June 2, 2020

Mark Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98504-7250

RE: Comments of Renewable Northwest, Docket UE-191023
Utilities and Transportation Commission's May 5, 2020, Notice of Opportunity to File Written Comments Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023.

I. INTRODUCTION

Renewable Northwest thanks the Washington Utilities and Transportation Commission ("the UTC" or "the Commission") for this opportunity to comment in response to the Commission's May 5, 2020, Notice of Opportunity ("Notice") to File Written Comments Relating to Clean Energy Implementation Plans ("CEIPs") and Compliance with the Clean Energy Transformation Act ("CETA").

In these comments, we first address topics not directly prompted by the questions within the Notice, focusing on the incremental cost of compliance mechanism and suggested improvements to definitions. We then address many of the questions posed by the Notice, with particular attention given to issues regarding analytical consistencies in the incremental cost of compliance calculation, appropriate levels of compliance enforcement, and processes that might affect resource decisions and renewable resources in general.

Finally, we commend the Commission and Commission staff for delivering a promising first draft of rules which encourages Washington utilities to "fundamentally transform" their activities to ensure successful implementation of CETA.[1] We also thank the Commission and Commission staff for their continued attention to the improvement of vital details which will secure Washington's clean energy future. This work is complex but important, and we appreciate the Commission's management and coordination. As always, we look forward to continued participation in these processes.

[1] Notice at 3.

II. COMMENTS

A. Overall Rule Language

WAC 480-100-675 Incremental Cost of Compliance

As explained in Renewable Northwest's co-authored comments submitted to the Commission on April 6, 2020 and attached to these Comments as Exhibit A, "The language of RCW 19.405.060(3)(a) is focused not on the cost of compliance with CETA in general, but rather on the 'cost of meeting the standards or the interim targets established under subsection (1) of this section.'"[2] Renewable Northwest requests that the Commission amend the first sentence of WAC 480-100-675(1) to read, "To determine the incremental cost of the actions a utility takes to comply with RCW 19.405.040(1) and RCW 19.405.050(1), the utility must compare its lowest reasonable cost portfolio of actual costs to an alternative lowest reasonable cost and reasonably available portfolio that the utility would have implemented absent the enactment of those sections of the law." Within WAC 480-100-675, every subsequent reference to RCW 19.405.040 and RCW 19.405.050 should be amended to read "RCW 19.405.040(1)" and "RCW 19.405.050(1)" for consistency.

Separately, Renewable Northwest suggests that WAC 480-100-675(1)(b) be clarified in or omitted from the rule. Without providing utilities with substantial guidance to determine CETA's effect on "any changes in wholesale power expenses or revenue,"[3] the language creates ambiguity, potentially leading to analytical inconsistencies and information asymmetry that limits the ability of stakeholders to effectively engage.

WAC 480-100-650 Clean Energy Standards

Renewable Northwest suggests the draft rule language for WAC 480-100-650(1)(c) be revised to acknowledge transmission losses in the supply of electricity to customers. To put the matter simply, on every electricity system more MWh of electricity are generated than are consumed, because transmission efficiency is imperfect. The intent of CETA is to ensure Washington's electricity system is 100% clean. This means that standards must account for line losses by ensuring all generation -- not just all consumption -- is 100% clean.

The Commission may accomplish this by incorporating in the rules a definition for "retail sales" as follows:

> "Retail sales" means sales of electricity in megawatt hours delivered to retail customers, inclusive of all the electricity generated associated with energy delivered to customers,

[2] April 6, 2020 Comments of Renewable Northwest, Docket U-191023 at 2, attached to these Comments as Exhibit A

[3] WAC 480-100-675(1)(b)

including transmission and distribution line losses that occur between the point of generation and the final delivery of the electricity, round-trip efficiency losses associated with storage, and other related generation.

Additionally, Renewable Northwest recommends the Commission consider the following additions to WAC 480-100-650(1):

(X) Renewable resources used to meet the standard under (b) and (c) must be verified by the retirement of bundled renewable energy credits.

(X) Nonemitting resources used to meet the standard under (b) and (c) must be generated during the compliance period and must be verified by documentation that the utility owns the nonpower attributes of that power.

Regarding the first proposed addition to WAC 480-100-560(1), we understand some stakeholders may have concerns that restrictions on renewable resources used to meet CETA standards may affect the efficient operation of western markets. While we do not share those concerns at this time, we look forward to reviewing other stakeholders' comments on this point.

WAC 480-100-660 Process for Review of CEIP and Updates

Renewable Northwest supports added clarity to WAC 480-100-660(2) that the approval process will include a public hearing.

B. Responses to the Notice

1. As stated in the Issues Discussion, draft WAC 480-100-600, Definitions, is a set of definitions that will apply to both the IRP and CEIP rules as first proposed in the IRP rulemaking, Docket UE-190698. We are interested in hearing responses to the draft's use of the term "resource" throughout these draft rules, in particular, if its use is consistent with your understanding of the term and is appropriate for these rules.

a. "Lowest reasonable cost." Does the use of the term "resource" in this definition limit the types of costs that are included in an assessment of "lowest reasonable cost"?

No. Both because the term "resource" is not itself defined and because the definition for "lowest reasonable cost" addresses "[a]t a minimum" what the cost analysis must consider, the term "resource" is not limiting. However, because the term "lowest reasonable cost" informs the incremental cost calculation outlined later in the rules, the Commission may wish to explicitly include other CETA-related costs beyond "resources" which do not directly apply to meeting the standards or interim targets of CETA. One example is the cost associated with RCW 19.405.040(8) compliance.

b. "Resource need." Is it appropriate to include "delivery system infrastructure needs" in the definition of "resource need"?

Yes. Expanding the definition of "resource need" to incorporate transmission and distribution needs will reduce barriers to CETA implementation, as a progressively diverse electricity mix will rely on a flexible grid with the physical infrastructure necessary to benefit from geographically, temporally, and technologically diverse resources.

c. "Integrated resource plan." Is it appropriate to include "delivery system infrastructure needs" in the definition of "integrated resource plan"?

Yes. Utilities are increasingly addressing transmission needs in their integrated resource plans, and other states are beginning to incorporate distribution system needs into integrated resource planning as well.[4] Expanding the definition of "integrated resource plan" to incorporate transmission and distribution needs will reduce barriers to CETA implementation, as a progressively cleaner electricity mix will rely on a flexible grid with adequate physical infrastructure.

However, while Commission staff may have drafted this language with the intent that "delivery system infrastructure" include storage, as drafted it is not clear that the definition of "integrated resource plan" incorporates utility-scale storage as a resource. While the definition contemplates a resource mix composed of "conservation and efficiency, generation, distributed energy resources, and delivery system infrastructure," utility-scale energy storage does not fit cleanly into any of those categories. As a result, the definition does not appear to recognize energy storage as a stand-alone resource to meet current and future resource needs.

As illustrated by existing utility integrated resource plans and recent utility-scale storage procurements in the region, this resource is essential to include in resource planning to encourage the shift from renewable resource variability to renewable resource dispatchability in the era of clean energy standards. Renewable Northwest encourages the Commission to consider amending "integrated resource plan" to include utility-scale storage in its resource mix, which will also better align these rules with Draft Chapter 480-107 WAC, released June 1, 2020.

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[4] *See*, *e.g.*, Hawaii Public Utilities Commission, Order No. 35569 at 12-16 (Jul. 12, 2018), *available at* https://dms.puc.hawaii.gov/dms/DocumentViewer?pid=A1001001A18G12B05711C00464 ("The HECO Companies propose to merge three separate planning processes -- generation, transmission, and distribution -- while simultaneously integrating solution procurement into this merged process, with the goal of identifying gross system needs, coordinating solutions, and developing an optimized, cost-effective portfolio of assets."); Michigan Public Service Commission, *Michigan Statewide Energy Assessment* at 191 (Sept. 11, 2019), *available at* https://www.michigan.gov/documents/mpsc/2019-09-11_SEA_Final_Report_with_Appendices_665546_7.pdf ("... the Commission recommends utilities better align electric distribution plans with integrated resource plans to develop a cohesive, holistic plan and optimize investments considering cost, reliability, resiliency, and risk ...").

d. Do changes to the integrated resource planning statute, RCW 19.280, especially the additions of RCW 19.280.100 (Distributed energy resources planning) and RCW 19.280.030(2)(e) affect the definition of "resource"? Does the term "resource" refer to more than just energy and capacity resources for meeting (or reducing) customer demand for electricity?

The term "resource" is not clearly defined either in RCW Chapter 19.405 or in the draft rules. It may be appropriate to leave the term unclear, as the meaning of "resource" is rapidly evolving to include new concepts such as hybrid projects, clean energy portfolios, and virtual power plants.

2. The purpose of CETA is to transition the electric industry to 100 percent clean energy by 2045. To achieve this policy, each utility must fundamentally transform its investments and operations. In draft WAC 480-100-650, Clean energy standard, the discussion draft states that "planning and investment activities undertaken by the utility must be consistent with the clean energy standards [Chapter 19.405 RCW]." While RCW 19.405 refers to the percentage of retail sales served by nonemitting and renewable resources as the "standard," the draft rule describes a clean energy standard that incorporates the additional requirements found in the statute. Is this term useful in clarifying the rule? If not, please recommend an approach for including the additional requirements from the statute.

Overall, the draft rule language sufficiently recognizes the additional requirements from the statute. However, Renewable Northwest agrees with Commission staff that "RCW 19.405 refers to the percentage of retail sales served by nonemitting and renewable resources as the 'standard.'" It may be that staff's decision to include additional requirements in the term "standard" -- while useful for some parts of the rule -- has informed a proposed definition of incremental cost that deviates from CETA's plain language and intent.

We reiterate that RCW 19.405.060 refers to "the incremental cost of meeting the *standards* or the interim targets" of CETA (emphasis added). Again as staff recognize, the statute itself does not include additional requirements in the term "standard," so these additional requirements should be included in the baseline when calculating incremental cost.

3. The proposed rules make a distinction between determining whether the planning and investment activities undertaken by the utility are in compliance with the clean energy standards of CETA and approving the specific actions the utility undertakes to comply with the clean energy standards. In draft WAC 480-100-650, the discussion draft requires that all planning and investment activities undertaken by the utility must be consistent with the clean energy standards.

a. Should the commission determine whether all the activities, rather than the planning and investment activities, undertaken by the utility are consistent with the clean energy standards?

Renewable Northwest has no comment at this time.

b. Does the draft rule need to more clearly delineate the review of activities as being separate from the approval of the specific actions?

Renewable Northwest has no comment at this time.

4. RCW 19.405.060 requires a utility to file a CEIP by January 1, 2022. However, Staff is proposing a timeline that requires utilities to file CEIPs in advance of January 1. Draft WAC 480-100-655 requires utilities to file a CEIP by October 1, 2021, and draft WAC 480-100-670(4) requires the utility to provide a draft of the CEIP to its advisory group two months before filing it with the Commission. The purpose of Staff's proposed timeline is to align the CEIP with the existing process established for reviewing utility biennial conservation plans, as required by the EIA. As indicated in the Issue Discussion section, Staff's intent is to reduce the number of utility filings so that the CEIP can satisfy both the EIA and CEIP conservation target setting requirements. Staff also believes that approving the CEIP earlier will give the utility more certainty of its requirements and better enable utility planning. Please respond to the merits of this proposed timeline.

Renewable Northwest supports this timeline for CEIP submissions, as it enables more coherent utility resource planning. Additionally, the proposed timeline appropriately recognizes that the EIA and CETA should function in parallel, as the overall goals of energy independence and 100% clean energy are interrelated.

5. RCW 19.405.060(1)(b)(iii) refers to "demonstrating progress toward" meeting the clean energy standards and interim targets.

a. Is it clear from the draft rules that such a demonstration within a four-year compliance period would encompass compliance with the various components of the statute?

Yes, the draft language clearly delineates that "demonstrating progress toward" meeting the requirements of the statute encompasses multiple facets of the statute, namely those itemized in WAC 480-100-655(4)(a) through (g).

b. Is it clear from the draft rules that some components of the statute (e.g., RCW 19.405.030 and RCW 19.405.040(8)) would be evaluated relative to the four-year compliance period rather than relative to 2030 or 2045?

Yes, the draft language clearly delineates that the evaluation timelines of various components of the statute aligns with the four-year compliance periods as opposed to the 2030 or 2045 milestones.

6. Interim targets

a. Draft WAC 480-100-655(2)(b) requires utilities to propose interim targets for meeting the 2045 standard under RCW 19.405.050. Noting that RCW 19.405.060(1)(a)(ii) requires utilities to propose interim targets for meeting the standard under RCW 19.405.040 but not .050, is it appropriate for the Commission to establish interim targets for making progress toward meeting the standard in .050?

Renewable Northwest supports the establishment of interim targets for demonstrating progress toward both the standard set in RCW 19.405.040 and the standard set in RCW 19.405.050. Extending the requirement for utilities to propose interim targets to the 2045 milestone will 1) improve utilities' resource planning efforts, 2) improve the Commission's assessment of whether utilities' CEIPs reflect progress toward meeting the clean energy standards, and 3) reduce utilities' reliance on the alternative compliance pathway.

b. Draft WAC 480-100-665(1)(b) requires utilities to meet their interim targets. However, RCW 19.405.090 does not establish penalties for interim targets. Is it appropriate for the commission to enforce compliance with the interim targets through its own authority?

Renewable Northwest encourages the Commission to cement its authority to enforce compliance with interim targets. Robust implementation of the statute relies on real, data-based targets

represented in utilities' CEIPs, and without enforcement, the clear risk is that utilities' interim targets are unfounded.

Enforcing interim targets with penalties appropriately treats these targets as necessary steps toward successful implementation of the statute. One risk of enforcing interim targets with penalties could be the utilities' discouragement from setting ambitious interim targets and/or the utilities' overestimation of perceived risks associated with setting interim targets. In this scenario, utilities might make comparatively weaker progress toward achieving the clean energy standards in each compliance period than they might in the absence of penalties.

However, because these targets are subject to the Commission's review and approval, the Commission may allow a utility, through quantitative and/or qualitative reporting in its CEIP, to justify or defend its failure to meet an interim target. The Commission would then consider the circumstances the utility cites for the shortfall and determine whether to grant a target modification, thus waiving the penalty.

7. Chapter 19.405 RCW requires the utility to demonstrate its compliance with RCW 19.405.040(1) and 050(1) using a combination of nonemitting and renewable resources. Because there are additional requirements in the statute, draft WAC 480-100-665 requires the utility to report more than just its nonemitting and renewable resources. Is the reporting under draft WAC 480-100-665 necessary and appropriate?

The additional reporting does hold utilities accountable to the complexities of the statute.

8. RCW 19.405.040(1)(a)(ii) establishes multiyear compliance periods between 2030 and 2045. RCW 19.405.060(1)(a)(ii) requires the utility to propose interim targets during the years prior to 2030 and between 2030 and 2045. Draft WAC 480-100-655(2), uses the term "implementation period" to avoid confusion with the compliance periods in the statute. It also requires a series of interim targets for 2022 to 2030 and 2030 to 2045. Does the draft rule clearly demonstrate that intent? Is this approach appropriate?

Yes, it is clear that the "implementation periods" for meeting interim targets align with CEIP submission to the Commission, despite the variation in language from the statute.

9. In draft WAC 480-100-665, Reporting and compliance, the discussion draft implies that the utility must demonstrate that the utility has met both its interim and specific targets while also demonstrating that it is making progress towards meeting its clean energy standards, as described in draft WAC 480-100-650. It is possible that a utility could demonstrate that it will likely meet the clean energy standards, or is meeting the clean energy standards, but may not meet a specific target. Should the Commission always issue

a penalty to a utility for failing to meet a specific target or should it take into consideration the utility's achievement for the clean energy standard, interim target, and other specific targets?

Because of the scenario outlined in the prompt, wherein a utility may be on track to meet the clean energy standards while simultaneously missing specific targets projected in its CEIP, the Commission should reserve penalty enforcement for missed interim targets and clean energy milestones within RCW 19.405.040(1) and .050(1).

10. RCW 19.280.030(3) specifies when an electric utility must consider the social cost of greenhouse gas emissions when developing integrated resource plans and clean energy action plans. Draft WAC 480-100-675(1)(a) proposes rules that would require utilities, when calculating the incremental cost of compliance, to include in their alternative lowest reasonable cost and reasonably available portfolio the social cost of greenhouse gas emissions, or SCGHG, in the resource acquisition decision. Please comment on (1) whether the inclusion of the SCGHG is required by statute, (2) if not, whether it is still appropriate for the rules to require the SCGHG in the alternative lowest reasonable cost and reasonably available portfolio, and (3) how inclusion of the SCGHG affects the calculation of the incremental cost of compliance.

As discussed in comments Renewable Northwest co-authored and submitted to the Commission on April 6, 2020, only the costs of meeting the clean energy standards and interim targets must be included in the average annual incremental cost. Justification for that interpretation of the statute was provided in the referenced co-authored comments: "Because the 'standards or the interim targets established under subsection (1)' are the standards and targets of RCW 19.405.040(1) and 19.405.050(1), the most straightforward read of RCW 19.405.060(3)(a) is that only the costs of meeting those specific standards and interim targets must be included in the average annual incremental cost. In other words, any CETA requirement that does not fall under RCW 19.405.040(1) and 19.405.050(1) is not part of the incremental cost calculation and must be included in a utility's baseline."[1]

The SCGHG is a direct example of a CETA requirement that does not fall under RCW 19.405.040(1) and .050(1) and would, therefore, fall in a utility's baseline.

Inclusion of the SCGHG in both the baseline and the modeled scenario including the incremental cost of compliance supports analytical consistency. Because a utility is using the SCGHG to internalize some of the costs that would otherwise be externalities, this balanced incorporation of the SCGHG should result in a higher baseline relative to the incremental cost scenario, thus reducing the overall incremental cost of compliance. In doing so, this consistent and balanced

modeling ensures the alternative compliance pathway is utilized only when a utility has maximized investments in renewable resources and nonemitting electric generation.

11. Draft WAC 480-100-675(4), reported actual incremental costs requires the presentation of capital and expense accounts to be reported by Federal Energy Regulatory Commission (FERC) account. For the purpose of reporting electric retail revenues, should the Commission require utilities to use a standard list of FERC accounts as part of the incremental cost calculation?

Renewable Northwest has no comment at this time.

IV. CONCLUSION

Renewable Northwest thanks the Commission for its consideration of these comments. We look forward to continued engagement in this rulemaking and the remainder of the Clean Energy Transformation Act implementation process.

Respectfully submitted this 2nd day of June, 2020,

/s/ Katie Ware
Katie Ware
Washington Policy Manager
Renewable Northwest
katie@renewablenw.org

/s/ Max Greene
Max Greene
Regulatory & Policy Director
Renewable Northwest
max@renewablenw.org

EXHIBIT A

To: Glenn Blackmon, Brad Cebulko, staff members of Commerce/UTC
From: Climate Solutions, Renewable Northwest, Sierra Club, Washington Environmental Council Vashon Climate Action Group
Re: Response to discussion questions posed on March 27th, 2020
Date: April 6th, 2020

Dear Mr. Blackmon, Mr. Cebulko, and other staff members of Commerce and UTC,

Thank you for taking the time to discuss the incremental cost of compliance provision in more detail with a range of climate and clean energy organizations on March 27th, 2020. During the discussion, a number of questions arose regarding the incremental cost of compliance implementation. Climate Solutions, Renewable Northwest, Sierra Club, and the Washington Environmental Council provide the following informal responses to those questions to inform the continued development of the incremental cost of compliance draft rule language. Please note that these responses are based on RCW 19.405.040(3), but the analysis substantively applies to RCW 19.405.060(4) for consumer-owned utilities as well. Thank you again, and please do not hesitate to reach out with additional questions.

1. ***Utilities must begin making investments prior to 2030 in pursuit of achieving the interim targets and standards if relying on the incremental cost of compliance mechanism in 2030 or beyond.***

While stakeholders often refer to the two clean energy resource standards under the Clean Energy Transformation Act ("CETA"), in addition to a coal prohibition, there are actually three: (1) the greenhouse gas neutral standard defined in RCW 19.405.040(1); (2) the carbon-free standard defined in RCW 19.405.050(1); and (3) the interim targets and specific targets identified in the Clean Energy Implementation Plans defined in RCW 19.405.060(1).

RCW 19.405.060(3)(a) is clearly written to provide an option for containing the cost in achieving all three of these resource standards, providing that "a utility must be considered in compliance with the standards under RCW 19.405.040(1) and RCW 19.405.050(1) if...the average incremental cost of meeting the standards or the interim targets established under subsection (1) equals a two percent increase..." Rather than limiting the incremental cost of compliance option to meeting the standards specified in RCW 19.405.040(1) and RCW 19.405.050(1), the statutory language provides that a utility may rely on this compliance mechanism for meeting standards *or the interim targets* established in a utility's four-year Clean Energy Implementation Plan ("CEIP") during the years prior to 2030 and between 2030 and 2045.

In defining the goals of the CEIP's interim targets, the statute establishes that they must be designed to "meet the standard in RCW 19.405.040," and specific actions must be identified in the four-year Clean Energy Implementation Plan period that "demonstrate progress toward meeting the standards under RCW 19.405.040(1) and 19.405.050(1)." After identifying interim targets and specific actions that put a utility on a pathway to compliance with the standards in RCW 19.405.040(1) and RCW 19.405.050(1), a utility must be held accountable for achieving compliance with the established interim targets. By specifically referencing the interim targets in RCW 19.405.060(3), the statutory language allows for a utility to rely

on the incremental cost of compliance mechanism for compliance with the interim targets, should the utility not achieve the interim targets that it has identified in its CEIP. Because interim targets must provide a pathway for utility compliance with the clean energy standards identified in RCW 19.405.040(1) and RCW 19.405.050(1), it is clear that the utility must begin pursuing and investing in resources to meet the interim targets in the first four-year CEIP compliance period. The compliance periods specified in RCW 19.405.040(1)(a) contain a combination of three- and four-year compliance periods, the statutory language specifying an incremental cost over "the four-year compliance period" likely refers to four-year compliance periods identified in the Clean Energy Implementation Plan.

To summarize, the statutory language requires that a utility's CEIP identify interim targets to achieve the standards in RCW 19.405.040(1) and RCW 19.405.050(1), and take specific actions that demonstrate progress towards meeting these standards. A utility must being planning for and investing in resources to achieve the interim targets and clean energy standards. A utility should not be permitted to rely on the incremental cost of compliance mechanism in 2030 if it has not achieved the interim targets for renewable energy and nonemitting resources, unless it has relied on the incremental cost of compliance mechanism in lieu of achieving the interim targets prior to 2030. Allowing a utility to do so would be in conflict with the statute.

2. ***Only the costs of meeting the standards and interim targets must be included in the average annual incremental cost, and any CETA requirement that does not fall under RCW 19.405.040(1) and 19.405.050(1) should be included in a utility's baseline costs.***

The language of RCW 19.405.060(3)(a) is focused not on the cost of compliance with CETA in general, but rather on the "cost of meeting the standards or the interim targets established under subsection (1) of this section." To understand what should be factored into the incremental cost, one must determine what the "standards" and "interim targets established under subsection (1)" actually are. The only "standards" referenced in subsection (1) are "the standards established under RCW 19.405.040(1) and 19.405.050(1)," which include RCW 19.405.040(1)(a)(i)and (1)(a)(ii), as well as RCW 19.405.040(1)(a)(iii) and 19.405.050(1)(iii). The only "interim targets" referenced in subsection (1) are "proposed interim targets for meeting the standard under RCW 19.405.040(1) during the years prior to 2030 and between 2030 and 2045" and "the interim targets proposed under (a)(i) of this subsection."

Because the "standards or the interim targets established under subsection (1)" are the standards and targets of RCW 19.405.040(1) and 19.405.050(1), the most straightforward read of RCW 19.405.060(3)(a) is that only the costs of meeting those specific standards and interim targets must be included in the average annual incremental cost. In other words, any CETA requirement that does *not* fall under RCW 19.405.040(1) and 19.405.050(1) is *not* part of the incremental cost calculation and must be included in a utility's baseline. Costs that do not fall under RCW 19.405.040(1) and 19.405.050(1) include, but are not limited to: costs associated with achieving an equitable distribution of benefits, costs associated with achieving broader public interest benefits, costs associated with resource procurement driven by the social cost of carbon, and costs associated with eliminating coal-fired resources. To reiterate, because those costs are not included in RCW 19.405.040(1) or RCW 19.405.050(1), they cannot be counted in a utility's incremental "cost of meeting the standards or the interim targets established

under subsection (1) of this section" as described in RCW 19.405.060(3)(a). Instead, those costs must be included in a utility's baseline.

The next sentence of RCW 19.405.060(3)(a) provides that "all costs included in the determination of cost impact must be directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050." This language is not limited to RCW 19.405.040(1) or 19.405.050(1), but the sentence does not expand the focus of what may be included in the incremental cost calculation. By the sentence's construction, it is limiting or exclusive in nature -- in order to include an expenditure in the incremental cost, it "must be directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050." In other words, an expense may not be included in the incremental cost if it is attributable to any decision-driver other than a RCW 19.405.040 or RCW 19.405.050 requirement.

If the sentence order were reversed -- "costs directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050 must be included in the determination of cost impact" -- then the sentence would be inclusive rather than exclusive, and language would increase the scope of costs to be included in the incremental cost calculation. But as it is written, the sentence means that the *only* costs that may be included in the incremental cost calculation are those "directly attributable to" and "necessary" for RCW 19.405.040 and 19.405.050 compliance. And by the language of the preceding sentence, the incremental cost calculation itself is still limited to those costs associated with achieving "the standards or the interim targets established under subsection (1)" -- or, more specifically, the standards and targets of RCW 19.405.040(1) and 19.405.050(1). This reading also squares with some basic principles of statutory construction: parts of the same statute should be read together, one part of a statute should not render another superfluous (as the broad reference to 19.405.040 and 19.405.050 would render the more specific reference to "the standards or the interim targets established under subsection (1) of this section"), specific language supersedes general language, and so on.

In sum, all of "the standards or the interim targets established under subsection (1)" are the standards and targets of RCW 19.405.040(1) and 19.405.050(1). The most straightforward read of RCW 19.405.060(3)(a) is that only the costs of meeting the standards and interim targets must be included in "the average annual incremental cost." Any CETA requirement that does *not* fall under the interim targets in RCW 19.405.060(1) or RCW 19.405.040(1) and 19.405.050(1) should *not* be part of the incremental cost calculation and must be included in a utility's baseline. Costs that do not fall under RCW 19.405.040(1) and 19.405.050(1) must be included in a utility's baseline.

3. ***Funds spent on alternative compliance options may not be part of the incremental cost of compliance calculation unless a utility has exhausted all renewable resource and nonemitting electric generation options.***

For a utility to include an expenditure in the incremental cost calculation, the expenditure must be "directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and RCW 19.405.050." In other words, a utility would not be able to achieve the standard or identified interim targets without undertaking that action. Therefore, unless a utility has exhausted all options for renewable energy and nonemitting electric generation, and there is no resource option available, alternative

compliance options identified in RCW 19.405.040(1)(b) should not be included in the incremental cost calculation. These alternative compliance options include energy transformation projects and the alternative compliance payment. RCW 19.405.040(1)(b) explicitly states that "an electric utility *may* satisfy up to twenty percent of its compliance obligation" with alternative compliance option, but these compliance options are optional and by no means required. The use of the word "alternative" presumes that the intended mechanism for utility to comply is through achieving the renewable resource and nonemitting electric generation standards. Therefore, the alternative compliance options provided for utilities cannot be construed as "necessary to comply".

These options are alternative compliance options, and if they were removed as an option for compliance, the utility would still maintain an ability to comply with the clean energy standards, unless the utility has exhausted all renewable energy and nonemitting electric generation options. On the contrary, if renewable and non-emitting resources were removed as a compliance mechanism, regulated entities would no longer have the ability to achieve full compliance with the clean energy standards. For these reasons, we believe there is only a role for the alternative compliance payment or investments in energy transformation projects to be part of the incremental cost of compliance if, and only if, a utility has exhausted all other renewable resource and nonemitting electric generation options in pursuit of the requirement in RCW 19.405.040(1)(a). Because this possibility does not fit cleanly into the statutory language, as explained above, it would likely have to be provided by rule.

The statutory language further states that a utility must have "maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options." This language aligns with the interpretation discussed above, indicating that utilities must exhaust all options for renewable resource and nonemitting electric generation prior to relying on alternative compliance options when relying on the incremental cost of compliance mechanism. By requiring that a utility "maximize investments," the language clearly requires utilities to prioritize and exhaust all options for renewable resources and nonemitting electric generation first.

To summarize, alternative compliance options are allowed for compliance under RCW 19.405.040, but only renewable resources and nonemitting electric generation are necessary to comply with RCW 19.405.040 and RCW 19.405.050. Utilities must completely maximize these investments, and exhaust these resource options before using alternative compliance options when utilizing the incremental cost of compliance mechanism.

Thank you again for the opportunity to discuss this issue further, and we look forward to continued engagement as this process moves forward.

Sincerely,

Climate Solutions
Renewable Northwest
Sierra Club
Washington Environmental Council
Vashon Climate Action Group