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Jeff Killip
Executive Director and Secretary
State of Washington Utilities and Transportation Commission
621 Woodland Square Loop S.E.
Lacey, Washington 98503

Subject: Docket UE-21283 – Comments of U.S. EPA Office of Atmospheric Protection’s Clean Air and Power Division on Draft Rules relating to Compliance with the Clean Energy Transformation Act

Dear Jeff Killip:

Thank you for the opportunity to provide comments to UTC’s Docket UE-210183. EPA’s Office of Atmospheric Protection and its Clean Air and Power Division are pleased to share technical comments on power attributes from renewable and non-emitting electricity generators and recent market developments as they relate to this rulemaking.

We support the development of clean energy sources for electric power generation through the Green Power Partnership, a national voluntary program, which encourages organizations to use renewable electricity to protect human health and the environment. The Green Power Partnership’s goals are to advance the American market for green power;¹ encourage the development of new U.S.-based renewable electricity sources; reduce air emissions and pollution; recognize leadership and impact in green power use; and support basic clean electricity market principles and practices that serve all U.S. electricity consumers.

We appreciate the overarching goals in the proposed rulemaking; however, we are concerned that the rulemaking in Docket UE-210183, as proposed, may unnecessarily open the door to double-counting energy attributes from renewable and non-emitting sources that serve as the basis of clean electricity purchases, including those of Green Power Partners, and affect the environmental integrity of Washington State’s Clean Energy Transformation Act (CETA). EPA and Washington State both define renewable energy certificates (or credits (RECs), in the case of Washington) the same way.² RECs include all the **nonpower attributes** associated with one megawatt-hour of electricity. The establishment of **Non-Power Attributes (NPAs)** as a new, distinct instrument to track the energy attributes of renewable and non-emitting generation increases the risk of double counting the contractual and legal property rights of REC and non-emitting energy attribute certificate (EAC) holders.

¹ Green power is a subset of renewable electricity. Within the U.S. voluntary market, green power is defined as electricity produced from solar, wind, geothermal, biogas, eligible biomass, and low-impact small hydroelectric sources. To qualify as green power, this renewable electricity must also go above and beyond what is otherwise required by mandate or requirement. In other words, green power is voluntary, or surplus to regulation.

² EPA defines a renewable energy certificate, or REC, as a market-based instrument that represents the property rights to the environmental, social, and other **non-power attributes of renewable electricity generation**. For more on RECs, see EPA’s web page (<https://www.epa.gov/green-power-markets/renewable-energy-certificates-recs>).

Without an EAC³ or REC on which to base a claim, two different parties might count or claim the attributes of the same unit of electricity. This double counting can result in conflicting claims that create confusion between the two parties and skew the marketplace by falsely depicting a greater number of renewable claims than renewable usage.

In addition to their role as a tracking and accounting mechanism, EACs and RECs have value and provide financial support to electricity generating units. REC markets monetize the value of renewable energy attributes separately from commodity electricity markets because electricity markets do not distinguish resource types, other than generation profiles. Renewable and clean electricity generators rely on certificate markets to value these energy attributes, financially support project development, and allocate these attributes.

Because electricity received through the utility grid says nothing of its origin or how it was generated, RECs play a key role in accounting, tracking, and assigning ownership to renewable electricity generation and use. On a shared grid—whether the electricity comes from on-site or off-site resources—RECs are the instrument that electricity consumers use to substantiate renewable electricity use claims. In fact, the U.S. Federal Trade Commission's Green Guides says marketers [electricity customers] may make renewable energy claims if they purchase renewable energy certificates (“RECs”) to match their energy use, reinforcing the need to substantiate commercial marketing claims with certificates to avoid consumer protection issues.⁴

RECs are the accepted legal instrument through which renewable energy generation and use claims are substantiated in the U.S. renewable electricity market. In 2022, about 240 million RECs were retired in voluntary markets and around 390 million RECs in state compliance markets according to U.S. Departments of Energy's National Renewable Energy Lab and Berkeley National Lab.⁵ RECs are supported by several different levels of government, regional electricity transmission authorities, nongovernmental organizations (NGOs), and trade associations, as well as in U.S. case law.⁶

The need for EACs and RECs is growing. Their utilization is likely to increase beyond current trends in utility, state, and corporate demand due to a number of domestic and international developments (e.g., EU and California climate disclosure requirements, EU cross-border adjustment mechanism (CBAM) on imported carbon-intensive products, Federal Buy Clean initiative to lower embodied carbon of construction materials, proposed Federal tax credit for clean hydrogen production). EPA understands that regional tracking systems for renewable electricity (e.g., WREGIS, MRETS) or all generation attributes (e.g., PJM, NEPOOL) are watching and/or planning for these developments too. These market

³ An energy attribute certificate (EAC) is a contractual instrument that conveys information (attributes) about a unit of energy, including the resource used to create the energy and the emissions associated with its production and use. Note that “EAC” is a generic term that includes all types of contractual instruments that convey rights to attributes from various types of energy (e.g., gas, electrical, thermal). Different countries may have different names for EACs. For more on EACs, see EPA's web page (<https://www.epa.gov/green-power-markets/energy-attribute-certificates-eacs>) and paper (https://www.epa.gov/system/files/documents/2024-02/energy_attribute_certificates.pdf).

⁴ U.S. Federal Trade Commission Green Guides (https://www.ftc.gov/sites/default/files/documents/federal_register_notices/guides-use-environmental-marketing-claims-green-guides/greenguidesfrn.pdf)

⁵ Voluntary and RPS compliance market renewable energy sales. Based on data from O'Shaughnessy and Heeter (2022) and Barbose (2021).

⁶ For additional information, see the Center for Resource Solutions' paper on the [Legal Basis for Renewable Energy Certificates](https://resource-solutions.org/document/the-legal-basis-for-renewable-energy-certificates/) (<https://resource-solutions.org/document/the-legal-basis-for-renewable-energy-certificates/>).

developments rely on accounting standards that already recognize these market instruments or directly require them. Separately accounting for NPAs from EACs and RECs is likely to reduce the integrity of clean power claims, increase market uncertainty, and complicate clean energy markets that have effectively served regulatory compliance and voluntary customers.

We appreciate the opportunity to share technical comments about the importance of energy attribute certificates (including RECs) to effectively expand renewable and clean electricity markets.

Sincerely,

/s/ Matt Clouse

Senior Advisor, Partnership Programs
Clean Air & Power Division
U.S. Environmental Protection Agency