



November 1, 2021

Dr. Glenn Blackmon
Washington State Department of Commerce
1011 Plum Street SE
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Olympia, WA 98504-2525

RE: DOCKET UE-210183. COMMENTS OF CENTER FOR RESOURCE SOLUTIONS (CRS) IN RESPONSE TO THE SEPTEMBER 27, 2021 JOINT WORKSHOP AND DISCUSSION ON DOUBLE COUNTING OF RENEWABLE ENERGY CREDITS (RCW 19.405.030 AND 19.405.130)

Dear Dr. Blackmon:

Thank you for considering these comments in response to the Joint Workshop and Discussion on Double Counting of Renewable Energy Credits (RECs) held on September 27, 2021. The following is a restatement of the oral statement that I made during the public comment portion of the Joint Workshop, with some additional information.

Based on our understanding of both programs, it would be double counting if electricity from a renewable generator is counted as a zero-emissions import into California under California's cap-and-trade program and the associated RECs are used for compliance with the Clean Energy Transformation Act (CETA) in Washington. The same zero-emission generation would be delivered to two different states. The reporting of zero-emissions renewable imports to California under cap-and-trade does constitute a claim on the environmental attributes.

The imported electricity piece of California's cap-and-trade program is "load-based."¹ It regulates the emissions associated with, "electricity generated outside the state of California and delivered to serve load located inside the state of California."² Greenhouse gas (GHG) attribution in the Western Energy Imbalance Market (EIM), "determines if [a] resource is serving load in [the] California GHG compliance

¹ See CRS's *Renewable Energy and Greenhouse Gas Accounting Glossary*, available: <https://resource-solutions.org/document/031921/>.

² Sec. 95802(a) California's Cap-and-trade Regulation.

area,”³ as opposed to load in Washington, for example. With imports under cap-and-trade, California is accounting for generation attributes delivered to load in California. CETA is also a load-based program—regulating retail sales of electricity to Washington customers.⁴ Accounting for imports under California cap-and-trade does affect CETA and RECs. That is the material difference, for CETA and load-based programs in other states, between generation from a California generator, which is not counted as delivered to serve California load under cap-and-trade, and imports from facilities located outside of California, which are reported as zero-emissions power delivered to load in California under cap-and-trade.

California’s Independent Emissions Market Advisory Committee (IEMAC) acknowledged this in its 2019 report:

“If a neighboring state associates a REC with a low- or zero-carbon resource when California also counts the low- or zero-carbon resource with the associated energy delivery, there is the potential to “count” (albeit using different metrics) the same low- or zero-emissions attribute twice.”⁵

It does not matter that the two programs are different in other ways. California’s cap-and-trade program tracks emissions associated with imported electricity and uses allowances while CETA tracks GHG neutral sales of electricity and sales of nonemitting electric generation and electricity from renewable resources to Washington customers and uses RECs. Load-based accounting—for emissions, fuel type, other individual attributes, or all attributes—should be consistent to prevent the same power from being delivered to different customers or states. It would still represent double counting where, for example, the power is counted by one state as zero-emissions power delivered to load and again by a different state as renewable power delivered to load. But CETA is not just a renewable energy program and is therefore not only concerned with fuel type. It regulates GHG neutral and nonemitting sales. In this case, it is not only the same generation but the same direct emissions generation attribute being potentially double counted by both California and Washington.

It also does not matter that California’s cap-and-trade program does not regulate utilities or assign emissions to “utility load,” specifically. It allocates generation to state load, by definition,⁶ and it would be double counting if the REC were used for a GHG delivery claim in a different state using the same generation. Allocation of generation to load in a state is sufficient to constitute a claim on associated RECs.

³ Slide 5 of the California Independent System Operator’s (CAISO’s) July 15, 2020 presentation to the state of Washington’s CETA Carbon and Electricity Markets Stakeholder Workgroup (MWG).

⁴ RCW 19.405.040(1)

⁵ IEMAC Annual Report 2019, pg. 16-17. Avail. at https://calepa.ca.gov/wp-content/uploads/sites/6/2020/01/Final_2019_IEMAC_Annual_Report_2019_12_06.a.pdf

⁶ See the definition of “Imported Electricity” in Sec. 95802(a) of California’s Cap-and-trade Regulation

Load-based accounting of GHG emissions from electricity generation affects RECs. RECs were created to prevent renewable energy generation from being delivered or sold to multiple consumers or states. They represent the contractual property rights⁷ to the fully aggregated nonpower attributes of renewable electricity generation and they are the essential tracking instrument for verifying use and delivery of renewable energy in Washington and across the country.⁸

RECs include the direct GHG emissions (e.g. the zero-emissions benefit) of renewable generation.

