



December 6, 2021

Amanda Maxwell
Executive Director and Secretary
State of Washington Utilities and Transportation Commission
621 Woodland Square Loop S.E.
Lacey, Washington 98503

RE: DOCKET UE-210183. COMMENTS OF CENTER FOR RESOURCE SOLUTIONS (CRS) IN RESPONSE TO THE NOVEMBER 10, 2021 NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS (“NOVEMBER 10 NOTICE”) ON DRAFT RULES RELATING TO ELECTRICITY MARKETS AND COMPLIANCE WITH THE CLEAN ENERGY TRANSFORMATION ACT (CETA) (“DRAFT RULES”)

Dear Ms. Maxwell:

CRS appreciates this opportunity to submit comments in response to the November 10 Notice. We provide comments on the Draft Rules followed by responses to selected questions for consideration in the Notice.

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 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 2020, Green-e® certified retail sales of over 90 million megawatt-hours (MWh), serving over 1.4 million retail purchasers of Green-e® certified renewable energy, including over 104,000 businesses.¹

¹ See the 2021 (2020 Data) Green-e® Verification Report here for more information: <https://resource-solutions.org/g2021/>.

COMMENTS

Comments on WAC 194-40-XXX / WAC 480-100-XXX Safeguards to prevent double counting of unbundled RECs

1. Subsection (2)(a) is correct that if electricity from a renewable resource is sold with the source specified (i.e. in a specified sale) then the renewable energy certificate (REC) must be included. But in this case, it is unclear how the REC could be unbundled and used for alternative compliance with CETA. Subsection (2)(a) reads that in order to claim and retire an unbundled REC for alternative compliance, any transfer of electricity from the facility that specifies the source must include the associated REC. But in that case the REC would be neither unbundled nor available for CETA compliance. We recommend a revision simply requiring that if the associated electricity is sold in a specified transaction, the REC may not be used for alternative compliance under CETA. If, however, subsection (a) is a requirement for different generation and RECs from the same facilities producing unbundled RECs for CETA compliance, we recommend clarification to that effect. In that case, this requirement would prevent double counting of that generation (unrelated to the generation associated with the unbundled REC used for CETA), but a prohibition on unbundled RECs associated with electricity that is sold in a specified transaction would still be necessary to prevent double counting of unbundled RECs used for CETA. We recommend adding such a requirement.
2. There is a category of transactions that is not addressed in subsections (2)(a)-(d)—a sale or transfer of electricity without the associated RECs in which the source of electricity is not specified at all, as either renewable or unspecified. This may include, for example, sales of electricity into a wholesale electricity market where there may be no contract or transaction record specifying that the source is unspecified. We recommend adding a requirement that in such a case alternative documentation be provided, such as market rules, proof of use of a market design mechanism used to prevent or exclude generation from being counted or allocated to a greenhouse gas (GHG) compliance area outside of Washington, and/or attestations from the generator, transacting parties, and/or market operator stating that the electricity is transacted as unspecified, that the environmental attributes have not and cannot be transacted in any other way, and that the generation and emissions associated with the generation have not been allocated to a GHG compliance area outside of Washington.
3. According to Sec (2), subsections (a)-(d) include requirements (“business practices”) for “renewable generating facility[ies]” from which unbundled RECs used for alternative compliance are obtained. But subsection (c) addresses RECs associated with electricity that is delivered, reported, or claimed, rather than the facility. A simple wording change may address this discrepancy.

4. Subsection (c) addresses RECs associated with electricity delivered, reported, or claimed as a “zero-emission” specified source under a GHG cap program outside Washington. This would cover RECs and electricity from resources like wind and solar, for example. But there are other resources generating RECs that are not zero-emitting (e.g. biomass and certain types of geothermal) the RECs and generation from which may still be reported for CETA and a GHG cap program outside Washington, respectively, though not to demonstrate the delivery of non-emitting generation. Also, “GHG cap program” may be understood narrowly to refer only to cap-and-trade or other “cap-and” programs. It may not capture other state GHG regulatory policies and programs (e.g. traditional command-and-control limits or standards for delivered/consumed electricity) that similarly assign the emissions of a renewable resource to electricity without the RECs. Therefore, we recommend the following revision to subsection (c):

“Any REC associated with electricity delivered, reported, or claimed as a ~~zero-emission~~ specified source or assigned the emissions or emissions rate of the renewable generation facility under a GHG ~~cap~~ program outside Washington must be:”

5. Electricity that is sold into a wholesale electricity market, e.g. the Western Energy Imbalance Market (EIM) or coming Extended Day-ahead Market (EDAM), may also be counted as a specified source or assigned the emissions or emissions rate of the renewable generation facility under a GHG program outside Washington. For example, there is an existing GHG attribution mechanism for allocating generation and emissions from the EIM to the California GHG compliance area for that state’s cap-and-trade program. However, subsection (c) does not clearly apply to these transactions. It is also not clear that subsection (2)(c)(i) would be possible in that case. We recommend that language be added that explicitly addresses this scenario. We recommend that RECs associated with EIM or other market imports to a state with a GHG program outside of Washington that counts the import as a specified source or assigns to it the emissions or emissions rate of the renewable facility (e.g. California) not be used for alternative compliance with CETA. See our comment (no. 2) above for recommendations for verification that unbundled RECs associated with electricity sold into regional wholesale markets have not been double counted.
6. Regarding subsection (2)(c)(i)-(ii), similar to our comment no. 1 on subsection (2)(a) above, if the REC is transferred with the electricity, per (i), or retired, per (ii), it is unclear how the REC could be unbundled and used for alternative compliance with CETA. Subsections (2)(c)(i)-(ii) read that in order to claim and retire an unbundled REC for alternative compliance, a REC associated with electricity reported as a zero-emission source under a GHG cap program must be transferred with the electricity or retired. But in that case the REC would be neither unbundled nor available for CETA compliance. We recommend a revision simply requiring that if the associated electricity reported as a specified source or assigned the emissions of the renewable

