



February 9, 2022

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

Dr. Glenn Blackmon
Washington State Department of Commerce
1011 Plum Street SE
P.O. Box 42525
Olympia, WA 98504-2525

RE: DOCKET UE-210183. COMMENTS OF CENTER FOR RESOURCE SOLUTIONS (CRS) IN RESPONSE TO THE UTILITIES AND TRANSPORTATION COMMISSION (UTC) JANUARY 19, 2022 NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS ("JANUARY 19 NOTICE") ON DRAFT RULES RELATING TO ELECTRICITY MARKETS AND COMPLIANCE WITH THE CLEAN ENERGY TRANSFORMATION ACT (CETA) AS WELL AS THE DEPARTMENT OF COMMERCE JANUARY 19, 2022 DRAFT RULES CONCERNING USE OF ELECTRICITY, STORAGE, AND DOUBLE-COUNTING

Dear Ms. Maxwell and Dr. Blackmon:

This letter contains CRS's comments in response to both the UTC's January 19 Notice and two sets of draft rules (Second Draft Rules on "Use" and Second Draft Rules on Double Counting and Storage), as well as Commerce's January 19 Notice and Draft Rules. Comments for the Commission begin on the following page, and comments for Commerce begin on page 5. They are organized into subheadings corresponding with the different sections of the draft rules. CRS appreciates this opportunity to submit comments.

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

COMMENTS IN RESPONSE TO UTC JANUARY 19 NOTICE AND DRAFT RULES

Second Draft Rules on “Use”

1. In WAC 480-100-605, we suggest minor modifications to the definition of “Unbundled renewable energy credit (REC)” to clarify the distinction between unbundled RECs and retained nonpower attributes (NPAs).²

It is not clear that the definition refers to RECs “sold” or “delivered” to or “purchased” by a utility, as opposed to RECs sold or delivered to or purchased by Washington customers. RECs that are delivered to customers separately from the underlying electricity could include Retained NPAs, which are not procured unbundled by utilities. Alternatively, the definition could include an explicit statement that Unbundled RECs do not include Retained NPAs.

Second Draft Rules on Double Counting and Storage

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

2. We recommend the following change to subsection (2)(b): “The associated electricity was not delivered, reported, or claimed as imported or delivered to serve load and a zero-emission specified source or assigned the emissions rate of the renewable generating facility under a GHG program outside of Washington or programs linked with Washington.”

Notwithstanding subsection (5), generally, subsection (2)(b) should be rewritten so as not to include 1) greenhouse gas (GHG) programs in Washington and linked programs, and 2) electricity reported under a source-based program, or the source-based part of a program, e.g. generation located inside California, which does not affect RECs. It should only exclude unbundled RECs associated with power that is reported or claimed as imported or delivered to a state with a GHG program (other than Washington and linked programs) and assigned the emissions rate of the renewable facility.

In general, Washington should only exclude unbundled and retained RECs associated with electricity that is imported or delivered to serve load outside of Washington (or a linked GHG compliance area

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

² See pg. 2 of CRS’s November 12, 2021 Comments on UTC’s October 12, 2021 Notice and Draft Rules.

that includes Washington) with the emissions rate of the renewable generator. Unbundled RECs from generators located inside states with source-based GHG programs (e.g. California generators) should not be excluded for use by Washington utilities for CETA compliance on the basis of double counting. Generation from California generators is not necessarily delivered to serve California load under cap-and-trade, whereas imports are defined as power delivered to load in California and emissions (attributes) are assigned to that power for the purposes of reporting and compliance under cap-and-trade.

3. Additional clarification related to subsection (2)(b) may be required to address an “unspecified” or “zonal” approach to GHG optimization and attribution currently being considered for the California Independent System Operator’s (CalISO’s) extended day-ahead market (EDAM) design.

It is our current understanding that such an approach would assign an emissions rate to a volume of electricity imported to a GHG zone, for emissions reporting and compliance under carbon pricing programs, without resource-specific attribution. As a result, electricity included in that volume would not violate subsection (2)(b) and associated unbundled RECs would be eligible for alternative compliance (assuming compliance with subsection (2)(a)).

4. It is unclear which, if any, of the documentation options in subsection (3) could be used in a situation in which the unbundled REC is associated with electricity sold into a wholesale electricity market where there is no contract or transaction record specifying that the source is unspecified.

It may be that market “transaction terms” would be sufficient to satisfy subsections (3)(a) and (2)(a), but additional clarification would be helpful.

5. In addition or as an alternative to the options in subsection (3), particularly to verify compliance with subsection (2)(b), we recommend that Washington Department and Commission staff coordinate with agencies in California and other states to determine whether RECs are associated with specified imports or deliveries outside of Washington using REC ID numbers.

Coordination among states is a particularly good solution for electricity transacted (and possibly assigned attributes and attributed to certain states or zones) in regional markets. In general, we recommend more formalized and regular communication, coordination, and data sharing among Western states with clean energy standards and GHG programs about the specified power and/or associated emissions claimed and reported in each state. Ideally, this information could also be shared with and made transparent in the Western Renewable Energy Generation Information System (WREGIS).

