NW Energy Coalition

June 14, 2021

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

Re: Responses to Questions in the May 17th Notice of Opportunity to File Written Comments on Issues related to Double Counting, Market Purchases of Electricity and the Interpretation of Compliance with RCW 19.405.040(1)(a) (UE-210183)

Mr. Johnson:

The NW Energy Coalition ("NWEC" or "Coalition") appreciates the opportunity to respond to questions posed by the Commission in its Notice of Opportunity to File Written Comments issued on May 17, 2021 concerning double counting, market purchases, and the interpretation of compliance with RCW 19.405.040(1)(a).

The Coalition is an alliance of more than 100 organizations united around energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia basin, low-income and consumer protections, and informed public involvement in building a clean and affordable energy future.

I. 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:

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.

Answer: Yes, the RECs associated with electricity that is delivered to California customers and treated as non-emitting for purposes of the California cap and trade program cannot be used for compliance with CETA without double counting.

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.

Answer: Yes, in general, if a load serving entity claims that electricity is from a resource that it uses to serve its customers is renewable, it has made a claim on the environmental attributes associated with that electricity. In this case, the REC could not be used for compliance with CETA without double counting. The Federal Trade Commission has provided guidance for businesses to help them avoid making deceptive claims through its Green Guides.[1]

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.

Answer: We are not aware of any instance where this would be relevant to CETA compliance, since no load serving entities that are subject to CETA are served by an ISO or RTO outside of the Western Interconnection.

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.

Answer: The Climate Commitment Act (CCA) regulates the emissions from covered entities. The allocation of allowances to electric utilities subject to CETA is described in Sec. 14 of the Act. To the extent that a utility is able to reduce its emissions by reducing generation from a natural gas

[1] https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf

facility or imports of unspecified power, it reduces the number of allowances that the utility must transfer to the Dept. of Ecology to meet its compliance obligation.

Concerning Sec. 14, our preliminary assumption (subject to review pending the adoption of rules to implement Sec. 14 of the CCA), is as follows: To the extent that a covered electric utility replaces emitting generation with non-emitting generation, the non-emitting generation is not subject to regulation under CCA. Therefore, we don't believe an issue of double-counting between CETA and CCA exists.

The use of the word "offset" in this question gives us pause, and we are not prepared to speculate on the treatment of renewable energy claims as "offsets" as described in Sec. 19 of the CCA.

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?

Answer: Yes, if the underlying electricity associated with unbundled RECs is counted as non-emitting for the purposes of serving a voluntary renewable product or demonstrating compliance with a consumption-based emissions or clean energy standard measured at the point of delivery to end users, but that product or standard does not require RECs to demonstrate compliance, then use of those unbundled RECs for CETA compliance would constitute double counting.

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

Answer: It is unclear how implementation of the CCA will affect market purchases. We do not believe the CCA affects the treatment of market purchases under CETA. To the extent that CCA compliance requires accounting for hourly dispatch of emitting generation and imports, the UTC and Commerce should explore how the accounting mechanisms used for CCA compliance may also support accounting for CETA compliance.

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.

Answer: The agencies' CETA rules should focus on preventing double-counting of attributes associated with electricity used for CETA compliance. This can be accomplished by requiring that RECs be retired for every MWh claim of renewable energy used to serve retail load. The rules cannot reasonably address every instance of potential double-counting of nonpower attributes between programs that are not under the agencies' jurisdiction.

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.

Answer: For unbundled RECs used as an alternative compliance option under CETA, the rules should require that the utility ensure that the nonpower attributes of renewable and non-emitting generation cannot be claimed by any other entity by requiring that the power be marketed as unspecified power if the REC is used for CETA compliance. The rules cannot reasonably address every instance of potential double-counting of nonpower attributes between programs that are not under the agencies' jurisdiction.

II. Markets Work Group Report

The Commission and Commerce convened the Markets Work Group under RCW 19.405.130(1)&(2). After conducting multiple presentations and workshops the Markets Work Group filed its report in Docket UE-190760 and this docket on May 17, 2021. The Commission and Commerce seek stakeholder input on how the work of the Markets Work Group best informs our rulemaking processes.

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

Answer: The Markets Work Group provided, in its Final Report, a comprehensive summary of stakeholder positions on the issues under its purview. This provides a foundation for the Commission and Commerce to seek the advice of external experts who are not involved in the

rulemaking process about potential accounting and reporting options that were not adequately explored by the Markets Work Group.

III. Impact of the Washington Climate Commitment Act

The Washington Legislature in 2021 passed the Climate Commitment Act (E2SSB 5126), which includes provisions affecting electric utilities. Section 10(1)(c) requires that the Department of Ecology adopt rules by October 1, 2026, specifying a methodology for addressing imported electricity associated with a centralized electricity market.

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?

Answer: The Climate Commitment Act provides separate authority to the UTC and Commerce to adopt rules for CCA implementation. We are not aware of any provisions of the CCA that would affect the treatment of market purchases or the prohibition on double-counting of nonpower attributes under CETA. To the extent that CCA compliance requires accounting for hourly dispatch of emitting generation and imports, the UTC and Commerce should explore how the accounting mechanisms used for CCA compliance may also support accounting for CETA compliance.

Thank you for the opportunity to comment.

Sincerely,

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