



June 14, 2021

Mark Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE, Lacey, WA 98503

Glenn Blackmon
Manager, Energy Policy Office
Washington Department of Commerce
1011 Plum Street SE, Olympia, WA, 98504

Re: Climate Solutions comments in response to issues related to double counting, market purchases of electricity, and the interpretation of compliance with RCW 19.405.040(1)(a), UE-210183.

Dear Mr. Mark Johnson and Mr. Glenn Blackmon,

Climate Solutions thanks you for the opportunity to submit comments regarding rules concerning issues related to double counting, market purchases of electricity, and the interpretation of compliance with RCW 19.405.040(1)(a). Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is at the center of the movement as a catalyst, advocate, and campaign hub.

A clean and efficient grid serves as the foundation to deeply decarbonizing Washington's economy and achieving science-based greenhouse gas limits. The Clean Energy Transformation Act ("CETA") puts utilities on a pathway to serve customers with 100% clean energy, but clear and consistent regulatory rules and guidance will be critical for ensuring the effectiveness and intent of the law. As a critical component of achieving the intent of CETA, we greatly appreciate the Commission's and Commerce's ("Agencies") careful consideration of double-counting, market purchases, and the impact of the Climate Commitment Act ("CCA"). We provide the following responses to the questions posed in the amended notice on June 7th, 2021.

Prohibition on double counting

5. RCW 19.405.040(1)(b)(ii) allows utilities to use unbundled RECs as an alternative compliance option "provided that there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions." Please comment on whether the following circumstances should be considered double-counting in this context, assuming in each case that the unbundled REC (RCW 19.405.040(1)(b) is used for compliance with CETA.

Received
Records Management
06/14/21 09:34:59
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

- a. *Electricity from a renewable generating facility is delivered to a California entity and treated as a non-emitting resource for purposes of the California cap and trade program.*

If electricity from a renewable generating facility is delivered to a California entity and treated as a non-emitting resource, the nonpower attribute would be double-counted. In Washington statute, nonpower attributes include all environmental characteristics and avoided greenhouse gas emissions, and the situation described would allow for two distinct entities to make claims on the nonpower attribute. In addition to the statutory definition of nonpower attributes, Washington's recently passed CCA allows for the creation of a voluntary renewable reserve account to ensure that voluntary renewable energy purchases maintain an emissions attribute associated with the energy. This further indicates that the legislature's intent was to include an avoided emissions component of the nonpower attribute.

Because of this, a utility should not be permitted to use a renewable energy credit or other nonpower attribute for CETA compliance if the unbundled energy is sold and claimed as zero-emission. If a utility retains the nonpower attribute for CETA compliance, the energy must be sold as unspecified. Utilities purchasing nonpower attributes that have been separated from the electricity should obtain documentation from the renewable energy generator to ensure the energy was not sold as a specified source of energy.

- b. *Electricity from a renewable generating facility is used by a load serving entity in a jurisdiction with no clean electricity standard, and the entity communicates to its customers or investors that its electricity is from a renewable source.*

Regardless of whether there is a clean energy standard requirement, the nonpower attributes are double counted if two entities are making a claim on the attributes of the energy. In this situation, one entity is making the claim to its customers, while a Washington utility makes a second claim for compliance with CETA. If a Washington utility is purchasing unbundled nonpower attributes, it should ensure that the underlying power is not marketed or claimed as renewable or nonemitting.

- c. *Electricity from a renewable generating facility is allocated to load serving entities by an independent system operator or regional transmission operator outside the Western Interconnection. The renewable generation is incorporated in aggregated power source information published by the system operator.*

If electricity from a renewable resource is allocated to load serving entities outside the Western Interconnection and included in the aggregated power source information, the attributes would be double counted if they are also used for CETA compliance. This situation would again allow for two entities to claim the nonpower attribute of the same energy, and would go against the intent of CETA.

- d. *Electricity from a renewable generating facility is used by a Washington utility during a compliance period under the Climate Commitment Act to offset generation that it would otherwise obtain from a natural gas-fired generating facility or imports of unspecified power.*

Electricity from a renewable generating facility used by a Washington utility for compliance with CETA can facilitate the same utility reducing its own emissions, and would not result in double-counting of the nonpower attributes. While the same clean energy enables compliance with two laws, this situation is unique from (a) above for a few reasons.

