Comments on Docket UE-191023
Relating to Clean Energy Implementation Plans and
Compliance with the Clean Energy Transformation Act, Docket UE-191023
June 2, 2020

We – Sierra Club, Act 4 Climate, 350 Seattle, Western Grid Group – applaud the Utilities and Transportation Commission (UTC) staff for its efforts to move this critical rulemaking and many others forward. The Clean Energy Transformation Act (CETA) will, in fact, transform our electricity world but only if we get the rules right and ensure accountability for the Clean Energy Implementation Plans (CEIP) and other CETA rules.

Base case calculations, cost of compliance

The CEIPs provided in 2022 and 2026 must provide clear and binding plans and targets to ensure compliance with the 80 percent clean energy requirement by 2030 and the 100 percent clean energy requirement by 2045. To achieve this result, the utilities must include only those expenses that are essential for achieving the 2030 and 2045 targets. That means only expenses identified in Sections 4 and 5 of the CETA law (RCW Chapters 19.405.040(1) RCW and 19.405.050(1)). Similarly, anything that becomes part of the "lowest reasonable cost" in the IRP also becomes the baseline upon which the CEIP is then measured.

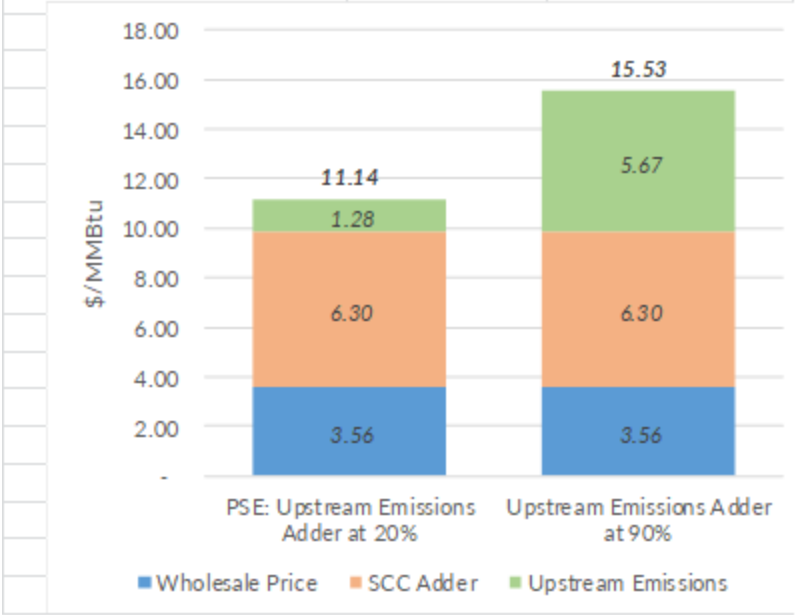
More specifically, expenses for equity, the social cost of carbon, expected increases in investments for energy efficiency and demand response, and all of provisions outside of Section 4 and 5 *must be put in the baseline or base case calculation* and not in the cost of compliance for CEIP plans.

Any costs associated with equitable distribution of benefits, energy burden or the plans to provide assistance to 60 percent and then 90 percent of low income customers must not be included in the baseline. These long-overdue changes needed to happen anyway and therefore are the new business-as-usual base case that is separate from and should not be counted toward reaching the clean energy mandates in 2030 and 2045.

The social cost of carbon – calculated as $74/ton CO2 in 2020 dollars – must be in the baseline from which CEIP compliance is then calculated. Climate impacts are real and occurring now. Like equity, this accountability is long-overdue and needs to be part of the base case or baseline.

If the social cost of carbon is properly incorporated, it should severely limit or restrict future investment in gas resources whether they are contracts or ownership. According to calculations made by Puget Sound Energy in their 2019 IRP, the social cost of carbon ("SCC Adder") and upstream emissions significantly increased fuel costs to $11.14/MMBtu. When Sierra Club added a more realistic calculation for upstream emissions, the cost rose to $15.53/MMBtu. We translated these fuel costs into costs per megawatt hour (MWh) using an efficient combined cycle gas turbine resulting in fuel of $77.98/megawatt and $108.71/MWh. Below is the calculation based on PSE numbers with the one change in upstream emissions.

	PSE: Upstream Emissions Adder at 20%	Upstream Emissions Adder at 90%
Wholesale Price	3.56	3.56
SCC Adder	6.30	6.30
Upstream Emissions	1.28	5.67
Total	11.14	15.53
Fuel Cost for CCGT ($/MWh)	77.98	108.71



Ownership of new gas plants carry even greater risk because of the likelihood of having debt longer than the "used and useful" life of the investment, thus creating a stranded asset that should only be paid for by shareholders. Customers should not bear the burden of these costs and risks for a resource that is not wanted or needed.

In the definition for Integrated Resource Plans (IRP), WAC 480-100-238, Integrated resource planning, the definition for "carbon dioxide" should be changed to "greenhouse gases" to ensure methane and other GHGs are captured. This is especially important for gas resources because their upstream emissions of methane can significantly increase and sometimes double their emissions profile. When the CO2 calculation for gas is put in the baseline, the calculation must also include upstream emissions, specifically accounting for the amount of gas leaked as a percentage of total gas delivered as measured volumetrically at standard conditions.

We fully expect to see large increases in expenses for energy efficiency and demand response because those investments have been inadequate. If utilities make modest or large increases in these investments, then they must be included in the baseline and not be considered cost of compliance. Given that Washington State's Deep Decarbonization plan identified deep energy efficiency as one of the three pillar of decarbonization, greatly expanded efficiency programs are part of the new norm and become part of the baseline. Similarly, Washington utilities' demand response programs lag

behind much greater achievements by other utilities. Washington utilities already needed to set higher goals for demand response regardless of the new CETA law and therefore should not be accounted toward CEIP compliance.

Utilities need to account for energy losses in the transmission system. If the CEIP is evaluated on how much clean energy is "delivered energy," then to meet 100 percent of the requirement, the utilities must account for this difference, which means that they should perhaps plan for 105 percent clean energy to cover line losses on the transmissions system.

Any changes that are needed to ensure the 2030 mandate is achieved must be included in the first 2022 CEIP. Utilities cannot afford to delay investments so they can spread costs and ensure compliance. The CEIP must also include an assessment of schedule and cost risks and opportunities associated with each asset acquisition and each asset retirement.

Transparency

To ensure investments are properly accounted for in either the IRP base case of the CEIP plan, there must be full disclosure of the data that goes into these calculations. For many years and to no avail, Sierra Club has been asking for the data files that go into the modeling calculations that determine the IRP. Utilities have objected on grounds of confidentiality. This rationale does not hold up. Sierra Club participates in Washington rate cases where confidentiality can be addressed through non-disclosure agreements. Sierra Club already has achieved disclosure of such data files in eight other states. Further, Puget Sound Energy's previous owners (Macquarie and some of the current Canadian investment firms) own Cleco Power in Louisiana where they provide these data files to the Sierra Club. Such lack of transparency can only lead to the concern that our utilities are hiding how they calculate their IRPs.

This lack of transparency can no longer be allowed for the IRP or the CEIP. The data files for the current 2021 IRPs need to be fully disclosed, including but not limited to modeling for Aurora, Plexos, load forecasts, resource adequacy and trends in costs for renewables, storage and demand response. These 2021 IRPs will be the most important IRPs perhaps ever compiled since they become the basis upon which we will create the CEIP plans and ensure we are keeping the transformational promise of the CETA law. If utilities continue to attempt to withhold fundamental data that is necessary to ensure confidence in the process then the UTC, at a minimum, must ensure all these data files are provided to UTC staff and commissioners.

Equity

In this time of the COVID pandemic it has become abundantly clear that those most at risk will suffer the greatest hardship. We have consulted with groups who represent these communities and draw from our own experiences. What we have learned is that equity needs to be incorporated in all that we do. To ensure equity considerations are intentionally included at the beginning of the process, we recommend that equity be included in the definition section for Integrated Resource Plans (IRP), WAC 480-100-238, Integrated resource planning.

Below is a visual representation from Front & Centered that shows the iterative nature of including equity. Front & Centered states "This framework highlights four key pieces to ensuring the equitable distribution of benefits through the CEIP process over the next 10-25 years. It's meant to convey four categories that continue to feed into each other and rely on each other. They also summarize at a high level how we could categorize the various specific comments that we have on the draft rules."

For many years, some of our private utilities have been criticized for not being responsive to volunteer stakeholders who are formally part of their technical review groups and committees. Most of these stakeholders are fortunate enough to have the time and resources to engage in this process because they know that our electric utilities are essential for providing the solutions to global warming by maximizing efficiency, ending fossil fuels and preparing for massive scale expansion of building and vehicle electrification. If public participation of stakeholder volunteers – who have time and resources that allows them to meaningfully participate in the development of their utilities' IRPs – feel the process has not been fair or transparent, then we are a long way from ensuring fairness for at-risk communities who do not have the time or resources. Broad and deep accommodations are going to be needed to make sure the development of our IRPs and CEIPs are inclusive and meaningful.

For the equity advisory committee being formed under CETA, it is essential that this group have direct and regular meetings (perhaps quarterly) with the commissioners so we can ensure they are learning with the community about the iterative process of Meaningful Participation, Adequate Reporting, Accountability Mechanisms, and Restorative Justice. CETA and CEIP will not be silver bullets for equity improvement. Our communities and the UTC will be in a learning process especially as evolving data will further inform successful pathways to more complete diversity, equity and inclusion.

Thank you for your efforts to ensure accountability for successful implementation of the Clean Energy Implementation Plans for keeping the promise of the Clean Energy Transformation Act.

Sincerely,

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The below recommended changes to the WAC 480-100-6XX through WAC 480-100-680 are mostly limited to equity and public participation issues.

Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act

WAC 480-100-6XX Purpose**.**

The purpose of these rules is to ensure that the utility meets the clean energy standards outlined in Chapter 19.405 RCW in a timely and cost-effective manner. These rules should be interpreted to ensure that planning and investment activities undertaken by a utility must be consistent with the clean energy standards. Use of the term clean energy standards throughout these rules refers to the requirements outlined in Chapter 19.405 RCW.

WAC 480-100-6XX Definitions.

The definitions below apply to all of WAC 480-100-600 through 680.

"Biomass energy" includes: (i) Organic by-products of pulping and the wood manufacturing process; (ii) animal manure; (iii) solid organic fuels from wood; (iv) forest or field residues; (v) untreated wooden demolition or construction debris; (vi) food waste and food processing residuals; (vii) liquors derived from algae; (viii) dedicated energy crops; and (ix) yard waste.