generator, then the REC may not be used for alternative compliance under CETA. If, however, subsection (2)(c)(i)-(ii) is a requirement for different generation and RECs from the same facilities producing unbundled RECs for CETA compliance, we recommend clarification to that effect. In that case, this requirement would prevent double counting of that generation (unrelated to the generation associated with the unbundled REC used for CETA), but a prohibition on unbundled RECs associated with electricity that is sold in a specified transaction delivered, reported, or claimed as a specified source or assigned the emissions or emissions rate of the renewable generation facility under a GHG program outside Washington is still necessary to prevent double counting of unbundled RECs used for CETA. We recommend adding such a requirement.

7. Regarding the requirement that retirement must indicate “other” as the purpose in subsection (2)(c)(ii), California and other states may have different REC retirement requirements and protocols for their programs that specify use of a retirement reason or purpose other than “other.” It may not be necessary to specify a specific retirement reason or purpose at all provided that the REC is retired for the GHG program and is not used for CETA.

Comments on WAC 194-40-ZZZ / WAC 480-100-ZZZ Accounting for retained RECs

8. Regarding subsection (1)(a), similar to our comments no. 1 and 6 on WAC 480-100-XXX(2)(a) and (2)(c)(i)-(ii) above, if a REC is included in a specified-source sale of the associated electricity, then it is unclear how the REC could be retained and used for primary compliance with CETA. Subsection (1)(a) reads that in order to claim and retire a retained REC for primary compliance, any transfer of electricity from the facility that specifies the source must include the associated REC. But in that case the REC would not be retained for CETA compliance. We recommend a revision simply requiring that if the associated electricity is sold in a specified transaction, the REC may not be used as a retained REC for primary compliance under CETA. If, however, subsection (a) is a requirement for different generation and RECs from the same facilities producing retained RECs for CETA compliance, we recommend clarification to that effect. In that case, this requirement would prevent double counting of that generation (unrelated to the generation associated with the retained REC used for CETA), but a prohibition on retained RECs associated with electricity that is sold in a specified transaction would still be necessary to prevent double counting of retained RECs used for CETA. We recommend adding such a requirement.
9. Similar to our comment no. 2 on WAC 480-100-XXX(2)(a)-(d) above, WAC 480-100-ZZZ(1)(a)-(b) do not address a sale or transfer of electricity without the associated RECs in which the source of electricity is not specified at all, as either renewable or unspecified. This may include, for example, sales of electricity into a wholesale electricity market where there may be no contract

or transaction record specifying that the source is unspecified. We recommend adding a requirement that in such a case alternative documentation be provided, such as market rules, proof of the use of a market design mechanism used to prevent or exclude generation from being counted or allocated to a GHG compliance area outside of Washington, and/or attestations from the generator, transacting parties, and/or market operator stating that the electricity is transacted as unspecified, that the environmental attributes have not and cannot be transacted in any other way, and that the generation and emissions associated with the generation have not been allocated to a GHG compliance area outside of Washington.

10. We also recommend that RECs associated with EIM or other market imports to a state with a GHG program outside of Washington that counts the import as a specified source or assigns to it the emissions or emissions rate of the renewable facility (e.g. California) not be used as retained RECs for primary compliance with CETA. See our comment no. 9 above for recommendations for verification that retained RECs associated with electricity sold into regional wholesale markets have not been double counted.

RESPONSES TO SELECTED QUESTIONS FOR CONSIDERATION

Combined Response to Questions 1 a-e:

It is important that Washington has rules to prevent double counting of RECs and generation used for CETA compliance. Rules that also require certain business practices for other transactions and generation that is not used for CETA compliance will strengthen markets for renewable energy and indirectly strengthen CETA. See our comments above for recommendations for additional language/requirements to ensure that there is no double counting of RECs used for CETA compliance.

2. *Business practices for transactions involving electricity delivered or claimed under greenhouse gas cap programs:*
 - a. *Sec. -XXX(2)(c) applies to transactions involving GHG cap programs outside Washington. Is it reasonable to distinguish between GHG cap programs outside Washington and Washington's own GHG cap program, the Climate Commitment Act (CCA)? Is it relevant in making this decision that the electricity and the unbundled REC are used in the same jurisdiction?*

Yes. Washington may decide that electricity generation counted under its own GHG program may also be used for CETA and other WA program compliance. This would not represent double counting. It is not necessary that the CETA, RPS and the CCA be mutually exclusive in terms of renewable electricity generation. In this case, the programs will 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 or for load-based programs in different states. But a REC could be used by the same entity under different programs in the same state.

- b. Sec. -XXX(2)(c) uses the term "GHG cap program," and the workshop discussion focused primarily on California's cap and trade program. How should the term "GHG cap program" be defined? Should the rule identify specific programs? If so, please provide an alternative term and definition.*

See our comment no. 4 above.

- 4. Double counting safeguards for retained RECs: The statutory prohibition on double counting applies to unbundled RECs retired for alternative compliance obligations. The draft rules on "use" allow retained RECs to be used in addition to electricity from renewable generation resources for primary compliance. Should the business practices preventing double counting be applied to retained RECs? If so, does draft section -ZZZ do this effectively?*

See our comments no. 8-10 above.

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy