



**STATE OF WASHINGTON**  
**UTILITIES AND TRANSPORTATION COMMISSION**

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October 12, 2021

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS ON DRAFT RULES**  
**(By 5 p.m., Friday, November 12, 2021)**

Re: Relating to Electricity Markets and Compliance with the Clean Energy Transformation Act, Docket UE-210183

TO ALL INTERESTED PERSONS:

On April 5, 2021, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to promulgate new rules to implement certain sections of the Clean Energy Transformation Act (CETA).<sup>1</sup> The Commission filed the CR-101 in Docket UE-210183.

**BACKGROUND**

CETA requires investor-owned electric utilities (1) to eliminate coal-fired generation from their portfolios by the end of 2025; (2) to ensure that all retail sales of electricity to their retail customers will be greenhouse gas neutral by the end of 2030; and (3) to source all of their power from renewable and non-emitting resources by the end of 2045. Furthermore, CETA requires that the utilities ensure that all customers are benefiting from the transition to clean energy through the equitable distribution of energy and nonenergy benefits and reductions of burdens to vulnerable and highly impacted communities.

In 2020, the Commission adopted three sets of rules to begin implementing CETA's requirements.<sup>2</sup> This docket initiates the second phase of rulemakings to implement the statute.

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<sup>1</sup> E2SSB 5116, Laws of 2019, ch. 288.

<sup>2</sup> Integrated Resource Planning and Clean Energy Implementation Plans rulemaking in Dockets UE-190698 and UE-191023, Purchase of Resources rulemaking in Docket U-190837, and the Energy Independence Act rulemaking in Docket UE-190652.

RCW 19.405.130(3) requires that the Department of Commerce (Commerce) and the 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 centralized markets, and to address the prohibition of double counting of nonpower attributes under RCW 19.405.140.

This rulemaking also addresses two related issues that arose during the development of the CETA implementation rules in Docket UE-191023. First, the Commission will provide an interpretation of the requirement to “use electricity” for compliance with RCW 19.405.040(1)(a).<sup>3</sup> Second, the Commission will develop rules for the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050. Depending on the pace of development for electric market purchases rules, the Commission may also consider creating reporting and verification requirements for complying with RCW 19.405.030, .040 and .050 during this rulemaking or may address the issue in a future rulemaking.

The Commission is coordinating with Commerce throughout this rulemaking.

The interpretation of the statutory language in RCW 19.405.040(1)(a) was the subject of considerable discussion in the previous CETA implementation rulemaking dockets preceding this docket – Dockets UE-190698 and UE-191023 – and in the rulemaking proceeding conducted by Commerce. The records developed in these dockets and proceedings continue to inform the Commission’s perspective on statutory interpretation.

On May 17, 2021, the Commission issued in this docket a Notice of Opportunity to Comment on a number of issues. However, on June 7, 2021, the Commission issued a notice withdrawing questions related to the interpretation of “use electricity” in response to requests from multiple stakeholders that the Commission and Commerce afford additional time for informal discussions and collaboration on the topic.

On August 12, 2021, the Commission and Commerce held a joint workshop to discuss the interpretation of the “use electricity” requirement. At the workshop, two groups of stakeholders presented proposals on how the Commission and Commerce might interpret and implement RCW 19.405.040(1)(a). Presentations for these stakeholder groups were filed in this docket and are available on the Commission’s website.

On August 27, 2021, the Commission amended its proposed rulemaking schedule by extending the target date for draft rules on this subject to early October 2021.

## ISSUE DISCUSSION

RCW 19.405.040(1)(a) provides, in part, that an electric utility must “demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from

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<sup>3</sup> See Notice of Opportunity to File Written Comments, Docket UE-191023 (November 5, 2020).

renewable resources, or alternative compliance options”and “use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility’s retail electric loads over each multiyear compliance period.”

Included with this notice, the Commission offers a first draft of rules interpreting and implementing the language in this subsection of CETA. As specified in the CR-101, the draft rules are integrated into existing language in WAC 480-100-600 through 665. Broadly, the draft rules include the following changes:

- WAC 480-100-605 Definitions: definitions to clarify distinctions between various renewable energy credits (RECs); definitions to establish common language for compliance obligations described in RCW 19.405.040(1); and the inclusion of some terms defined in statute in the Commission’s rules for added clarity.
- WAC 480-100-650 Reporting and compliance: a new subsection (1) establishing the purpose of utility acquisitions of renewable and nonemitting resources under RCW 19.405.040(1)(a) and how utilities may demonstrate compliance; (2) adding expanded language to describe required clean energy compliance reports; and (3) clarifying which types of RECs are eligible to be used for which compliance obligations. The draft rules also add a new subsection requiring hourly data and contracting information and a commitment to review the rule by September 1, 2024.

## QUESTIONS FOR CONSIDERATION

The Commission seeks comments on whether the draft rules are clear, feasible to implement, and consistent with CETA. The Commission is committed to working constructively with stakeholders to develop rules that uphold CETA’s statutory requirements while allowing for the efficient, reliable, and affordable provision of service to customers, including utility participation in energy markets. The Commission requests stakeholder comments to assist with this goal. General comments on the draft rules are welcome. In addition, the Commission seeks responses to the following questions:

1. Draft WAC 480-100-650(1): The Commission intends for this language to describe a planning and acquisition standard that requires utilities to acquire resources that are well-suited to directly meet projected retail electric load without precluding the use of those resources for balancing, exchanges, or other purposes.
  - a. Is this intent sufficiently captured and the requirement clearly established through this draft rule language?
  - b. Is it appropriate to include a reference RCW 19.405.050(1) in this requirement?
2. Draft WAC 480-100-605: The draft rules include definitions that draw a distinction between a “retained” REC and the CETA definition of unbundled REC.

- a. Is this distinction understandable?
  - b. Are there other nuances to the distinction between retained RECs and unbundled RECs that should be addressed in the rule?
  - c. In order to make use of this distinction between retained RECs and unbundled RECs, utilities will have to track and differentiate these RECs.
    - i. Is it practicable to track retained RECs separately from unbundled RECs?
    - ii. Is it practicable to track retained RECS associated with unspecified electricity sales?
3. Draft WAC 480-100-605: The draft rules include a definition of “primary compliance” to differentiate the portion of the greenhouse gas neutral standard that may not be met using unbundled RECs or other alternative compliance options. Is this definition clear?
4. Draft WAC 480-100-650: The draft rules include robust requirements for hourly energy management data and information on a utility’s wholesale transaction activities, as the penalties described in CETA are established based on “each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation,”<sup>4</sup> necessitating a high level of granularity in reporting. With these increased reporting requirements, the Commission aims to increase visibility into a utility’s operations and to augment the data available to review a utility’s performance in complying with the requirements of RCW 19.405.040 and .050 outlined in these draft rules.
- a. Are the items in the draft rule sufficiently described?
  - b. Are any of the reporting requirements unnecessary to achieve the Commission’s goal?
  - c. Conversely, are there additional items that the Commission should include in the expanded reporting requirements?
  - d. Please identify any requested data or information that are already provided to the Commission in other filings, such as general rate cases. Please identify any data or information that are likely to be challenging to identify or submit, and describe why these items would be difficult to compile.

## WRITTEN COMMENTS

Interested persons may submit written comments no later than **5 p.m., Friday, November 12, 2021.**

Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in

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<sup>4</sup> RCW 19.405.090(1)(a).

WAC 480-07-140(5), those comments must be submitted via the Commission's web portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing). If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at [records@utc.wa.gov](mailto:records@utc.wa.gov).

Comment submissions should include:

- The docket numbers of these proceedings (Docket UE-210183).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post on its web site all comments that are provided in electronic format. The website is located at [www.utc.wa.gov/casedocket/2021/210183](http://www.utc.wa.gov/casedocket/2021/210183).

If you are unable to file your comments electronically, the Commission will accept a paper document via mail.

If you have questions regarding this rulemaking, you may contact Staff lead Steve Johnson at (360) 481-1573, or by email at [steven.johnson@utc.wa.gov](mailto:steven.johnson@utc.wa.gov).

AMANDA MAXWELL  
Executive Director and Secretary