REQUEST FOR COMMENTS ON DRAFT RULES
Clean Energy Transformation Act (CETA)
Double Counting of Renewable Energy Credits and Storage Accounting

With Washington Utilities and Transportation Comission

Comments due Monday, Dec. 6, 2021

BACKGROUND

RCW 19.405.130(3) requires that the Department of Commerce (Commerce) and the Washington Utilities and Transportation Commission (Commission) adopt rules by June 30, 2022, defining the requirements for complying with RCW 19.405.030 through 19.405.050 with electric market purchases from carbon and electricity markets outside of the state, and to address the prohibition of double counting of nonpower attributes under RCW 19.405.040. This rulemaking also addresses two related issues that arose during the development of the CETA implementation rules in Docket UE-191023 – the interpretation of the requirement to "use" electricity for compliance with RCW 19.405.040(1)(a), and the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050. On October 12, 2021, the Commission issued draft rules in its Docket UE-210183 interpreting and implementing "use" in RCW 19.405.040(1)(a).

With the draft rules issued with this notice, the Commission and Commerce (Joint Agencies) aim to address the prohibition of double counting of nonpower attributes under RCW 19.405.040, as well as the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050.

Please send comments via email to ceta@commerce.wa.gov by 5 pm on Monday, December 6, 2021. The Joint Agencies will conduct a stakeholder workshop on the rules and comments on December 14, 2021. Workshop details will be posted on the CETA rulemaking webpage.

ISSUE DISCUSSION

RCW 19.405.040 provides, in part, that an electric utility may use unbundled renewable energy credits, "provided there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions[.]" Issued with this notice, the Joint Agencies offer a first draft of rules interpreting and implementing this language.

The draft rule language is structured as new sections of Chapter 480-100 WAC for the Commission and new sections of Chapter 194-40 WAC for Commerce. The Joint Agencies offer these draft rules for stakeholder comment. In future versions of the draft rules, each agency will integrate the rule language into its current rule structure.

Broadly, the draft rules include the following changes:

- WAC 194-40-XXX / WAC 480-100-XXX: Establishes requirements that utilities must acquire unbundled renewable energy credits (RECs) from renewable generating facilities that follow business practices designed to prevent double counting.

- WAC 194-40-YYY / WAC 480-100-YYY: Clarifies that the eligibility of renewable and nonemitting electricity for CETA compliance is not affected by the use of storage resources.

- WAC 194-40-ZZZ / WAC 480-100-ZZZ: Applies business practice standards related to double counting to retained RECs.

QUESTIONS FOR CONSIDERATION

The Joint Agencies seek comments on the draft rules, specifically whether they are clear, feasible to implement, and consistent with CETA. In addition, the Joint Agencies seek responses to the following questions:

1. **Requirements for obtaining unbundled RECs:** The draft rule would require that utilities obtain unbundled RECs only from renewable generating facilities that comply with certain business practices in all transactions, regardless of whether the transaction involves a Washington utility.

    a. Is it feasible to require renewable generation facilities to register and certify with the state of Washington that all of their transactions comply with the draft rules' business practices?

b. Should the Joint Agencies consider alternatives to requiring that renewable generation facilities adhere to specific business practices in order to prevent double counting?

c. Should the Joint Agencies consider an alternative in which the business practices identified in subsection (2)(a) through (c) are required only for transactions that result in the transfer of an unbundled REC to a Washington utility?

d. Is a transaction-based approach feasible? If feasible, is it necessary to ensure no double counting of non-energy attributes?

e. Would a transaction-based approach be more or less effective and enforceable than the draft rules in preventing double counting?

2. **Business practices for transactions involving electricity delivered or claimed under greenhouse gas cap programs:**

   a. Sec. -XXX (2)(c) applies to transactions involving GHG cap programs outside Washington. Is it reasonable to distinguish between GHG cap programs outside Washington and Washington's own GHG cap program, the Climate Commitment Act (CCA)? Is it relevant in making this decision that the electricity and the unbundled REC are used in the same jurisdiction?

   b. Sec. -XXX(2)(c) uses the term "GHG cap program," and the workshop discussion focused primarily on California's cap and trade program. How should the term "GHG cap program" be defined? Should the rule identify specific programs? If so, please provide an alternative term and definition.

3. **Identification of RECs associated with specified source electricity sales:** Sec. -XXX(2)(a) requires the inclusion of RECs in sales of specified source electricity and requires that the RECs be from the same generating facility and have the same month/year vintage. Is this matching of RECs with electricity reasonable or is a more precise matching of RECs with electricity necessary and feasible for compliance?

4. **Double counting safeguards for retained RECs:** The statutory prohibition on double counting applies to unbundled RECs retired for alternative compliance obligations. The Commission's draft rules on "use" allow retained RECs to be used in addition to electricity from renewable generation resources for primary compliance.[1] If the same rule on "use" were adopted by Commerce for consumer owned utilities,

[1] Issued October 12, 2021, in Docket UE-210183.

should the business practices preventing double counting be applied to retained RECs? If so, does draft section -ZZZ do this effectively?

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.

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) 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.