"Biomass energy" does not include: (i) Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) wood from old growth forests; or (iii) municipal solid waste.

“Carbon dioxide equivalent” or “CO2e" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

“Commission” means the Washington utilities and transportation commission. [RCW 19.405.020(8)]

"Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

"Cost-effective" means that a project or resource is forecast: (a) To be reliable and available within the time it is needed; and (b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than

that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.[RCW 80.52.030(7)]

"Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. "Demand response" may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

"Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency as well as demand response.

“Energy assistance” means a program undertaken by a utility to reduce the household energy burden of its customers.

(a) Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household’s energy burden.

(b) Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

“Energy assistance need” means the amount of assistance necessary to achieve an energy burden equal to six percent for utility customers.

“Energy burden” means the share of annual household income used to pay annual home energy bills.

“Equitable distribution” means a fair, but not necessarily equal, allocation of resources based on current and historic conditions for the purpose of eliminating disparities in resources, benefits, and burdens and prioritizing vulnerable populations and highly impacted communities who experience the greatest inequities, disproportionate impacts, and have the most unmet needs, which are informed by the assessment described in RCW 19.280.030(1)(k) from the most recent integrated resource plan.

"Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70.235.010.

"Highly impacted community" means a community designated by the department of health based on the cumulative impact analysis required by RCW 19.405.140 or a community located in census tracts

that are fully or partially on "Indian country," as defined in 18 U.S.C. Sec. 1151.,

“Indicator” means a value or description that, together with other relevant information, illustrates or signals conditions within a designated category or changes that result from specific actions.

"Integrated resource plan" or “IRP” means an analysis describing the mix of conservation and efficiency, generation, distributed energy resources, and delivery system infrastructure that will meet current and future resource needs and the requirements of chapters 19.280 and 19.405 RCW at the lowest reasonable cost to the utility and its customers and is clean, affordable, reliable, and equitably distributed.

“International Association for Public Participation (IAP2)” is an effective framework for public participation. It offers five levels of engagement in the decision making process and the promise a utility makes to the public at each level:

a. “Inform” – To provide the public with balanced and objective information to assist them in understanding the problem, alternatives and/or solutions. Promise to the public: We will keep you informed.

b. “Consult” – To obtain public feedback on analysis, alternatives and/or decision. Promise to the public: To keep the public informed, listen to and acknowledge

concerns and aspirations, and provide FEEDBACK on how public input influenced the decision.

c. “Involve” – To work directly with the public throughout the process to ensure that the public concerns and aspirations are consistently understood and considered. Promise to the public: We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide FEEDBACK on how the public input influenced the decision.

d. “Collaborate” - To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution. Promise to the public: We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.

e. “Empower” - To place the final decision making into the hands of the public. Promise to the public: We will implement what you decide.

"Lowest reasonable cost" means the lowest cost mix of resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the social cost of greenhouse

gas emissions, public health, the equitable distribution of energy and non-energy benefits and reductions of burdens, the risks imposed on the utility and its customers, public policies regarding resource preference adopted by Washington or the federal government, and the cost of risks associated with environmental effects, including emissions of greenhouse gases ~~carbon dioxide~~.

"Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation. "Nonemitting electric generation" does not include renewable resources.

“Planning horizon” means the period of time that the integrated resource plan forecasts into the future.

"Renewable resource" means: (a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) renewable natural gas; (f)renewable hydrogen; (g) wave, ocean, or tidal power; (h) biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or (i) biomass energy.

"Resource need" means any current or projected deficit to meet demand or operational requirements. Such requirements may include, but are not limited to, capacity and associated energy, capacity needed to meet peak demand in any season, Federal Energy Regulatory Commission jurisdictional operational requirements, delivery system

infrastructure needs, or resources required for regulatory compliance, such as fossil-fuel generation retirements, cost-effective conservation and efficiency resources, demand response, renewable and nonemitting resources.

“Social cost of greenhouse gas emissions” or “SCGHG” is the inflation-adjusted costs of greenhouse gas emissions resulting from the generation of electricity, as required by RCW 80.28.405, the updated calculation of which is published on the commission’s website.

"Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to: (a) Adverse socioeconomic factors, including low household wealth, unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and (b) Sensitivity factors, such as low birth weight, disability, dependence on electricity for medical needs, higher climate impact zones and higher rates of hospitalization.

WAC 480-100-650 Clean Energy Standards.

(1) Each utility must:

(a) Eliminate coal-fired resources from its allocation of electricity by December 31, 2025;

(b) Ensure all sales of electricity to Washington retail electric customers are greenhouse gas neutral by January 1, 2030;

(c) Ensure that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045;

(d) Ensure the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities;

(e) Ensure long-term and short-term public health and environmental benefits and reduction of costs and risks;

(f) Ensure energy security and resiliency; and

(g) Make progress toward and meet the standards in this subsection:

(i) while maintaining and protecting the safety, reliable operation, and balancing of the electric system; and

(ii) at the lowest reasonable cost.

(2) **Adaptively manage portfolio of activities.** Each utility must continuously review and update as appropriate its planning and investment activities to adapt to changing market conditions and developing technologies and models. Each utility must research emerging technologies and models and assess the potential of such technologies and models for implementation in its service territory, including assessment and development of new and pilot programs.

WAC 480-100-655 Clean Energy Implementation Plan or "CEIP".

(1) Filing requirements – general. Unless otherwise ordered by the commission, each electric utility must file with the commission a CEIP by October 1, 2021, and every four years thereafter. The CEIP describes the utility's plan for making progress toward meeting the clean energy standards, and is informed by the utility's clean energy action plan.

(2) Interim targets. With each CEIP, each utility must propose a series of interim targets that demonstrate reasonable progress toward meeting the clean energy standards.

(a) Each interim target must cover an implementation period no longer than four years, with the first period beginning in 2022.

(b) Each utility must propose interim targets in the form of the percent of retail sales of electricity supplied by nonemitting and renewable resources prior to 2030 and from 2030 through 2045;

(c) The utility must include the utility's percentage of retail sales of electricity supplied by nonemitting and renewable resources in 2020 in the first CEIP it files.

(d) Each interim target must be informed by the utility's historic performance under median water conditions.

(3) **Specific targets.**

(a) Each utility must propose specific targets for energy efficiency, demand response, and renewable energy.

(i) The energy efficiency target must be consistent with the utility's biennial conservation plan required in Chapter 480-109 WAC and must include forecasted distribution of benefits and impacts.

(ii) The utility must provide appropriate program details, program budgets, measurement and verification protocols, target calculations, and forecasted distribution of energy and non-energy benefits and impacts for its demand response target.

(iii) The utility must propose the renewable energy target as the percent of retail sales of electricity supplied by renewable resources and must provide details of any relevant renewable energy project or program, program budgets as applicable, and forecasted distribution of energy and non-energy benefits and impacts. The utility may include storage resources in the renewable energy target when those resources will be charged using renewable resources.

(b) The utility must provide a description of the technologies, data collection, processes, procedures, and assumptions the utility used to develop the targets in this subsection, including how the forecasted distribution of benefits for each target represents adequate progress toward milestone targets developed under 655(6)(e).

(c) The utility must provide a breakdown of the forecasted distribution of benefits and impacts for each of the three targets in this subsection at a minimum:

(i)by census tracts and designated as highly impacted communities ii) by categories of residential customers designated as vulnerable populations; and

(ii) by indicator values, including, but not limited to, health and safety, economic, resiliency, energy security, environment, and participation.

(4) Specific Actions. The CEIP must identify the specific actions the utility will take over the next implementation period. The CEIP must describe how the specific proposed actions:

(a) Demonstrate progress toward meeting the clean energy standards;

(b) Are consistent with the proposed interim and specific targets;

(c) Are consistent with the utility's integrated resource plan;

(d) Are consistent with the utility’s resource adequacy requirements – the CEIP must provide a narrative description of how the resources identified in the most recent resource adequacy study conducted or adopted by the utility demonstrates that the utility will meet its resource adequacy standard;

(e) Are consistent with WAC 480-100-650(1)(d) through (f);

(f) Demonstrate the utility is planning to meet the clean energy standards at the lowest reasonable cost; this demonstration must include, but not be limited to, the following:

(i) A description of the utility's approach to identifying the lowest reasonable cost portfolio of specific actions that meet the specific and interim targets while also adhering to the requirements of WAC 480-100-650(1)(d) through (f), and describing its methodology for weighing considerations in WAC 480-100-650(1)(d) through (f); and

(ii) A description of the utility's methodology for selecting the investments it plans to make over the next four years that are directly related to the utility's compliance with the clean energy standards, consistent with RCW 19.405.050(3)(a). The utility must demonstrate that its planned investments represent a portfolio approach to investment plan optimization and adhere to the lowest reasonable cost planning standard; and

(g) Maintain the safety, reliable operation, and balancing of the electric system.

(5) Presentation of actions and resources. Each CEIP must include the specific actions the utility will take and remaining resource needs in a tabular format based on the clean energy action plan, the interim and specific targets, and information on relevant attributes including:

(a) the location, if applicable, timing, and cost of each specific action or remaining resource need, including whether the resource will be located in highly impacted communities or will be governed by, serve, or otherwise benefit vulnerable populations in part or in whole;

(b) metrics related to resource adequacy and clean energy standards, including contributions to capacity or energy needs; and

(c) indicators regarding WAC 480-100-650(1)(d) though (g).

(6) Equitable distribution. The CEIP must:

(a) identify highly impacted communities using the cumulative impact analysis pursuant to RCW 19.405.140 combined with census tracts at least partially in Indian country;

(b) identify vulnerable populations based on adverse socioeconomic factors and sensitivity factors developed through the advisory group process; the utility should describe and explain any changes from its most recently approved clean energy implementation plan;

(c) include an accounting of any benefits and burdens, by location and~~or~~ population, ~~as applicable,~~ of the specific actions in the CEIP; and

(d) describe how the utility intends to ~~mitigate~~ prevent risks to highly impacted communities and vulnerable populations.

(e) propose milestone targets related to the requirements in WAC 480-100-650(1)(d) through (f) by January 1, 2030 and by January 1, 2045.

(7) Forecasted incremental cost. Each CEIP must include a forecast of incremental cost as outlined in WAC 480-100-675(3).

(8) Public participation. Each CEIP must detail the extent of public participation in the development of the CEIP as described in WAC 480-100-670(5), including but not necessarily limited to a summary of public comments, and the utility's plan for public participation throughout the implementation period as described in WAC 480-100-670(4).

(9) Other measurements. The utility may include additional metrics and indicators in the CEIP that demonstrate progress toward the clean energy standards.

(10) Alternative compliance. The utility must describe any plans it has to rely on alternative compliance mechanisms as described in RCW 19.405.040(1)(b).

(11) Contingency plan. The utility must discuss potential risks that may impede the utility's progress toward meeting its proposed specific and interim targets, or risks that may cause the costs of the CEIP to materially change, and the utility's contingency plan to address those risks.

(12) Early action coal credit. If a utility proposes to take the early action compliance credit authorized in RCW 19.405.040(11), the utility must satisfy the requirements in that statutory provision and demonstrate that the proposed action constitutes early action by presenting the analysis in subsection (4) of this section both with and without the proposed early action. The utility must design both the proposed early action and the alternative to meet the same proposed interim and specific targets.

(13) Biennial CEIP update. On or before November 1st of each odd-numbered year that the utility does not file a CEIP, a utility must file with the commission, in the same docket as its current CEIP, a request for approval of its proposed Biennial Conservation Plan and include an explanation of how that plan will modify targets in its CEIP. The utility may file, at the same time as its proposed Biennial Conservation Plan, other proposed changes to the CEIP as a result of the integrated resource plan progress report and other utility activities that are developed as a result of its adaptive management required in WAC 480-100-650(2).

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

(1) **Public Commenting**. Interested persons may file written comments with the commission regarding a utility’s CEIP and CEIP

update within sixty days of the utility's filing unless the commission states otherwise.

(2) **Approval Process**. The commission will enter an order approving, rejecting, or approving with conditions a utility's CEIP or CEIP update at the conclusion of its review. The commission may, in its order, recommend or require more stringent targets than those the utility proposes.

(a) The commission may adjust or expedite interim and specific target timelines when issuing a decision on CEIPs or CEIP updates.

(b) Any party requesting the commission make existing targets more stringent or adjust existing timelines has the burden of demonstrating the utility can achieve the targets or timelines in a manner consistent with the requirements of RCW 19.405.060(1)(c)(i)-(iv). However, the utility will be compelled to disclose its data files to the requesting party and that party may be required to sign a nondisclosure agreement

WAC 480-100-665 Reporting and compliance.

(1) **Clean energy compliance report.** Unless otherwise ordered by the commission, each electric utility must file a clean energy compliance report with the commission by June 1, 2026, and at least every four years thereafter. The report must:

(a) Demonstrate that the utility met its specific targets;

(b) Demonstrate that the utility met its interim targets;

(c) Demonstrate that the specific actions the utility took made progress toward meeting the clean energy standards at the lowest reasonable cost;

(d) Include updated indicator values and demonstrate that the specific actions the utility took are consistent with the requirements in WAC 480-100-650(1)(d) through (f); this demonstration should include:

(i) an analysis that the benefits and reductions of burdens have accrued or will reasonably accrue to intended customers, including highly impacted communities and vulnerable populations; and

(ii) a description of any changes to the indicators from those included in the CEIP and how those changes are consistent with the requirements in WAC 480-100-650(1)(d) through (f);

(e) Demonstrate that the utility engaged in meaningful customer engagement consistent with the requirements in WAC 480-100-670 for the development or update of indicators related to WAC 480-100-650(1)(e) through (g) and in the development and selection of activities;

(f) Include the actual incremental cost of compliance as required in WAC 480-100-675(4);

(g) Include all of the information found in the annual progress report as described in subsection 3 of this section for the fourth year of the plan;

(h) Include a summary of the data found in the annual progress reports as described in subsection 3 of this section;

(i) Document the use of any alternative compliance options as described in RCW 19.405.040(1)(b); and

(j) Provide a description of how the utility maintained the safety, reliable operation, and balancing of the electric system.

(2) **Clean Energy Compliance Report Review Process.**

(a) Interested persons may file written comments with the commission regarding a utility’s clean energy compliance report

within sixty days of the utility's filing unless the commission states otherwise.

(b) The commission may review clean energy compliance reports through the commission's open meeting process, as described in Chapter 480-07 WAC.

(c) After completing its review of a utility’s clean energy compliance report, the commission will determine whether a utility met its proposed targets and interim targets, and whether the utility made sufficient progress toward meeting the clean energy standards.

(3) **Annual Clean Energy Progress Reports.** On or before June 1st of each year, other than in a year in which the utility files a clean energy compliance report, a utility must file with the commission, in the same docket as its most recently filed CEIP, an informational annual clean energy progress report regarding its progress in meeting its targets during the preceding year. The annual clean energy progress report must include, but is not limited to:

(a) Beginning in 2026, an annual attestation that: The utility does not use any coal-fired resource (as defined in RCW 19.405.020(7)) to serve retail electric customer load; and an appropriate company executive has reviewed all e-tag data for the prior calendar year and found no electricity from coal-fired resources was included in market purchases and therefore no such electricity was included in retail customer rates;

(b) Conservation achievement in megawatts, first-year megawatt-hour savings, and cumulative lifetime megawatt-hour savings;

(c) Demand response program usage and demand response capability in megawatts and megawatt hours;

(d) Renewable energy capacity in megawatts, and usage as a percentage of electricity supplied by renewable resources and in megawatt hours to demonstrate compliance with RCW 19.285.040(3)and RCW 19.285.070;

(e) Nonemitting energy capacity in megawatts, and usage as a percentage of electricity supplied by nonemitting energy and in megawatt hours;

(f) The utility’s greenhouse gas content calculation pursuant to RCW 19.405.070, as well as the following information:

(i) Coal energy usage in megawatt hours;

(ii) Gas-fired peaking power plant energy usage in megawatt hours;

(iii) Gas-fired combined-cycle power plant energy usage in megawatt hours;

(iv) Unspecified electricity usage in megawatt hours;

(g) Total greenhouse gas emissions in metric tons of CO2e;

(h) All renewable energy credits and the program or obligation for which they were used (i.e., voluntary renewable programs, renewable portfolio standard, clean energy standards, etc.);

(i) Each utility must verify and document the retirement of renewable energy credits for all electricity from renewable

resources used to comply with the requirements of RCW 19.405.040, RCW 19.405.050, specific target, or an interim target;

(ii) A utility must demonstrate ownership of nonpower attributes using attestations of ownership and transfer by properly authorized representatives of the generating facility, all intermediate owners of the nonemitting electric generation, and an appropriate company executive of the utility. The utility may not transfer ownership of the nonpower attributes after claiming them in any compliance report; and

(i) A description of the public participation opportunities the utility provided and the feedback the utility received during the year, including whether and how public participation influenced the utility's decisions and actions.

WAC 480-100-670 Public participation in a CEIP.

~~A utility's consultations with~~ Involvement of commission staff and the public, through public participation are essential to the development of an effective CEIP and clean energy compliance and progress reports~~.~~; where involvement is defined as a two-way interaction, which includes feedback on stakeholder contributions. The utility must **collaborate** with stakeholders as defined by the International Association for Public Participation (IAP2) ~~demonstrate~~; where "collaborate" means partnering with stakeholders in each aspect of decision making

including the development of alternatives and the preferred solution.

The utility must ~~and~~ document how it has considered public input in the development of its CEIP and compliance and progress reports~~. through the advisory group process and other stakeholder participation~~. Examples of how a utility may incorporate public input include: using modeling scenarios, sensitivities, and assumptions stakeholders proposed; indicating whether and how the utility used public input; and communicating to stakeholders about how the utility used public input in its analysis and decision making, including explanations for why any public input was not used, **supported by sufficient and credible data, as determined by the commission.**

1. **Advisory groups**. The utility must ~~**involve**~~ **collaborate with** all relevant advisory groups in the development of its CEIP and compliance and progress reports, including established low-income, conservation, and resource planning advisory groups. The utility must also create and engage an advisory group as part of the process of ensuring the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities as required

in WAC 480-100-650(1)(d), as outlined in subsection (2) of this section.

a. The utility must convene advisory groups at regular meetings open to the public during the planning process. A utility must notify advisory groups of company and commission public meetings scheduled to address its CEIP.

b. The utility must ~~document~~ archive and make available via their website public input ~~at~~ from advisory group meetings and demonstrate how the utility considered the public input. If the utility considered and rejected the public input, the utility must document the reason for that rejection, **supported by sufficient credible data,as determined by the commission.**

c. Engaging **and collaborating** with conservation, resource planning, low income, and other advisory groups for the purposes of developing the CEIP does not relieve the utility of the obligation to continue to convene and engage these groups for their individual topical duties.

d. Nothing in this section limits utilities from convening and engaging public advisory groups on other topics necessary for the development or duration of a CEIP and compliance and progress reports.

2. **Equity advisory group.** A utility must maintain and engage an external equity advisory group of stakeholders to advise the utility on equity issues including, but not limited to,

vulnerable population designation, equity indicator development, data support and development, and decision-making guidance for the utility's compliance with WAC 480-100-650(1)(d).

a. The utility must invite and ~~involve~~ **collaborate** with the participation of environmental justice and public health advocates, tribes, and representatives from highly impacted communities and vulnerable populations.

b. A utility must meet regularly with its equity advisory group during the CEIP development and during compliance and progress report development. A utility must provide reasonable advance notice of all equity advisory group meetings.

c. A utility must provide adequate funding for its equity advisory group, including but not limited to compensation for time served by any organizations or individuals demonstrating financial need, meals or refreshments, childcare if necessary, and resources to obtain data or the support of outside experts and analysts, particularly to support the group's informed and meaningful advice regarding vulnerable population designation, equity indicator development, accounting of benefits and burdens, and new technologies and models.

~~b.~~d. Selected representatives from equity advisory group may participate in statewide equity advisory committee convened by the commission and the Department of Commerce.

3. **Presentation materials available.** The utility must make available completed presentation materials for each advisory group meeting discussing the CEIP at least five (5) business days prior to the meeting pursuant to subsection (4)(f)(i) of this section.

4. **Draft CEIP for review.** The utility must provide a draft of its CEIP to its advisory groups for comment two (2) months before it files the plan with the commission. At minimum, the draft CEIP must include all the elements required under WAC 480-100-655 and to the extent practicable all appendices and attachments.

5. **Participation plan and education**. The utility must ~~**involve**~~ **collaborate with** stakeholders in developing the timing and extent of meaningful and inclusive public participation throughout the development and duration of the CEIP, including outreach and education serving vulnerable populations and highly impacted communities. On or before March 1 of each odd-numbered year, a utility must file with the commission a participation plan that outlines its schedule, methods, and goals for public participation both during the development of its CEIP and throughout the implementation of the plan. The utility must include the following in its participation plan:

(a) Timing, methods, funding and language considerations for seeking and considering input from:

i. vulnerable populations and highly impacted communities for the creation of or updates to indicators and weighting factors for the utility's compliance with WAC 480-100-650(1)(d);

ii. all customers, including vulnerable populations and highly impacted communities, for the creation of or updates to indicators and weighting factors for the utility's compliance with WAC 480-100-650(1)(e) and (f);

b. A proposed schedule of formal and informal public meetings, including advisory group meetings;

c. A list of significant topics that will be discussed;

d. The date the utility will share the draft CEIP with advisory groups;

e. The date the utility will file the final CEIP with the commission; and

f. A link to a website accessible to the public and managed by the utility, to which the utility posts and makes publicly available the following information:

i. Meeting ~~summaries and~~ materials for all relevant meetings, including materials for future meetings and video archives of all past videoconferences (eg., Skype, Zoom, etc) and their related chat box comments;

ii. A current schedule of advisory group meetings and significant topics to be covered; and

iii. Information on how the public may participate in CEIP development, including advisory group meetings.

(g) strategies for eliminating any barriers to public participation due to language, cultural, economic or other factors.

6. **Public comments ~~summary~~.** As part of the filing of its CEIP with the commission, a utility must provide a summary *and* an archive of any written comments, videoconferences and the related chat box comments from public participation ~~of public comments received~~ during the development of its CEIP and the utility's responses, including whether issues raised in the comments were addressed and incorporated into the final plan, **(and if incorporated in the final plan define their location in the plan)**, and documenting the reasons for rejecting public input. **The summary must be supported by sufficient credible data, as determined by the Commission and made accessible to the public. If the utility contends that such data is confidential under WAC 480-07-160 or non-disclosable commercial information under RCW 80.04.095, the Commission must determine the merits of the contention(s) and whether limited review or non-disclosure agreements are required.** The utility may include the summary as an appendix to the final plan.

7. **Customer notices.** Within 10 days of filing the utility's CEIP, the utility must send notices to customers informing them

of Chapter 19.405 RCW, briefly summarizing the utility's plan, including a web link that navigates to the full plan, and informing customers of how they may comment on the utility's filing. The notice must include:

a. The date the notice is issued;

b. The utility's name and address;

d. A statement that the commission has the authority to approve the plan, with or without conditions, or reject the plan;

e. A description of how customers may contact the utility if they have specific questions or need additional information about the plan; and

f. Public involvement language pursuant to WAC 480-100-194(4)(j).

8. **Review of customer notice.** The utility must submit to the commission a copy of customer notices ~~five~~ ten business days before the utility distributes notices to customers.

9. **Availability of data.** The utility must make its data inputs and files available to stakeholders in native file format and in an easily accessible format (e.g., Excel). Contents of the CEIP, compliance and progress reports, and supporting documentation (including all stakeholder's evaluation grades for all CEIP engagement meetings) must be available for public review. Utilities should minimize their designation of information in

the CEIP as confidential pursuant to WAC 480-07-160. Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

WAC 480-100-675 Incremental cost of compliance

(1) Incremental Cost Methodology. To determine the incremental cost of the actions a utility takes to comply with RCW 19.405.040 and RCW 19.405.050, 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 law. The utility should use the portfolio optimization modeling from the most recent integrated resource plan as the basis for calculating the alternative lowest reasonable cost and reasonably available portfolio to show the difference in portfolio choices and investment needs between the two portfolios, and demonstrate which investments and expenditures are directly attributable to meeting the requirements of RCW 19.405.040 and 19.405.050. A utility may include in its documentation those expenditures and investments that are not reflected in the portfolio optimization if it demonstrates that the investment or expenditure could not reasonably have been reflected in the portfolio optimization model.

(a) The alternative lowest reasonable cost and reasonably available portfolio must include the SCGHG in the resource acquisition decision in accordance with RCW 19.280.030(3)(a).

(b) A utility must include in its calculation of incremental costs the effect of RCW 19.405.040 and RCW 19.405.050 on any changes in wholesale power expenses or revenues.

(c) Any investment or expenditure that is required to meet any provision of Chapter 19.405 RCW, other than RCW 19.405.040 or 19.405.050, and any other statutory, regulatory or contractual requirement, or standard practice or procedure is included in the alternative lowest reasonable cost portfolio and does not contribute to the incremental cost impact.

(d) If the portfolios provided for compliance are the result of a model, the utility must provide a fully linked and electronically functional copy of that model as part of its work papers.

(2) **Types of incremental costs.** The costs that may be included when determining the incremental cost impact under RCW 19.405.060(3)(a) are limited to those costs that:

(a) Are the lowest reasonable cost;

(b) Represent resource acquisitions or other expenditures made during the implementation period;

(c) Are additional to the costs that would be incurred using the lowest reasonable cost and reasonably available resource portfolio; and

(d) Are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and RCW 19.405.050.

(3) **Projected incremental cost.** The utility must present the projected incremental costs of compliance over the implementation period in every CEIP. Incremental cost estimates must be supported by work papers, models, and associated calculations, and must provide the following information:

(a) Identification of all investments and expenditures that the utility intends to make during the period in order to comply with the requirements of RCW 19.405.040 and 19.405.050;

(b) Demonstration that the investments and expenditures identified in subsection (a) are directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050; and

(c) The expected cost of the utility's planned activities and the expected cost of the alternative lowest reasonable cost and reasonably available portfolio that the utility would have implemented absent the enactment of RCW 19.405.040 and 19.405.050.

(4) Reported actual incremental costs. The utility must include in its clean energy compliance report, as described in WAC 480-100-665(1), the actual incremental cost of compliance with RCW 19.405.040 and RCW 19.405.050 over the period. The report must also provide the following information:

(a) The actual incremental costs incurred during the period; presentation of capital and expense accounts should be reported by Federal Energy Regulatory Commission (FERC) account;

(b) A demonstration that the reported incremental cost is directly attributable to specific actions the utility has taken that were necessary to comply with RCW 19.405.040 and RCW 19.405.050;

(c) Documentation of the cost of the alternative lowest reasonable cost and reasonably available portfolio;

(d) A demonstration that the four-year average annual incremental cost of meeting the standards or the interim targets equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year;

(e) An explanation for the variance between the estimated incremental cost in subsection (3) of this section and the actual incremental costs reported in this subsection (4); and

(f) Workpapers supporting the incremental cost calculations.

(5) Alternative Compliance Pathway. For any period in which a utility relies on RCW 19.405.060(3) as the basis for compliance with the standard under RCW 19.405.040(1) or RCW 19.405.050(1), the utility must document those expenditures that are directly attributable to actions necessary to comply with the requirements

of RCW 19.405.040 and 19.405.050 using the requirements of this section. The utility must also provide evidence that over the applicable period, the utility has maximized investments in renewable resources and nonemitting electric generation before using alternative compliance options allowed under RCW 19.405.040(1)(b).

WAC 480-100-680 Enforcement

(1) General. The commission may take enforcement action in response to a utility's failure to comply with the provisions of Chapter 19.405 RCW, this chapter of the commission's rules, or a commission order implementing those requirements.

(2) Procedure. The commission may take enforcement action in the following types of proceedings:

(a) Complaint. The commission may bring a complaint against a utility pursuant to RCW 80.04.380 and WAC 480-07-300, et seq.

(b) Penalty Assessment. The commission may assess penalties as provided in RCW 80.04.405 and WAC 480-07-915.

(c) Other. The commission may take enforcement action in any proceeding in which a utility's compliance with the provisions

of Chapter 19.405 RCW, this chapter of the commission's rules, or a commission order implementing those requirements is at issue, including but not limited to a utility's general rate case.

(3) Remedies. The commission may impose any one or a combination of the following remedies for a utility's failure to comply with the provisions of Chapter 19.405 RCW, this chapter of the commission's rules, or a commission order implementing those requirements.

(a) RCW 19.405.090. To the extent applicable to the violation, the commission may require the utility to pay an administrative penalty of $100 multiplied by the applicable megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation.

(b) RCW 80.04.380. The commission may assess penalties of up to $1,000 for each violation. Violation of the same requirement in statute, rule, or commission order are separate and distinct violations, and each day the utility is not in compliance with these requirements is a separate and distinct violation.

(c) RCW 80.04.405. The commission may assess penalties of $100 for each violation. Violation of the same requirement in statute, rule, or commission order are separate and distinct violations, and each day the utility is not in compliance with these requirements is a separate and distinct violation.

(d) Specific performance. The commission may order a utility to take specific actions necessary to comply with Chapter 19.405, this chapter of the commission's rules, and commission orders implementing those requirements. The commission may limit the

extent to which the utility may recover return on any investment the utility must make in taking these actions.

(e) Prudence. In determining the prudence of a utility's activities, the commission may consider a utility's compliance with Chapter 19.405 RCW, this chapter of the commission's rules, and commission orders implementing those requirements.

(f) Customer notification. If the commission finds a utility in violation of Chapter 19.405 RCW, this chapter of the commission's rules, or commission orders implementing those requirements, the commission may order a utility to notify its retail electric customers of the violation in a published form.

(g) Violations of Chapter 19.405 RCW not directly related to emissions. If the commission finds a utility is in violation of a portion of Chapter 19.405 RCW that is not subject to the administrative penalty under RCW 19.405.090(1), the commission may presume that the violation is ongoing until the utility either: (a) performs specific actions outlined by commission order to remedy the violation; or (b) based on evidence presented by the utility, the commission concludes that the utility has taken other actions to remedy the violation. Consistent with RCW 19.405.040(7), any violation of section RCW 19.405.040, including subsections RCW 19.405.040(2) through RCW 19.405.040(11), is subject to the administrative penalty in RCW 19.405.090(1). A violation of RCW

19.405.040(8) is an example of a violation that is ~~not~~ subject to the administrative penalty in RCW 19.405.090(1).

(4) Mitigation. A utility may request and the commission may mitigate any administrative penalty as described in RCW 19.405.090(3) or penalty assessment as provided in WAC 480-07-915. Any mitigation the commission grants does not relieve a utility of its obligation to comply with applicable legal requirements or to take specific actions the commission orders.