They are defined in Washington, California, and the Western Renewable Energy Generation Information System (WREGIS) as including “all environmental attributes” of electricity generation,⁹ and the direct GHG emissions associated with renewable generation are not excluded.¹⁰ But importantly, the inclusion of this attribute in RECs in Washington is implicit in the fact that RECs are used to verify compliance with RCW 19.405.040(1)(a) using renewable resources under CETA.¹¹ In other words, Washington uses RECs to track GHG emissions associated with retail sales of renewable electricity.

In California, again, RECs include, “all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource.”¹² RECs are required for GHG emissions intensity calculations by retail electricity suppliers under Power Source Disclosure.¹³ RECs are used for accounting under SB 100, the state’s policy that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers by 2045.¹⁴ The state’s Renewable Portfolio Standard (RPS) program, for which RECs are the compliance instrument, has an explicit GHG reduction purpose.¹⁵ The RPS program could not reduce emissions if the emissions rate of renewable energy did not follow the fuel type and the REC. Additionally, RECs are used to convey the GHG emissions profile of renewable energy in the state’s Low-carbon Fuel Standard

⁷ See Weinstein, J. (Jan 2021). *What are Renewable Energy Certificates?* Futures and Derivatives Law Report, Volume 41, Issue 1. Thomson Reuters.

⁸ *Ibid*, and see Jones, T. et al. (2015). *The Legal Basis of Renewable Energy Certificates*. Center for Resource Solutions. <https://resource-solutions.org/wp-content/uploads/2015/07/The-Legal-Basis-for-RECs.pdf>

Weinstein, J. (Jan 2021). *What are Renewable Energy Certificates?* Futures and Derivatives Law Report, Volume 41, Issue 1. Thomson Reuters.

⁹ Washington RCW 19.29A.010(20), RCW 19.285.030(20), RCW 19.405.020(31) and WASH. ADMIN. CODE 480-109-060(31): “all of the nonpower attributes associated with that one megawatt-hour of electricity.”

WASH. ADMIN. CODE 480-109-060(24)(a): “all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity from a renewable resource.”

CAL. PUB. UTIL. CODE § 399.12 (h)(2): “all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource.”

Western Electricity Coordinating Council, WREGIS Operating Rules (Jan 4, 2021). Section 2, pg. 10, 13. <https://www.wecc.org/Administrative/WREGIS%20Operating%20Rules%202021-Final.pdf>: “all Renewable and Environmental Attributes of MWh of electricity generation from a renewable energy Generating Unit.”

¹⁰ That which is not included in the “nonpower attributes” included in a REC is specified in WASH. ADMIN. CODE 480-109-060(24)(b). WASH. ADMIN. CODE 480-109-060(24)(b) does not include the direct GHG emissions associated with generation.

¹¹ RCW 19.405.040(1)(c).

¹² See CAL. PUB. UTIL. CODE § 399.12(h)(2). Language excluding “emissions reduction credits” from the attributes included in a REC is intended to prevent disruption of existing air regulations in California’s Health and Safety Code (Sec. 40709 of the Health and Safety Code). It refers to credits issued by local district air boards for reductions in the emission of air contaminants that can be used to offset certain future increases. It is not related to the direct GHG emissions factor attribute of renewable energy contained in the REC or avoided grid GHG reduction claims for REC consumers.

¹³ 20 CCR 1393(b)(1) and 20 CCR 1393(c)(1)(B)

¹⁴ See Section 1(c) of SB 100. See CAL. PUB. UTIL. CODE § 454.53(a) and (b)(4).

¹⁵ See CAL. PUB. UTIL. CODE § 399.11(b)(4).

(LCFS) program. In that program, unbundled RECs can be used as a part of book and claim accounting to determine the carbon intensity of electricity as a transportation fuel. Finally, in its Decision 08-08-028, the California Public Utilities Commission (CPUC) stated:

“The REC is more than a counter. Other than certain specified exceptions, the REC carries ‘all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource. . .’ underlying it. First and foremost, those attributes include lower, low, or no polluting emissions from the generation itself, and independence from the use of fossil fuels for the generation” (emphasis added).¹⁶

In general, using RECs for load-based accounting does not create a conflict between RPS and cap-and-trade, or between CETA and cap-and-trade. California’s “portfolio approach” is also not in conflict with accurate load-based accounting using RECs. RECs associated with imported electricity can also be used for California’s RPS.¹⁷ Renewable, zero-emission generation located outside of California can be imported to California and counted as zero emissions imported or serving load in the state under cap-and-trade and also counted toward the state’s RPS as electricity delivered to California customers, provided the associated RECs are retired. In this case, the cap-and-trade program and the RPS are complementary with respect to GHG emissions from the power sector.

