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State Of WASH.
UTIL. AND TRANSP.
COMMISSION

November 12, 2021

Mr. Steve Johnson
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 OCTOBER 12, 2021 NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS (“OCTOBER 12 NOTICE”) ON DRAFT RULES RELATING TO ELECTRICITY MARKETS AND COMPLIANCE WITH THE CLEAN ENERGY TRANSFORMATION ACT (CETA) (“DRAFT RULES”)

Dear Mr. Johnson:

CRS appreciates this opportunity to submit comments in response to the October 12 Notice. We provide 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

RESPONSES TO SELECTED QUESTIONS FOR CONSIDERATION

- 2. *Draft WAC 480-100-605: The draft rules include definitions that draw a distinction between a “retained” [Renewable Energy Credit] REC and the CETA definition of unbundled REC.*
 - a. *Is this distinction understandable?*

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

Yes. We understand Retained RECs to be RECs that are associated with owned generation, included in “bundled” purchases of electricity and attributes, or that are otherwise not purchased separately from the associated physical energy by electric utilities, and which are kept (not sold) whereupon the electricity is sold separately as unspecified or “null” power, then retired on behalf of Washington retail customers, and finally reported for primary compliance with CETA by those electric utilities. Whereas, we understand Unbundled RECs to be RECs that are purchased separately from the associated physical energy by electric utilities, paired with unspecified or specified power,² retired on behalf of Washington retail customers, and reported for alternative compliance per RCW 19.405.040(1)(b).

The energy from owned renewable generation or bundled renewable procurements may be later sold wholesale by an electric utility with unspecified or “null” attributes (except where the power that is sold is imported to California)³ and, in this case, the renewable energy was nevertheless procured bundled. After sale of the energy, the RECs retained for a credible renewable energy use claim for Washington have been separated from the power. But this is not equivalent to a situation where the utility procures RECs separately from electricity and may be different from procurement of unbundled RECs by a utility for the purposes of the alternative compliance provision in RCW 19.405.040(1)(b)(ii).

In this case, the sold power 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 unspecified or cleaner,⁴ there is no double counting or net difference in emissions. The utility is exporting unspecified power and importing unspecified power.

b. Are there other nuances to the distinction between retained RECs and unbundled RECs that should be addressed in the rule?

First, the proposed definition of Unbundled REC may be inclusive of Retained REC whereas I believe it is Commission and Department Staff’s intention that they be exclusive. Retained RECs, so defined, would be separated from the underlying/associated electricity when it is sold as unspecified, though Retained RECs may not be “purchased separately” by an electric utility.

Staff could specify by whom RECs are “purchased” in the definition of Unbundled REC in order that these definitions and categories of RECs should be mutually exclusive.⁵ Or, Staff could simply state explicitly that Unbundled RECs do not include Retained RECs as a category defined for CETA by adding the following or similar language to the definition of unbundled REC:

² See comment no. 4 in our Dec. 3, 2020 Comments on the November 5, 2020 Notice on CEIPs and Compliance with CETA.

³ See our response to question 5a in our June 14, 2021 Comments on May 17, 2021 Notice on Double Counting, Market Purchases and Interpretation of Use.

⁴ See below, and comment no. 4 in our Dec. 3, 2020 Comments on the Nov. 5, 2020 Notice on CEIPs and Compl. with CETA.

⁵ See our distinction between use from a customer’s perspective and use from a utility’s perspective in our June 29, 2020 Comments on the June 12, 2020 Notice on CEIPs and Compliance with CETA.

“Unbundled renewable energy credit” or “unbundled REC” means a renewable energy credit that is sold, delivered, or purchased separately from the underlying electricity. Unbundled REC does not include Retained REC.

Second, Retained RECs should not be permitted for primary compliance where the underlying electricity is sold into California, even if it is sold as unspecified power. California’s accounting policy for the emissions associated with imported electricity under the Mandatory Reporting Regulation (MRR) assigns the emissions factor of the renewable resource to the imported power regardless of whether the transaction contractually specifies the generation source and even in the case that the power is explicitly sold as unspecified power.⁶ To prevent double counting of this generation, the associated nonpower attributes, either Retained RECs or Unbundled RECs, should not be used for CETA compliance in Washington. We recommend inclusion of rules explicitly disallowing RECs associated with California imported electricity.

Third, the Commission may consider additional rule language to require that replacement power—the power to which Retained RECs are applied—is unspecified or cleaner. Requiring that replacement power be unspecified or cleaner than resold energy would prevent utilities from replacing the unspecified power that they sell with specified, dirtier power (e.g. coal power) to be paired with the nonpower renewable attributes under RCW 19.405.040(1)(a)(ii). For example, the Commission may consider the following or similar additional rule language: “Retained RECs may not be used for primary compliance if replacement electricity is procured in a transaction that contractually specifies a generation source with an emissions factor that is greater than the regional grid average.”

- c. *In order to make use of this distinction between retained RECs and unbundled RECs, utilities will have to track and differentiate these RECs.*
 - i. *Is it practicable to track retained RECs separately from unbundled RECs?*

Yes, provided Staff have additional information about transactions of power and attributes, the form of procurement contract, and sales of electricity, beyond REC retirement information available from the Western Renewable Energy Generation Information System (WREGIS). While Retained and Unbundled RECs are not specifically identified in WREGIS, the State can collect information on both Retained and Unbundled quantities of RECs during reporting for CETA compliance.

- ii. *Is it practicable to track retained RECs associated with unspecified electricity sales?*

⁶ See Sec. 94511(a)(4) of the MRR.

Again, the State may collect information on Retained RECs. Documentation and other evidence required for CETA compliance associated with all Retained RECs should show that the RECs were not purchased separately from the underlying electricity by the electric utility (e.g. a bundled purchase or ownership of generation) and that the electricity was later sold as unspecified. It will be important for the State to verify that the electricity sold was sold as unspecified (to substantiate the creation of a Retained REC). We recommend that Staff provide more detail on what qualifies as "sold as unspecified power" and what documentation or other evidence is needed to verify this. Additionally, we recommend that the State require demonstration that the electricity was not sold into California, which includes electricity sold into the Western Energy Imbalance Market (EIM) and counted as a renewable EIM import to California using the greenhouse gas (GHG) attribution method in the EIM. We also recommend that the replacement power is either unspecified or cleaner (see above).

3. *Draft WAC 480-100-605: The draft rules include a definition of "primary compliance" to differentiate the portion of the greenhouse gas neutral standard that may not be met using unbundled RECs or other alternative compliance options. Is this definition clear?*

Yes.

4. *Draft WAC 480-100-650: The draft rules include robust requirements for hourly energy management data and information on a utility's wholesale transaction activities, as the penalties described in CETA are established based on "each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation,"⁷ necessitating a high level of granularity in reporting. With these increased reporting requirements, the Commission aims to increase visibility into a utility's operations and to augment the data available to review a utility's performance in complying with the requirements of RCW 19.405.040 and .050 outlined in these draft rules.*
 - a. *Are the items in the draft rule sufficiently described?*

It is not clear which of the information/data listed in WAC 480-100-650(5)(a)-(c) is hourly or reported on an hourly basis. We request additional clarification in the rules.

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

Sincerely,

_____/s/____

Todd Jones

Director, Policy

⁷ RCW 19.405.090(1)(a)