First, this situation is unique because the same utility is claiming the renewable generation for compliance with CETA, while also reducing its own emissions to facilitate compliance with CCA. Because the same entity is using clean energy for its own compliance obligations, this does not result in double-counting.

It is also clear that the legislature's intent was to allow a utility to rely on clean energy used for compliance with CETA to also reduce its own emissions and compliance obligation under CCA. This is demonstrated by CCA's allocation of free allowances to utilities up to their greenhouse gas emissions trajectory based on their CETA compliance obligation, indicating that utilities can invest in clean energy resources that facilitate compliance with both laws (Sec. 14(3)(b)). CCA additionally states that multiple covered entities shall not have a compliance obligation for the same emissions, also indicating that utilities can use the same clean energy to achieve compliance with both laws.

- e. *If unbundled RECs are separated from the underlying electricity from a renewable generating facility and used for compliance with CETA, are there any other circumstances in which the underlying electricity might be double counted?*

One other circumstance in which the underlying electricity might be double counted is if a customer claims RECs under a voluntary renewable energy program, but the underlying electricity is subsequently sold as renewable energy. While we have no

additional circumstances to highlight beyond this, we recommend that rules follow the general principle that if the nonpower attributes have been separated from the underlying power, the power must be considered unspecified and cannot be claimed as renewable or non-emitting.

6. How might the implementation of the Climate Commitment Act affect market purchases and their treatment under CETA?

With the implementation of CCA, a direct or indirect price will be associated with generation from fossil fuel resources dispatched to Washington customers. As a result, we anticipate updated tracking mechanisms and procedures that increase the transparency and ability of a utility to know the source and associated attributes of energy purchases through the market. Increased transparency can also facilitate CETA compliance with market purchases; however, CCA does not amend CETA and should have no effect on the general rules for treating market purchases under CETA.

7. For any circumstance described above that is identified as resulting in double-counting, please provide a recommended approach by which the operator of the renewable generating facility could demonstrate that the nonpower attributes associated with the unbundled REC are not double-counted.

In general, if a renewable generating facility sells the nonpower attributes and underlying energy separately, the operator must not sell the underlying power as a clean energy resource to avoid double counting the attributes of that electricity.

8. For any circumstance described above that is identified as resulting in double-counting, please provide a recommended approach by which the utility using the unbundled REC could demonstrate that the nonpower attributes associated with that REC are not double-counted.

In general, a utility should not sell power as renewable or nonemitting if it is retaining the nonpower attributes for CETA compliance. Similarly, when purchasing unbundled nonpower attributes, a utility should proactively ensure that the selling entity is not also making claim on the underlying energy.

Markets Work Group Report

9. From your perspective as a stakeholder, what information developed by the Markets Work Group informs the Commission and Commerce rulemaking?

The Markets Work Group held robust discussions on the interaction of CETA and energy markets. Unfortunately, stakeholders were not able to achieve consensus on a recommended pathway forward, which highlighted the need for Washington regulators to collaborate with market operators and other stakeholders to develop options for a more granular mechanism to track the nonpower attributes of market purchases.

Impact of the Washington Climate Commitment Act

10. Are there provisions in the Climate Commitment Act that should be considered in this rulemaking as the Commission and Commerce develop rules defining requirements, including appropriate specification, verification, and reporting requirements, for the following: (a) Retail electric load met with market purchases and the western energy imbalance market or other centralized market administered by a market operator for the purposes of RCW 19.405.030 through 19.405.050; and (b) to address the prohibition on double counting of nonpower attributes under RCW 19.405.040(1) that could occur under other programs?

Again, CCA does not amend CETA, and CETA implementation rules should be developed independent of CCA. CCA specifies under Sec. 14(8) that nothing about its electricity requirements affects the requirements of chapter 19.405 RCW. Additionally, CCA rules and implementation will begin after CETA rules are finalized, so should be revisited at a later date if CCA implementation has an effect on CETA.

Climate Solutions again thanks you for the opportunity to submit comments related to double counting, market purchases of electricity, and the interpretation of compliance with RCW 19.405.040(1)(a). We look forward to continuing to work with the Agencies and other stakeholders on these issues.

Sincerely,



Kelly Hall
Senior Policy Manager
Climate Solutions



Vlad Gutman-Britten
Washington Director
Climate Solutions