6. We recommend the following change to subsection (4): “directly into a state with a GHG program other than Washington or states with programs linked with Washington.”
7. We recommend the following changes to subsection (5): “any governmental program outside of Washington or linked states,” and, “from outside the governmental jurisdiction or linked GHG compliance area.”
8. Minor modifications to the definition of GHG program in subsection (5) may be needed in order to cover all GHG programs that may affect unbundled RECs used in Washington.

The definition of GHG program in subsection (5) may not cover traditional command-and-control limits on or standards for GHG emissions associated with delivered/consumed electricity that similarly assign the emissions of a renewable resource to electricity without the RECs but that do not “include electricity imported from outside the governmental jurisdiction.” In other words, it may not include programs that cover just emissions associated with consumed/delivered electricity not including imports, but that nevertheless claim the attributes of that electricity without the RECs. While we are not aware of such a program operating or proposed, it is a possibility. This definition should include any GHG program outside of Washington that claims delivery of the emissions associated with electricity to serve load in the state without the RECs, including but not limited to GHG cap and other programs that include imported electricity.

WAC 194-40-YYY / WAC 480-100-YYY Accounting for electricity from storage resources

9. Additional rule language is needed in this section or elsewhere to support draft rule language at WAC 480-100-650(2)(b).

According to draft language at WAC 480-100-650(2)(b), a utility “must acquire a resource portfolio that can supply its retail electric service obligations with electricity from renewable and nonemitting resources or electricity from an energy storage facility that sourced the energy for that electric production from electricity from renewable or nonemitting generation resources.” Draft rules in Section WAC 194-40-YYY / WAC 480-100-YYY do not help a utility or the state determine whether electricity from an energy storage facility has sourced energy for its production (discharge) from electricity from renewable or nonemitting generation resources. Please provide guidance on compliance with this section.

10. Additional clarification or rule language may be required in this section to address a situation in which the Retained NPAs are associated with electricity sold into a wholesale electricity market where there is no contract specifying that the source is unspecified.
11. It is unclear whether subsection (1) or draft rules at WAC 480-100-650(3)(d)(i) prevent use of Retained NPAs for primary compliance where the associated electricity was assigned the emissions rate of the renewable generating facility under a GHG program outside of Washington or programs linked with Washington.

Similar to subsection (2)(b) of WAC 194-40-XXX / WAC 480-100-XXX for unbundled RECs, Retained NPAs/RECs associated with electricity sold to a state with a GHG program outside of Washington or programs linked to Washington that count the import as a specified source or assign to it the emissions or emissions rate of the renewable facility without requiring the REC should not be used for primary compliance with CETA. If this is not achieved by the (1)(a-b) of this section or draft WAC 480-100-650(3)(d)(i), then we recommend additional rule language to that effect. Similar documentation and/or coordination between states to demonstrate compliance with these rules, as well as clarification to address an “unspecified” approach to GHG attribution in regional markets, may be required in that case.

COMMENTS IN RESPONSE TO COMMERCE JANUARY 19 NOTICE AND DRAFT RULES

194-40-410 Use of renewable energy credits other than unbundled RECs to comply with the greenhouse gas neutral standard

12. In subsection (2), the state could consider alternative language defining “use” as acquisition of both energy and attributes “from a single facility,” rather than in a “single transaction.”

As we have commented previously,³ this would allow for acquisition of 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 for primary compliance. We also request explanation for the difference between Commerce and UTC draft rules to the extent that the reference to “single transaction” is not present in the UTC’s draft rules at WAC 480-100-650(3)(d). We recommend consistent rule language.

13. In subsection (5), Commerce may consider adopting UTC’s draft rule language for eligible Retained NPAs.

³ See CRS’s September 14, 2020 Comments on Second Discussion Draft Rules.

UTC's proposed requirements for eligible retained NPAs at WAC 194-40-ZZZ / WAC 480-100-ZZZ (1)(b) are more precise than Commerce's descriptions of ineligible RECs. We generally prefer UTC's proposed language that "contracts must include terms stating the utility is not transferring any of the nonpower attributes, the buyer will not represent in any form that the electricity has any nonpower attributes associated with it, and the buyer must include such provision in any subsequent sale of the electricity."

194-40-415 Use of renewable energy credits to comply with the 100 percent renewable or non-emitting standard

14. As with subsection 194-40-410(2), in subsection (1)(a) of this section, the state can consider alternative language requiring acquisition of both energy and attributes "from a single facility," rather than in a "single transaction."

See comment no. 12 above.

15. Additional clarification or modification of the draft rule language at subsection (2)(a) requiring acquisition of RECs "through participation" in a clean energy market may be needed.

Please further define REC acquisition through participation in a market. For example, does this require that RECs be included in market transactions/transfers? If so, please explain Commerce's rationale for requiring that markets include certificates and not allowing entities to acquire certificates associated with generation participating in a market outside of the market.

16. Please explain Commerce's rationale for subsection (2)(c) requiring that all of an entity's energy must be sourced from the market in order for that entity to use any clean energy from that market.

WAC 194-40-420 Safeguards to prevent double counting of unbundled RECs

See comments no. 2-8 above on UTC's draft rules WAC 194-40-XXX / WAC 480-100-XXX. We submit these same comments to Commerce on its draft rules in section WAC 194-40-420.

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy