Department of Energy

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Re: Docket UE-210183, Comments by the Bonneville Power Administration on Electricity Markets and Compliance with the Clean Energy Transformation Act

The Bonneville Power Administration (BPA) submits these comments in response to the joint request from the Washington Department of Commerce (Commerce) and Utilities and Transportation Commission (UTC) for comments on draft rules on CETA's prohibition on double counting of unbundled renewable energy credits and on energy storage. BPA's sales to Washington utilities amount to about fifty percent of the energy consumed in the state. It is imperative that Commerce and the UTC include language in the draft rules that accommodates the fact that BPA makes system sales of power, both firm power sales to preference customers and surplus sales to other customers, located in Washington and across the West.

BPA has explained to the UTC and Commerce, in formal comments and informal communications, that BPA sells from a system of resources.[1] The Federal Columbia River Power System is an integrated system that includes 31 federal hydroelectric projects, a nuclear generating plant (the Columbia Generating Station), a few small non-federal power plants, and market purchases. BPA does not sell power from a specific generating facility to a specific customer. Instead BPA sells from its system as a whole, using the entirety of the system to meet BPA's statutory obligation to serve its preference customers in the Pacific Northwest. BPA also sells power, on a whole system basis, into other states across the West. The California Air Resource Board (CARB) cap-and-trade program and Washington

[1] See, e.g., BPA Comments submitted to the UTC and Commerce on September 17, 2021; BPA comments submitted to Commerce on September 14, 2020; BPA comments submitted to Commerce on June 15, 2020; BPA comments submitted to the UTC on June 2, 2020; BPA comments to Commerce on May 29, 2020; and BPA comments to the UTC and Commerce on November 12, 2021. See also BPA's comments to the Washington Department of Ecology on May 26, 2020 on related CETA rulemakings.

Climate Commitment Act's concept of an Asset Controlling Supplier (ACS) both recognize that BPA makes specified sales from a system of resources.

However, the proposed rules on double counting do not accommodate BPA's system sales; they only address the scenario where a REC is created and sold from a specific renewable generating facility. This is inconsistent with CETA because CETA is not supposed to prohibit a utility from purchasing power from BPA (see RCW 19.405.040(1) (g)). Accordingly, BPA is proposing additional language that 1) covers how a Washington utility would demonstrate there is no double counting of attributes when a utility purchases system power from BPA to meet the utility's primary compliance under CETA and 2) provides for how Washington utilities can demonstrate there is no double counting of attributes of an unbundled Washington-eligible REC created by the federal system.

BPA notes, however, that it is currently in the process of envisioning what its long-term power sales contracts with preference customers will look like after the current contracts expire in 2028. It is too early in that process for BPA to confidently suggest rule language that will accurately capture BPA's products, rates, and associated conveyance of environmental attributes after 2028. Therefore, these rules may need to be revisited after these contracts have been negotiated to update them to reflect the post-2028 contracts in a way that is consistent with the intent of CETA.

Proposed Language for System Sales under "Accounting for Retained RECs"
BPA proposes the following language under "Accounting for Retained RECs" as a reasonable way for a utility to demonstrate there is no double counting of attributes when it purchases system power from BPA to meet the utility's primary compliance obligation under CETA.

> *(2) Any sale or transfer of electricity to a Washington utility from a system of power from the Bonneville Power Administration must include the sale or transfer of RECs proportionate to the renewable generating facilities that constitute the system. The RECs must have the same year vintage of the electricity sale.*

This proposed language is premised on the concept that the emissions of a resource are coupled with electricity delivered from that resource, thus the attributes and RECs flow with the megawatt hours BPA sells to utilities proportionate to the overall quantity of renewable resources in BPA's system mix. BPA calculates its system mix and reports it to Washington, as well as Oregon and California, by June 1 of every year. Because BPA's system mix is calculated on an annual basis (not monthly), the RECs cannot be cross-walked to a monthly vintage. Monthly vintages would create false precision and inconsistencies between Washington and California.

BPA notes this appears to create a timing issue with the requirement under WAC 194-40-040 that utilities must submit a compliance report by July 1 of the end of each GHG neutral compliance period. BPA has raised this potential conflict in a previous comment as well (see BPA's comment to Commerce on September 14, 2020). Given BPA does not report its system mix data until June 1 (and cannot accommodate a quicker timeframe than this) and would then subsequently need to disburse RECs to its customers, there does not appear to be adequate time for utilities to complete their compliance report. BPA suggests Commerce revisit WAC 194-40-040 to provide extra time for utilities to submit their compliance reports.

Proposed Language for System Sales under "Safeguards to prevent double counting of unbundled RECs"

BPA's understanding is that the draft rules assert there is double counting of attributes when specified power is sold into a state with a program that places a cap on greenhouse gas (GHG) emissions, such as California's cap-and-trade program, and a claim is subsequently made on the carbon content of that power. Again, the UTC and Commerce's proposed rules envision the sale of power and accompanying REC is from an individual generating facility. However, identifying where Washington may consider attributes to have been double counted under a cap-and-trade program when the sale is from a system rather than an individual generating facility is less clear to BPA and more complex in practice to determine.

