

Supplemental Comments of the Western Power Trading Forum on Proposed Changes 45-day Rule-making Packages for Cap and Trade Regulation
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WPTF would like to take this opportunity to provide additional comments to the California Air Resources Board (CARB) on the Renewable Portfolio Standard (RPS) Adjustment. In our earlier comments, WPTF highlighted the need for an entity importing substitute power on behalf of an RPS-obligated entity (a retail provider) to be able to claim the RPS adjustment. Additionally, we proposed that the regulation be modified to require an attestation by retail providers that Renewable Energy Credits (RECs) reported in association with the RPS adjustment will be retired for RPS program compliance, instead of requiring that these RECs be retired before the RPS adjustment can be used. We provide more detail on these issues below.

Use of the RPS adjustment by entities that are not retail providers

The current regulatory provisions do not permit use of the RPS adjustment by importers of substitute electricity that do not have ownership or contractual rights to the associated RECs. From conversations with staff, it appears that this is intentional based on staff expectation that retail providers will compensate importers of substitute energy for the carbon costs of that electricity, and that the retail providers will be able to recoup this additional cost by taking the RPS adjustment. While we agree with the intent of this approach – that the benefit of the RPS adjustment accrues to the retail provider, we note that it will not work for many existing contracts and for many retail providers. First, there are existing RPS contracts in place under which the retail provider’s counter-party does not take title to the associated RECS, but is responsible for importing firming and shaping electricity and the counter-party is expected to use the RPS adjustment to cover the carbon cost (rather than the retail provider paying for the importer’s carbon cost). These contracts would have to be re-negotiated if the importer is not able to take the RPS adjustment.

Second, we note that many small retail providers do not have a compliance obligation under the cap and trade program because they do not own in-state generation and are not first jurisdictional deliverers of electricity. Under the current regulation, these retail providers would not be able to take the RPS adjustment since they would have no emission obligation against which to apply the RPS adjustment. Yet these retail providers are subject to the RPS and will incur increased costs due to the carbon price embedded in their electricity purchases.

In order to address this problem, it is critical for CARB to provide a mechanism to enable importers of firming and shaping power pursuant to a retail provider’s RPS procurement to claim the RPS adjustment. We therefore propose that staff modify the regulation to allow the RPS adjustment to be taken either by the retail provider, or another entity designated by that retail provider to use the RPS adjustment on its behalf.

Attestation and reporting and verification of REC retirement

In our previous comments, WPTF proposed that, instead of requiring that RECs associated with the RPS adjustment be retired in order for the RPS adjustment to be used, the regulation should require an attestation from the retail provider that the RECs reported in association with the RPS adjustment would be retired for that entity’s RPS compliance. To facilitate staff consideration of this proposal, we provide additional recommendation on the language for such an attestation, as well as how the retirement of associated RECs could be reported and verified.

- As part of its annual report, each retail provider wishing to use the RPS adjustment would be required to submit an attestation that states: *“I certify under penalty of perjury that I am duly authorized by [name of entity] to sign this attestation on behalf of [name of entity] and that [name of entity] shall retire all RECs reported herein in association with the RPS adjustment for RPS compliance within 36 months of generation.”*
- Each retail provider would have the option to designate other entities (i.e. importers of incremental power on the retail provider’s behalf) that may use the RPS adjustment on behalf of that retail provider. In order to use this option, the retail provider must identify the other entity, the other entity’s designated quantity of RPS Adjustment and the RPS project ID of the resource from which the renewable energy was procured.
 - CARB staff would provide verifiers with a list of entities authorized by retail providers to use the RPS adjustment, and the associated RPS project IDs
 - Other entities that are authorized by retail providers to use the RPS adjustment on the retail provider’s behalf must enter the RPS project ID on the NERC tag for the delivered electricity, consistent with RPS program rules.
- CARB should develop a template for reporting by retail providers of the serial numbers and vintages of RECs reported in association with the RPS Adjustment, including those for which another entity has been authorized to use the RPS adjustment. (We note that the MRR already requires reporting of REC serial numbers, but no template has been provided.) Reporting of the vintage of RECs would enable CARB staff and verifiers to determine the deadline for retirement in accordance with RPS program rules. For example, a February 2012 vintage REC must be retired by February 2015.
- In its annual report, each retail provider must include information on RECs claimed for the RPS adjustment for the previous reporting year, and provide an update on the status (retired or non-retired) of previously reported RECs that were not retired at the time the RPS adjustment was claimed.
- As part of the verification of retail providers annual reports under the MRR, verifiers would spot-check reported REC retirement. Retail providers can document REC retirement by providing the verifier with a copy of their WREGIS retirement account holdings.
- In the case that another entity has been authorized by a retail provider to use the RPS adjustment, verifiers would check that the entity can document that NERC tags contain the appropriate RPS project ID.