

WSR 22-13-128

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed June 17, 2022, 1:53 p.m., effective July 18, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rules ensure the proper implementation and enforcement of Clean Energy Transformation Act and address wholesale market transactions and the prohibition on double counting, as provided for under RCW 19.405.100 and 19.405.130. The rules provide clarification of the requirement in RCW 19.405.040 that a utility use renewable or nonemitting electricity sources in an amount equal to 100 percent of the utility's retail electric load; provide clarification of the requirement in RCW 19.405.050 that a utility supply 100 percent of all sales of electricity to Washington retail electric customers using electricity from renewable or nonemitting sources; establish specification, verification, and reporting requirements for (i) wholesale market purchases, and (ii) the prohibition of double counting of non-power attributes under RCW 19.405.040; and provide clarification on the treatment of storage resources under the requirement in chapter 19.405 RCW.

Citation of Rules Affected by this Order: New 4.

Statutory Authority for Adoption: RCW 19.405.100, 19.405.130.

Adopted under notice filed as WSR 22-07-104 on March 23, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 4, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 17, 2022.

Dave Pringle
Legislative and
Rules Coordinator

OTS-3672.2NEW SECTION

WAC 194-40-370 Accounting for electricity from storage resources. (1) The eligibility of renewable or nonemitting electricity to demonstrate compliance with 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 as defined in RCW 19.405.020(36).

(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.

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NEW SECTION

WAC 194-40-410 Use of renewable energy credits other than unbundled RECs to comply with the greenhouse gas neutral standard. (1) A utility may use a REC other than an unbundled REC to comply with the requirements of RCW 19.405.040 (1)(a) or to demonstrate performance compared to an interim target established under RCW 19.405.060(1) only if the utility complies with the requirements of this section.

(2) The utility must acquire the REC and the electricity associated with the REC in a single transaction through ownership or control of the generating facility or through a contract for purchase or exchange.

(3) The electricity associated with the REC must be:

(a) From a generating facility located within the utility's service area or balancing authority area; or

(b) Acquired by the utility at one of the following points of delivery:

(i) The transmission or distribution system of an electric utility (as defined in RCW 19.405.020);

(ii) The transmission system of the Bonneville Power Administration;

(iii) The transmission system of any entity that is a participant in an organized electricity market located in the Western Interconnection in which the electric utility is a participant; or

(iv) Another point of delivery designated by the utility for the purpose of subsequent delivery to the utility.

(4) The electricity associated with the REC must be from a generating facility or contract that is part of a resource portfolio reasonably expected to be capable of serving at least 80 percent of the utility's retail electric load over each compliance period. Each utility required under RCW 19.280.030(1) to prepare an integrated resource plan must demonstrate compliance with this requirement by, at a minimum, showing through an hourly analysis that the expected renewable or nonemitting output of the resource portfolio could be generated and delivered to serve at least 80 percent of expected retail electric load. This demonstration must use inputs and assumptions consistent with the utility's integrated resource plan and may be updated with changes in its resource portfolio.

(5) A REC is not eligible under this section if the utility sells or otherwise transfers ownership of the electricity associated with the REC in a transaction that (a) contractually specifies the source of the electricity by fuel source or as renewable or (b) transfers the nonpower attributes of the electricity.

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NEW SECTION

WAC 194-40-415 Use of renewable energy credits to comply with the 100 percent renewable or nonemitting standard. (1) Except as provided in subsection (2) of this section, a utility may not use a REC to comply with the requirements of RCW 19.405.050(1) unless:

(a) The utility acquired the REC and the electricity associated with the REC in a single transaction through ownership or control of the generating facility or through a contract for purchase or exchange; and

(b) The utility did not use the associated electricity for any purpose other than supplying electricity to its Washington retail electric customers.

(2) A utility may use any REC to comply with the requirements of RCW 19.405.050(1) if:

(a) The utility acquired the REC through participation in a clean electricity market;

(b) The REC is associated with electricity acquired through participation in a clean electricity market; and

(c) The utility obtained all electricity supplied to its retail customers from clean electricity markets.

(3) For purposes of this section, "clean electricity market" means an organized wholesale electricity market that provides for the physical delivery of electricity and excludes electricity from fossil fuel and unspecified sources.

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NEW SECTION

WAC 194-40-420 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 by complying with the requirements of this section.

(2) Except as provided in subsection (4) of this section, a utility may use an unbundled REC for alternative compliance only if the utility demonstrates:

(a) The associated electricity was sold, delivered, or transferred without specifying fuel sources or nonpower attributes and under a contract expressly stating the fuel source or nonpower attributes are not included; and

(b) The associated electricity was not delivered, reported, or claimed as a zero-emission specified source or assigned the emissions rate of the renewable generating facility under a GHG program.

(3) A utility's demonstration under this section may be met by documentation that the entity providing the unbundled REC:

(a) Provides contract, confirmation, or other transaction terms that comply with the requirements of subsection (2) of this section;

(b) Was a party to or otherwise has knowledge of the transaction in which the associated electricity was sold or transferred and attests to complying with the requirements of subsection (2) of this section; or

(c) Obtained the unbundled REC from an entity that attests that it and all previous owners of the REC transferred the REC using transaction terms complying with the requirements of (a) or (b) of this subsection.

(4) To claim and retire an unbundled REC for alternative compliance where the Washington-eligible RECs were created by renewable electricity marketed by BPA, a utility must demonstrate the REC was not associated with electricity from a system sale from BPA directly into a state with a GHG program and to an entity regulated by the state GHG program. The RECs are calculated based on the same vintage year as the year in which the electricity was imported to the state with the GHG program.

(5) For the purposes of this section, "GHG program" includes any governmental program outside of Washington that caps or limits greenhouse gas emissions or requires the purchase, surrender, or retirement of greenhouse gas allowances, if the scope of the greenhouse gas program includes electricity imported from outside the governmental jurisdiction and does not require the retirement of RECs for such imported electricity.

(6) This section sets only the minimum requirements necessary to demonstrate that no double counting has occurred. The auditor may request that the utility produce other evidence or recommend specific actions for the utility to consider to demonstrate that there is no double counting of nonpower attributes.

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