First, BPA continues to emphasize that there is greater need for coordination among states in tracking environmental attribute claims and rectifying what is double counting (see BPA's comments to the UTC on June 14, 2021). Power from BPA's system which is sold into California is considered specified source ACS power. This specified source power has a low carbon content, but not a zero carbon content, because it is sourced from BPA's entire system of resources, which is largely composed of renewable and nonemitting resources but also includes some market purchases. California does not recognize any RECs created by BPA's large hydro for purposes of its RPS, while for purposes of its cap-and-trade program it considers only fuel type of the generating resource (not RECs) unless the resource is also eligible for California's RPS. BPA does not include RECs with its ACS sales to California as there is not a current market or state requirement for this type of product.

On the other hand, Washington – and only Washington – recognizes RECs created by large hydro as eligible for CETA, making RECs created from federal hydro-generation projects eligible for use for mitigation for CETA *so long as there is no double counting of attributes*. This creates a complex accounting paradigm of identifying when there is double counting of attributes for a REC created by the federal hydro system. BPA sees California's cap-and-trade program as having a regulatory framework focused on tracking emissions and allowances, while Washington's CETA is a clean energy standard with RECs as the primary regulatory tool. RECs are created based on generation, not emissions. As such they are two different state policies with distinct and separate accounting practices and BPA questions whether there is a double counting issue at all.

As mentioned above, BPA premises its thinking on this issue around the concept that the attributes flow with the megawatt hours BPA sells to utilities proportionate to the overall quantity of renewable resources in BPA's system mix. Applying this logic to the assertion of the UTC and Commerce in the draft rules that there is double counting of attributes when specified power is sold into a state with a program that places a cap on GHG emissions, some portion of RECs created by the federal hydro system seemingly would not be eligible for CETA because the underlying power was sold as ACS power in California. This is similar to the proposal under "Accounting for Retained RECs."

However, there is an additional complicating factor for BPA's ACS sales. While BPA can quantify the volume of power it has directly sold into California as ACS power, it cannot quantify or control what volume of power may have been resold from BPA's system into California. Once BPA sells power bilaterally into the wholesale market (in other words, specified power), BPA has no means to control where the power ultimately is resold or sinks, nor whether other entities make claims on that energy as BPA specified ACS power. CARB guidance allows a third party to resell into California power that is purchased from BPA's system in a bilateral transaction and claim the specified (ACS) emissions factor for

the power. Once BPA sells power, BPA generally has no knowledge or control over whether the buyer resells it into California and claims it as specified power. This issue cannot be rectified without greater coordination amongst states, and even then this level of tracking of power deliveries, RECs, and other claims on carbon attributes may be difficult and administratively burdensome for the entities tasked with doing so.

Accordingly, to the degree that draft rules presume there is double counting when specified source power is sold into a state with a cap-and-trade program, BPA proposes the following approach that it believes both provides reasonable assurance that there is no double counting of the attributes of unbundled RECs from the federal system and is also administratively implementable currently in the absence of greater state coordination.

Proposed language under "Safeguards to prevent double counting of unbundled RECs":

- (4) To claim and retire an unbundled REC for alternative compliance where the Washington-eligible RECs were created by renewable electricity marketed by the Bonneville Power Administration (Bonneville) a utility must demonstrate the REC was not associated with electricity from a system sale from Bonneville directly into a state with a GHG cap program outside Washington. The quantity of unbundled RECs from Bonneville that cannot be claimed as unbundled RECs for purposes of CETA compliance is based on the proportion of Washington-eligible RECs to the annual volume of specified source sales from Bonneville into a state with a GHG cap program outside Washington. The ineligible Washington RECs are calculated based on the same vintage year as the year in which the electricity was imported to the state with the GHG cap program outside Washington.

In the above paragraph, "proportionate to" can be read as follows: equal to the volume of power BPA sells directly into California (or other state with GHG cap program) multiplied by the percent of Washington-eligible renewable resources with RECs created from BPA's annual fuel mix. In other words, the existing federal hydro and other eligible renewable resources will create RECs that are eligible in Washington. But the Columbia Generating Station and the unspecified portion of BPA's fuel mix, and therefore that portion of BPA's ACS sales, would not create RECs.

BPA believes that these proposed methods of accounting for RECs for federal system sales provide reasonable assurance that there is no double counting for those RECs used for primary and secondary compliance by a Washington utility. However, as BPA mentioned earlier in these comments, this proposed language does not have the benefit of being informed by the design of BPA's long-term power sales agreements with customers that will be in place in the 2030s. Therefore, these rules may need to be revisited at a later date in order to reflect the terms of those power sales agreements in a way that is consistent with the intent of CETA.

Finally, BPA is generally supportive of the language proposed by the Joint Utilities in their comments as it relates to sales from specific generating facilities (see comments of Avista, Puget Sound Energy, Pacific Power, and the Public Generating Pool). However, that language also does not address system sales from BPA to Washington utilities. In addition, as a federal entity, BPA is unable to provide the attestation envisioned in the proposed language as BPA has a federal statutory requirement to meet its customers' loads which cannot be predicated on an attestation required by a state. Thus, if Commerce and the UTC consider an approach similar to that proposed by the Joint Utilities, the language proposed

by BPA in these comments would still need to be included in any rules adopted by the UTC and Commerce.

