiring that the electricity be contractually identified as unspecified (per draft rules WAC 194-40-320) is stronger than simply requiring that it not be contractually identified as renewable.

15. The state may consider the following change to the end of subsection (5): “A utility may not use a REC subject to this section if it has sold or otherwise transferred ownership of the associated electricity in a transaction that contractually specifies the source of the electricity by fuel source or as renewable, or if replacement electricity is specified power from within the region that has an emissions factor that is greater than to the regional grid average.”

This would prevent utilities from replacing the unspecified power they sell with specified, dirtier power (e.g. coal power) to be paired with the nonpower renewable attributes.

16. We recommend adding a requirement to this section that: “A utility may not use a REC subject to this section if the associated electricity is imported to California,” or alternatively, “a utility using electricity as provided in subsections (2) and (3) may not use the nonpower attributes of electricity that is imported to California for compliance with the GHG Neutral Standard.”

Subsection (5) does not prevent power that is sold and imported to California from being assigned the emissions of the renewable generator (e.g. zero emissions) and counted as delivered to serve load in California by CARB. California’s accounting policy for the emissions associated with imported electricity under its MRR assign the emissions factor of the renewable resource to the imported power regardless of whether the power is sold as unspecified power and this is identified in the power contract.¹¹ To prevent double counting, the associated nonpower attributes should not be used for CETA compliance in Washington. Otherwise, Washington can work with California to develop requirements that would prevent double counting.

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy

¹¹ See Sec. 94511(a)(4) of the MRR.