

**RE: Second Rulemaking to amend the Energy Independence Act (EIA), WAC 480-109, Docket UE- 190652**

July 2, 2020

**SENT VIA WEB PORTAL**

Mark L. Johnson  
Executive Director and Secretary  
Washington Utilities and Transportation Commission 621 Woodland Square Loop SE  
Lacey, Washington 98503

Dr. Mr. Johnson,

1 The NW Energy Coalition (“Coalition”) submits the following comments pursuant to the Notice of Opportunity to File Written Comments dated June 5th, 2020 in UE-190652. The Coalition filed Initial Comments in this docket on November 4, 2019 in response to the CR-101 and Second Comments on May 1, 2020, in response to the original CR-102 and initial Proposed Rules.

The Coalition is an alliance of approximately 100 organizations united around energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia basin, low-income and consumer protections, and informed public involvement in building a clean and affordable energy future.

These comments raise one new area of concern with language that was changed in the most recent draft version of the rules in Low-income Conservation – Proposed WAC 480-109-100(10)(a), provide affirming comments regarding other changes to the rules, and reiterate concerns with sections of the rules where no changes have been made to address our previous comments.

**Low-income Conservation – Proposed WAC 480-109-100(10)(a)**

The Coalition supports previously proposed changes to WAC 480-109-100(10)(a) to state that a utility “must fully fund” the specified low-income conservation measures. This clarification is consistent with CETA’s goal of expanding energy assistance to more customers over time, and with the fact that energy efficiency is defined as a form of energy assistance under the Act. The Coalition also supports the recent addition of the word “either” to the first sentence, which helpfully clarifies that measures must be funded if they are cost-effective based on *either* the Weatherization Manual or the utility-specific avoided cost method.

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We are concerned, however, with the addition of the following sentence in this section of the most recent draft rules:

“For purposes of this subsection, “fully fund” may include the agency leveraging other funding sources, in combination with utility funds, to fund low-income conservation projects.”

This language could potentially lead to discrepancies between the utility and the low-income service agencies regarding when and how much leveraging of other sources should occur to enable the fully funding of low-income conservation projects. As the agency ultimately has discretion over the use of multiple funding sources for projects, it seems unadvisable to link this to the utility requirement to “fully fund” these projects with this ambiguous manner that leaves open for interpretation who has the authority to make decisions about this matter.

For clarity and to prevent potential future discrepancies, the Coalition recommends that the new second sentence of subsection (10)(a) be amended to read:

“For purposes of this subsection, “fully fund” ~~may include~~ does not prohibit the agency leveraging other funding sources, in combination with utility funds, to fund low-income conservation projects.”

If the Commission does not wish to modify the language in the Proposed Rule at this late stage, the Coalition respectfully requests that the adoption order include a statement clarifying that the intent of the language is to indicate that the agency is not prohibited from leveraging other funds, in combination with utility funds, to fund low-income conservation projects, not to allow a utility to decline to fund a project if leveraged funds are not available.

## **Support for New Changes in the Draft Rule**

### **WAC 480-109-060 Definitions**

We support the broadening of the definition of Low-income. This revised definition follows the statutory intent to allow utilities to choose the standard that best accounts for local circumstances either eighty percent of area median income or two hundred percent of federal poverty level, adjusted for household size. This ensures existing programs can continue as low-income programs and addresses poverty and vulnerability more fairly.

### **WAC 480-109-300 Greenhouse gas content calculation and energy emissions intensity metrics**

We support the change in (4) Unspecified electricity. Changing the title of this subsection from “unknown generation sources” to “unspecified electricity” is consistent with standard utility references.

## Reiteration of Previously Documented Concerns

### **WAC 480-109-060 Definitions**

Incremental energy from qualified biomass - We continue to urge the modification of part of the definition concerning qualified biomass. The current rule was developed by Commerce, working with stakeholder after the biomass portion of the EIA was amended in 2017. We see no reason to alter that current rule, found at WAC 194-40-100(3)(b) and suggest the highlighted language be reinstated.

WAC 480-109-06012(f)(ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of average net generation over a three-year period, excluding any periods in which operation of the qualified biomass facility was unrepresentative of normal operating conditions, prior to the capital investment in order to calculate the amount of incremental electricity produced;

Federal incremental hydropower - CETA allows incremental federal hydropower as a renewable resource under specific conditions – the generation of that incremental power must not result in *new* impoundments, diversions or bypass reaches, nor in the expansion of *existing* reservoirs. The qualification about *existing* reservoirs is missing from the rule and should be included to be consistent with the statute.

WAC 480-109-06012(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville Power Administration where the additional generation does not result in new water diversions, or impoundments, bypass reaches or expansion of existing reservoirs; or

Energy Assistance need – We stated in our previous comments on this rule and in other workshops on this issue that utilities should be able to determine a threshold lower than 6% to determine bill affordability based on local economic conditions. While Washington State’s overall utility costs and average energy burden are lower compared to the rest of the United States<sup>1</sup>, those lower costs are often offset by much higher housing and other living costs (such as rental rates, property/sales/other taxes, etc.) in several parts of the state. We remain concerned that defining energy burden as “equal to”, rather than a threshold not to be exceeded will impact programs designed to meet specific local problems and ask reconsideration of our suggested wording.

WAC 480-109-060 (14) "Energy assistance need" means the amount of assistance necessary to achieve an energy burden equal to not to exceed six percent for utility customers.

Greenhouse Gas Content Calculation – Limiting the calculation of emissions to just emissions from combustion or oxidation ignores other emissions from the use of fossil fuels and fails to capture the broader intent of the law. We again urge the Commission to include emissions from extraction, production, transport, and transmission and distribution as well.

WAC 480-109-060 (17) "Greenhouse gas content calculation" means a calculation expressed in carbon dioxide equivalents made by the department of ecology for the purposes of determining the complete lifecycle emissions attributable to a fuel, including emissions resulting from the extraction, production, transport, and from the complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity.

We appreciate the opportunity to submit further comments on these rules.

Sincerely,

Wendy Gerlitz, Policy Director

Joni Bosh, Senior Policy Associate

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