BPA appreciates the opportunity to continue to provide comments on the implementation of CETA. Please feel free to contact me at 503.230.4358 or Liz Klumpp at 360.943.0157 if you have any questions on these comments.

Sincerely,

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Attachment: BPA's redlined suggestions to the "Draft Rules on Double Counting and Storage"

Attachment: BPA Redlines to Draft Rules

DRAFT RULES ON DOUBLE COUNTING AND STORAGE ACCOUNTING

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

(1) A utility may use an unbundled REC as an alternative compliance option, as provided in RCW 19.405.040(1)(b), only if the utility demonstrates that there is no double counting of any nonpower attribute associated with that REC. This section sets only the minimum requirements necessary to demonstrate that no double counting has occurred. The auditor may require the utility to produce other evidence or take specific actions as it determines necessary to ensure that there is no double counting of nonpower attributes.

(2) To claim and retire an unbundled REC for alternative compliance, a utility must demonstrate that the unbundled REC was obtained from a renewable generating facility that complies with the following business practices to prevent double counting:

(a) Any sale or transfer of electricity from the renewable generating facility, other than a sale or transfer described in subsection (c), that specifies the source of the electricity by generating facility, fuel source, or emissions attribute must include the sale or transfer of the associated REC in the same transaction. The included RECs must be from the same generating facility and have the month and year vintage of the electricity.

(b) Any sale or transfer of electricity from the renewable generating facility made without the associated REC must identify in the contract or transaction records that the electricity source is unspecified and is sold without any representation or warranty of the fuel source or other nonpower attributes of the electricity.

(c) Any REC associated with electricity delivered, reported, or claimed as a zero-emission specified source under a GHG cap program outside Washington must be:

(i) transferred with the electricity, if the REC is required for verification by the GHG cap program, or

(ii) retired by the renewable generating facility, if the REC is not required for verification by the GHG cap program. The retirement must indicate "other" as the purpose, and the REC may not be used to comply with CETA.

(d) The renewable generating facility must register with the renewable energy credit tracking system designated under WAC 194-40-400 and must certify annually to Commerce that it has adopted and complies with the business practices specified in subsections (a) through (c). Commerce will maintain a public list of renewable generating facilities whose unbundled RECs may be used as alternative compliance options.

(3) A utility that owns or controls a renewable generating facility used in whole or part to comply with CETA must adopt and comply with the business practices specified in subsection (2) of this section.

(4) To claim and retire an unbundled REC for alternative compliance where the Washington-eligible RECs were created by renewable electricity marketed by the Bonneville Power Administration (Bonneville) a utility must demonstrate the REC was not associated with electricity from a system sale from Bonneville directly into a state with a GHG cap program outside Washington. The quantity of unbundled RECs from Bonneville that cannot be claimed as unbundled RECs for purposes of CETA compliance is based on the proportion of Washington-eligible RECs to the annual volume of specified source sales from Bonneville into a state with a GHG cap program outside Washington. The ineligible Washington RECs are calculated based on the same vintage year as the year in which the electricity was imported to the state with the GHG cap program outside Washington.

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

(1) The eligibility of renewable or nonemitting electricity for compliance for CETA is not affected by the use of storage resources.

(2) Except for storage resources located on the customer side of a retail meter, any electrical consumption or loss resulting from the charging, holding, and discharging of storage resources is not considered retail electric load for the purpose of determining compliance with CETA.
(3) Any consumption or loss resulting from the charging, holding, and discharging of storage resources located on the customer side of a retail meter is considered retail electric load for the purpose of compliance with CETA.

WAC 194-40-ZZZ / WAC 480-100-ZZZ Accounting for retained RECs[2]

(1) To claim and retire a retained REC for primary compliance, a utility must demonstrate that the retained REC was obtained from a renewable generating facility that complies with the following business practices to prevent double counting:

(a) Any sale or transfer of electricity from the renewable generating facility, other than a sale or transfer described in subsection (c), that specifies the source of the electricity by generating facility, fuel source, or emissions attribute must include the sale or transfer of the associated REC in the same transaction. The included RECs must be from the same generating facility and have the month and year vintage of the electricity.

(b) Any sale or transfer of electricity from the renewable generating facility made without the associated REC must identify in the contract or transaction records that the electricity source is unspecified and is sold without any representation or warranty of the fuel source or other nonpower attributes of the electricity.

(2) Any sale or transfer of electricity to a Washington utility from a system of power from the Bonneville Power Administration must include the sale or transfer of RECs proportionate to the renewable generating facilities that constitute the system. The RECs must have the same year vintage of the electricity sale.

(3) A retained REC that is sold becomes an unbundled REC.

[2] The terms "retained REC" and "primary compliance" are defined in draft rules issued by the UTC on October 12, 2021, in Docket UE-210183.