Washington may likewise decide that RECs used for CETA can also be used for its RPS, and that the associated emissions can also be counted under a cap-and-trade program in Washington. It is not necessary that the RPS and cap-and-trade be mutually exclusive in terms of renewable electricity generation. For in-state renewable generation, cap-and-trade need not restrict movement of RECs at all, and for imported renewable electricity, cap-and-trade need not restrict the movement of RECs within the state. Cap-and-trade need only be concerned with RECs associated with imported electricity because that part of the program affects load-based carbon, RPS, and voluntary programs in other states.

States may also count a single REC toward more than one load-based program in the state if they so choose, e.g. RPS and CETA. In this case, the programs will again be complementary rather than additive. Accurate accounting only requires that each megawatt-hour (MWh) of generation not be delivered twice or to more than one customer. This means that a REC cannot be used *by different entities* under different programs. But a REC could be used by the same entity under different programs in the same state.

¹⁶ CPUC Decision 08-08-028, Sec. 4.1.2.3.2, pg. 17.

¹⁷ CEC, Eligibility Guidebook, 9th ed., p. 60, n. 43: “Use of a REC for compliance with the California RPS does not preclude an [Load Serving Entity]’s ability to report a specified import or use the RPS adjustment in accordance with the California Air Resources Board’s [Program].”

Avoided emissions are not at issue. It is the *direct emissions* attribute associated with generation that is potentially double counted in this case—a zero-emissions MWh is counted as delivered to serve load in California and then used to demonstrate retail sales of a zero-emissions MWh in Washington. Both the fact that the zero-emissions MWh does not avoid emissions on the grid due to the emissions cap in California and any difficulty in otherwise determining the amount of avoided emissions due to renewable energy on the grid are irrelevant to this double counting concern.

The most common type of GHG accounting for renewable energy, by both states and voluntary programs, is attributional accounting of direct GHG emissions¹⁸—the emissions associated with the production of the electricity that is delivered, sold, or purchased. In nearly all programs, and in energy contracts as well, the direct emissions associated with renewable generation follow the REC.

RECs may also be used to account for avoided grid emissions associated with delivered or purchased renewable generation. But this is not how we interpret the inclusion of unbundled RECs under CETA. Avoided emissions included in RECs have not necessarily been caused by the purchasing entity, nor are they equivalent to global emissions reductions, reductions beyond a baseline, or carbon offsets that are appropriate for net adjustments to reach a GHG neutral target. In addition, the avoided emissions value of renewable energy generation is zero where it is located or imported into a capped region. These issues are not related to double counting. Rather, we assume the intent was to demonstrate delivery of zero-emissions attributes to Washington customers but simply to limit this type of procurement option to 20% of compliance.

RECs contain both the direct and avoided emissions attribute because a MWh of generation from a renewable resource is both zero-emitting and has an emissions effect on the grid. Neither can be physically measured at the point of delivery or consumption. Keeping these attributes together in the REC allows for load-based and REC-based programs to deliver zero-emissions generation from renewable resources and generation that avoids emissions. Neither claim affects source-based programs.

The joint utilities have acknowledged that the use of RECs associated with power that is sold into California under CETA would represent double counting and they have proposed to exclude such RECs. As presented at the August 12 Workshop on “interpretations of use,” the joint utility proposal would put “strong double counting protections in place” requiring that specified source sales are excluded from both 80% primary compliance and 20% alternative compliance.¹⁹ That includes ensuring that each REC used for CETA will not be used for another purpose, using WREGIS, and that RECs

¹⁸ See CRS’s *Renewable Energy and Greenhouse Gas Accounting Glossary* for definitions of Attributional Accounting and Direct Emissions, available: <https://resource-solutions.org/document/031921/>.

¹⁹ See Slide 4 of Multi-year Compliance with Annual Surplus Accounting, Joint Utility Compromise Compliance Proposal, August 12, 2021, available at: <https://www.commerce.wa.gov/wp-content/uploads/2021/08/Multi-year-Compliance-with-Annual-Surplus-Accounting-Presentation-8-11-21-Final-CLEAN1-Read-Only.pdf>.

associated with specified sales for programs that do not require RECs are also excluded. Sales of nonemitting energy to California under its cap-and-trade program are their primary example. Use of associated RECs under CETA, either bundled or unbundled, are provided as examples of double counting, along with potential solutions for demonstrating that RECs are not associated with power counted as delivered to California.

By way of solutions, Washington and other states and programs need access to the REC serial information collected by the California Air Resources Board (CARB) per California's Mandatory Reporting Regulation (MRR). This will assist in identifying the RECs associated with generation that has been counted as a zero-emissions import to California. Those RECs should be identified in WREGIS and not be permitted for use in CETA in order to achieve intended objectives and to move faster toward achieving the state's and our collective GHG mitigation goals.

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy