Nov 27, 2024

Jeff Killip
Executive Director and Secretary
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 UTILITIES AND TRANSPORTATION COMMISSION (UTC) NOVEMBER 4, 2024, NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS ON DRAFT RULES RELATING TO COMPLIANCE WITH THE CLEAN ENERGY TRANSFORMATION ACT (CETA).

Dear Jeff Killip:

We appreciate the opportunity to provide detailed comments on the proposed draft rules concerning Renewable Energy Credits (RECs) and Nonpower Attributes (NPAs) within the framework of Washington State's Clean Energy Transformation Act (CETA). Our goal is to ensure that the final rules align with statutory requirements, prevent double counting of renewable attributes, and facilitate effective participation in organized electricity markets.

The Center for Resource Solutions (CRS) supports the proposed draft rules under CETA, provided they ensure the inseparability of RECs and NPAs. Maintaining this principle is crucial to preventing double counting and upholding the integrity of Washington's clean energy framework. We believe the draft rules already suggest a straightforward and implementable solution that aligns REC and market frameworks without double counting. This solution preserves the REC requirement's integrity, enables participation in organized markets, and offers flexibility for

compliance entities, even as RECs are not directly transacted in these markets. Given the complexities introduced by participation in organized markets, it is imperative that the rules provide clarity and uphold the integrity of renewable energy claims

BACKGROUND ON CRS AND GREEN-E®

CRS is a 501(c)(3) nonprofit organization that creates policy and market solutions to advance sustainable energy and has been providing renewable energy and carbon policy analysis and technical assistance to policymakers and other stakeholders for over 20 years. CRS also administers the Green-e® Energy program, the leading independent certification for voluntary renewable electricity products in North America. In 2022, the Green-e® Energy program certified retail sales of over 114 million megawatt-hours (MWh), serving over 1.3 million retail purchasers of Green-e® certified renewable energy, including over 314,000 businesses.[1]

CRS COMMENTS ON NOV 4 DRAFT RULES.

I. Legal Inseparability of RECs and NPAs and Prohibition of Double Counting Under Washington Law

A. REC Definition and Implications

Under Washington law, RECs are explicitly defined to include all NPAs associated with one megawatt-hour of renewable electricity generation. According to RCW 19.405.020(30) and WAC 480-109-060(31):

> *"'Renewable energy credit' means a tradable certificate of proof of one megawatt-hour of [an eligible] renewable resource.* ***The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity*** *and the certificate is verified by a renewable energy credit tracking system selected by the department" (emphasis added).*

[1] See the 2023 (2022 Data) Green-e® Verification Report here for more information: https://www.green-e.org/verification-reports

This definition establishes that NPAs are inherently part of RECs and cannot be separated when RECs are issued.

B. Regulatory Consistency with WREGIS, EPA, and SPP definitions

The Western Renewable Energy Generation Information System (WREGIS) further supports this inseparability. According to the WREGIS Operating Rules:[2]

> *"Certificate: A WREGIS Certificate (also called a Renewable Energy Credit (REC)) represents* ***all Renewable and Environmental Attributes*** *of MWh of electricity generation from a renewable energy Generating Unit registered with WREGIS. The WREGIS system will create exactly one Certificate per MWh of eligible generation." (emphasis added).*
>
> *"Renewable and Environmental Attributes: Any and all credits, benefits, emissions reductions, offsets, and allowances—however titled—attributable to the generation from the Generating Unit, and its avoided emission of pollutants.* ***Renewable and Environmental Attributes do not include (i) any energy, capacity, reliability, or other power attributes from the Generating Unit****;" (emphasis added).*

Similarly, the U.S. Environmental Protection Agency (EPA) defines RECs as including non-power attributes:[3]

> *"Renewable Energy Certificate (REC): Represents the property rights to the environmental, social, and other* ***non-power attributes*** *of renewable electricity generation. A REC, and its associated attributes and benefits, can be sold separately from the underlying physical electricity associated with a renewable-based generation source" (emphasis added).*

[2] WECC. (2022) WREGIS Operating Rules. Pg. 9-11. Available at: https://www.wecc.org/wecc-document/1151
[3] https://www.epa.gov/green-power-markets/renewable-energy-certificates-recs#one

Southwest Power Pool's (SPP's) definitions of RECs and null power included in its Markets+ protocol language are also consistent, and SPP clearly envisions that RECs and nonpower attributes are equivalent:

> *"Renewable Energy Certificate ("REC"): A tradeable instrument representing the renewable and **environmental attributes** of 1 MWh of Energy from a renewable Resource" (emphasis added).*[4]
>
> *"Null Power: Energy designated by a Reporting Entity indicating that the Renewable Energy Certificates and/or **nonpower attributes** have been separated from the Energy and retained by the Reporting Entity or sold to a third party" (emphasis added).*[5]
>
> *"5.8.7(a) If a Public GHG Report is used as the basis for a claim to any non-power attributes for Energy designated as Null Power, it **could jeopardize the ability of the owner of the associated Renewable Energy Credits (RECs) or other non-power attributes to use its RECs or other non-power attributes** for voluntary or compliance program purposes" (emphasis added).*[6]

C. Prohibition of Double Counting and Risks of Allowing NPAs Without RECs

Allowing utilities to claim NPAs from electricity acquired through organized markets without owning and retiring the associated RECs where they are issued would lead to double counting of renewable attributes. This occurs because:

- The RECs, which include the NPAs, may be owned by another entity.
- Two entities could claim the same environmental attributes from the same generation—one through RECs and another through NPAs.

[4] SPP Markets+ GHG Tracking and Reporting Protocol Language, Approved 9/26/2024. Pg. 8. Available at: https://www.spp.org/Documents/72451/MGHGTF%2020240926%20Meeting%20Materials%20as%20Revised%20During%20Meeting.zip
[5] Ibid.
[6] Ibid. Pg. 19.

Such double counting violates both the draft rules and Washington law, specifically WAC 480-100-6XXa(8):

> *"A utility may retire a REC or NPA for primary compliance only if the utility demonstrates that there is* ***no double counting of that REC, NPA, or the associated clean energy within another load-based program in Washington or other jurisdictions****" (emphasis added).*

D. Implications for Compliance Entities

Accepting NPAs for primary CETA compliance without the associated RECs where RECs are issued would:

- Violate Washington law by disregarding the inseparability of RECs and NPAs.
- Create a loophole in the REC requirement of CETA and encourage practices that could lead to double counting, compromising the state's clean energy goals.
- Potentially conflict with other jurisdictions' regulations, leading to broader market inconsistencies.
- Undermine the integrity of renewable energy accounting systems like WREGIS and contradict EPA definitions.

Requiring compliance entities to acquire and retire RECs is not “double charging”; rather, it represents the true cost of renewable energy. The argument that this raises costs is only valid when compared to the alternative of selling off RECs, which would result in double counting. Such a practice would compromise the integrity of Washington’s clean energy transition.

The cost of acquiring RECs reflects the full value of clean power, including its environmental benefits, and is a necessary part of ensuring the authenticity of renewable energy claims. This is not an extraneous or additional cost but a fundamental component of clean energy. Furthermore, compliance entities in

Washington benefit from avoiding carbon compliance costs, which offsets the cost of paying for RECs and reinforces the value of renewable energy. Ensuring REC retirement as part of compliance supports both accurate accounting and the broader goals of CETA.

Given these statutory and regulatory definitions, it is impossible for compliance entities to claim NPAs separately from RECs when RECs are issued for that generation. The state should not establish a false distinction between RECs and NPAs, such that a single unit of generation can have both a REC and an NPA, or accept NPAs for primary compliance without RECs for resources that have or will generate RECs.

Recommendation 1: Clarify that NPAs are Inseparable from RECs Where RECs Are Issued

- **Amend the Draft Rules:** Explicitly state that RECs are required for renewable electricity acquired through organized markets and allocated using market allocation frameworks. Add the following the end of the NPA definition in WAC 480-100-605
    - *"NPAs from electricity acquired through organized markets can only be counted toward primary compliance based on market allocation frameworks without RECs if RECs are not issued for that resource or generation, and only where there is no other claim on the NPAs to prevent double counting."*
- **Ensure Compliance Entities Acquire RECs:** Mandate that utilities must acquire and retire any associated RECs to claim the NPAs for compliance.

II. Alignment Between REC Accounting and Market Allocation Frameworks

A. Organized Markets in the Western Interconnection

New voluntary organized wholesale electricity market offerings for the Western Interconnection, such as those from the California Independent System Operator

(CAISO) and the Southwest Power Pool (SPP), are being developed with mechanisms and accounting frameworks that "deem" and allocate emissions to load on a resource-specific basis. To meet CETA requirements and prevent double counting, these frameworks must be aligned with REC systems. By adopting our recommendation to ensure that NPAs cannot be separated from RECs, the draft rules effectively align REC systems with these new market allocation frameworks. This alignment prevents double counting, supports primary CETA compliance, and facilitates organized market participation. Furthermore, the state avoids placing an undue burden on compliance entities by allowing REC matching with any generation allocated to Washington by the markets in the same time period, as supported by the current " draft rules.[7]

B. Options for Using Electricity from Organized Markets for CETA Primary Compliance

CRS supports allowing use of electricity acquired from organized markets for CETA primary compliance. This requires flexibility in implementing the 80% bundling requirement. The proposed market allocation frameworks (i.e., renewable attribution frameworks) provide a reasonable means to determine resource-specific deliveries (allocation of market generation) to Washington. CETA, and accurate accounting, requires that these resource-specific deliveries of renewable energy be bundled with RECs where RECs are issued. This means that a compliance entity acquiring electricity through an organized market must either:

1. Identify and then acquire the RECs associated with renewable energy generation and associated emissions that has been allocated to it under the market allocation framework (i.e., renewable attribution framework), and/or
2. Washington can allow bundled use for primary compliance to include renewable energy allocated through a market allocation framework (i.e., renewable attribution framework) plus procurement of equivalent RECs (e.g., same resource type, emissions profile, monthly vintage) from market resources allocated to Washington (**"market RECs"**). This pairing of market-

[7] For more information and background, see our Background Report: GHG Allocation and RECs in Western Markets and Policy Memo: Double-Counting Risks in New Market Accounting Frameworks for State Clean Energy Programs (submitted in docket with comments).

allocated generation market RECs could constitute a **"bundled market purchase"** for the purposes of primary CETA compliance.

C. Benefits of Allowing Bundled Market Purchases

The second option is supported by current language in WAC 480-100-6XXa(6) of the draft rules.

> *"RECs or NPAs associated with electricity generated by a renewable or nonemitting resource dispatched in an organized electricity market are eligible to count towards a utility's primary compliance if the electricity is attributed to the utility by the organized electricity market's renewable attribution framework; or the utility separately acquires the RECs or NPAs associated with the renewable or nonemitting electricity from the resource or system that was acquired in the organized electricity market."*

While we recommend edits to clarify this language below, it generally enables this market-wide REC matching solution. This approach enables utilities to:

- **Avoid Potential REC Price Gouging:** Expanding the ability to use bundled market purchases mitigates REC supply constraints and associated price increases, as utilities access a broader pool of renewable resources through organized markets.
- **Participate in Organized Markets Without Violating REC Ownership Requirements:** By bundling RECs with market allocations, utilities can comply with CETA's mandates while benefiting from the efficiencies of organized markets.
- **Ensure Proper Allocation of Renewable Attributes:** This method aligns with CETA requirements by appropriately accounting for renewable attributes through resource-specific tracking and allocation mechanisms developed by organized markets.

D. Operational Steps to Support Bundled Market Purchases

The draft rules need only specify what is required and permitted for CETA compliance, without specifying the particular processes and functionality within the organized markets or WREGIS that would enable compliance. In this way, the draft rules are sufficient (with our recommended revisions included in this letter).

However, we note here for the Commission's information and so it can support appropriate processes and functionality within the markets and WREGIS, that both options in Sec. II.B above require coordination and data sharing between the markets and WREGIS. We have provided more detailed recommendations to CAISO, SPP, and WREGIS for how this data sharing could work and how WREGIS could identify RECs associated with allocated electricity in the markets.[8] In short, the markets would send allocation data aggregated by generator, state, and month to WREGIS prior to issuance. WREGIS could add that information to an equivalent quantity of RECs from market generators. Those RECs represent the renewable energy allocated to Washington for that period and would be eligible to be paired with market-allocated renewable energy generation for primary CETA compliance.

Recommendation 2: Allow and Facilitate Bundled Market Purchases for Primary Compliance

- Make the following changes to proposed WAC 480-100-6XXa(6):

RECs or NPAs associated with electricity generated by a renewable or nonemitting resource dispatched in an organized electricity market are eligible to count towards a utility's primary compliance if the electricity is ~~attributed~~ allocated to the utility by the organized electricity market's ~~renewable attribution~~ GHG allocation framework in the same time period (e.g., monthly); or the utility separately acquires the RECs or NPAs associated with the renewable or nonemitting electricity from the resource ~~or system~~ that was ~~acquired~~ allocated in the organized electricity market; or the utility separately acquires

[8] And they are included in our Background Report: GHG Allocation and RECs in Western Markets

RECs or NPAs associated with any renewable or nonemitting generation allocated to Washington by a GHG allocation framework in the same time period.

- Include language in WAC 480-100-6XXc(2) to match WAC 480-100-6XXa(6).
- Coordinate CETA compliance with WREGIS data and wholesale markets allocation frameworks.[9]

III. Clarification and Enhancement of Definitions, Terminology, and Rule Language

A. Accurate Terminology and Expanded Definitions

Attribution and allocation have different meanings for SPP Markets+, and likely for CAISO as well.[10]

- **Attribution** refers to in-market mechanisms that "deems" generation to states or zones and is not LSE-specific.

- **Allocation** refers to the proposed out of market and non-dispatch-based accounting/tracking and reporting frameworks that would allocate generation and emissions to participating LSEs.

"Renewable attribution framework" should not be limited to renewable energy and should include both "allocation" to LSEs as well as "attribution" to GHG states or zones. Using precise terminology that aligns with terms used by organized markets ensures clarity and effective implementation of the rules. Misalignment of terms could lead to misunderstandings and hinder compliance.

[9] More information is available in our Policy Memo Double-Counting Risks in New Market Accounting Frameworks for State Clean Energy Programs (submitted in docket with comments).
[10] More information is available in our Background Report: GHG Allocation and RECs in Western Markets

Recommendation 3: Refine Definitions and Terminology

- In the Nonpower Attribute definition, add "emissions of pollutants to the air" and "emissions carbon dioxide and other greenhouse gas emissions" before "…and avoided emissions."
- **Rename "renewable attribution framework" to "GHG allocation framework."** In the definition for this term, add "or allocation" after "attribution," and replace "with protections against double counting" with "that has been approved by the Commission as having sufficient safeguards against the double counting of nonpower attributes."
- In WAC 480-100-6XXa(8), rephrase "…the utility must not offer for sale in any organized electricity market the electricity without its associated RECs or NPAs characterized as a zero or non-GHG resource" such that it is clear that RECs/NPAs are not included in offers or transacted in organized electricity markets. For example, this could be rephrased to say that the utility must not offer for sale in any organized electricity market the electricity unless it is reported as null power, or unless WAC 480-100-6XXa(6) has been met, meaning the energy has been allocated to them under the GHG allocation framework.

IV. Specifying Safeguards Against Double Counting

Vague references to safeguards may lead to inconsistent application. It is important to specify required safeguards to prevent double counting of NPAs.

Recommendation 4: Specify Required Safeguards

- **Specify Safeguards against double counting in WAC 480-100-6XXc(2):** For example, safeguards could include that the market framework accounts for null power and requires REC ownership for allocations of renewable energy.
- In WAC 480-100-6XXa(8), we request **clarification of what is required to "demonstrate" no double counting** in other load-based programs beyond the minimum requirement stated.

The proposed rule changes present a unique opportunity to align CETA requirements with market allocation frameworks, while safeguarding the integrity of renewable energy claims. By emphasizing the inseparability of RECs and NPAs, facilitating bundled market purchases, and refining definitions and safeguards, the Commission can eliminate the false choice between market participation and preventing double counting. These solutions ensure compliance, protect environmental claims, and support Washington's ambitious clean energy transition.

We strongly urge the adoption of our recommendations. With these measures, Washington can lead the way in establishing a regulatory framework that upholds both environmental integrity and market functionality. The tools to achieve this balance exist, and by implementing them, the Commission can empower utilities and stakeholders to meet their goals while maintaining transparency, accuracy, and trust.

Sincerely,
_____/s/_____
Lucas Grimes
Manager, Policy