RE: Rulemaking Relating to Clean Energy Implementation Plans (CEIPs) and Compliance with the Clean Energy Transformation Act, Docket UE- 191023

June 2, 2020

Mark Johnson, Executive Director/Secretary
Washington Utilities and Transportation Commission
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Dear Mr. Johnson:

The NW Energy Coalition (Coalition) submits the following comments along with a redline of the proposed rules pursuant to the Notice of Opportunity to File Written Comments, dated May 5th, 2020 in UE-191023.

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

The following are the questions posed by UTC Staff and the NWEC responses to those questions, with additional comments at the end.

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 the 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 "resources" through 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"?*

       The term "resource" is not defined in the rules. However, the definition of "resource need" included in the rules seems broad and sufficient to include a range of needed technologies, programs and applications.

The term "resource", as used in planning and action plans, can and should cover more than just generating resources – CETA is clear that all sources of direct power and power savings or storage must be incorporated in complying with the statute. Further, the rules are written in a manner that allows other investments and programs to rightfully fall under the term "resource".

Likewise, the concept of "resource adequacy" must be broadened to include demand response, expanded conservation and efficiency, storage, and other flexible resources, as well as typical thermal generators. By examining the entire system, not just the potential difference between projected load and currently owned generation capacity to meet that load, utilities will be able to develop more responsive and resilient systems.

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

Yes. In an analysis, it would be helpful to know, for example, if new infrastructure can be avoided by strategic implementation of demand response, distributed generation, other non-wires actions or storage, or if operational efficiency could be enhanced with selective distribution improvements. Those are all resources available to a utility and should be specifically addressed and included.

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

Yes, if the infrastructure is necessary and/or lowest reasonable cost option for serving customers with reliable power, it should be included. A more wholistic assessment of resource considerations is necessary for utility planning in current system conditions.

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?*

Resource should broadly include generation, conservation, distributed generation, demand response, efficiency, storage and other system actions or programs that alone or in combination can be coordinated by the utility to reduce, shift, manage and meet a utility's customer demands. The addition of those elements in RCW 19.280.030 (2)(e) and RCW 19.280.100 represent the growing understanding of the integration of many the elements needed for successful utility planning and service.

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 retails sales served by non-emitting 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.*

   Yes. It is absolutely appropriate for the proposed rules to require "that planning and investment undertaken by the utility must be consistent with the clean energy standards"; planning should lead to intentional investments that enact the standards. The specifics in WAC 480-100-650 gather the other planning and investment requirements scattered through the sections of the statute into one context that ultimately supports the manner and form in which the clean energy standards must be developed.

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?*

      WAC 480-100-650 lists, at a high level, what a utility MUST do or achieve to meet the clean energy standards as described at various points in the statute. To comply with CETA, each utility must fundamentally transform not only its planning and investments, but its operations. Some of those operations may entail simply changing current practices rather than depend on new planning or investment. So, practically speaking, the Commission should approve not just the planning and investment activities, but also all other activities to ensure that the actual outcomes are consistent with the clean energy standards.

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

The distinction between reviewing activities and approving specific actions is not clear in proposed WAC 480-100-650. Is the intention that a CEIP meet a set of requirements or supplies the content that must be in a CEIP, but only a subset of specific proposed actions be subject to Commission approval? It is not entirely clear what the Commission will look at to determine approval of specific actions; WAC 480-100-655(4) specifies that a CEIP must identify specific actions the utility will undertake during the implementation period, so if the approval is limited to the items listed in (4), it is not clear if public participation plans (9) or alternative compliance intentions (10), will need Commission approval. We would suggest the Commission approve the specific actions that must be addressed in a CEIP as well as approve, disapprove or require changes of the elements of the CEIP.

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 the 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.*

   Yes, the NW Energy Coalition supports this timing and the objective of streamlining and coordinating with existing EIA requirements. Can the Commission explain, perhaps in a timeline format, how it sees this timeline in conjunction with the timeline for IRP's?

   Additionally, the current timeline provides opportunity for a 6o-day comment period, but does not clearly include time for a utility to revise and resubmit its plan based on stakeholder comments nor revise elements of the plan. Our initial comments supported the idea of this type of evolution of a utility's filed plan. Could this still take place under the schedule as proposed in the current draft rules? If not, we suggest that this will place increasing emphasis on the utility conducting a robust, collaborative and meaningful public participation process prior to filing at the UTC – and we would suggest more guidance from the UTC, either in rule or in guidance issued subsequent to the rule, that would outline how the utilities can ensure such an inclusive and meaningful public participation process.

   Lastly, the draft rule does not specifically call for a public hearing regarding each utility's filed CEIP prior to the commission issuing a decision. A hearing is required by the statute in RCW 19.405.060 (1) (c): "The Commission, after a hearing, must by order approve, reject, or approve with conditions an investor-owned utility's clean energy

implementation plan and interim targets." The Coalition strongly recommends that the commission specify in the rule that it will hold at least one public hearing to consider each utility's CEIP prior to issuing a decision. This public hearing is consistent with ensuring the appropriate level of public input on such a significant utility plan. See our attached redlines in WAC 480-100-660 (2) Approval Process.

5. *RCW 19.405.060(1)(b)(ii) 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 CEIP is intended to be a four-year detailed plan for achieving some specific amount of progress towards compliance with the 2030 and 2045 clean energy standard, including the interim standards and other requirements. Therefore, "demonstrating progress" would be measured by 1) a clear showing that the four year targets and actions actually lead to compliance with CETA standards as planned for in the IRP and the CEAP; 2) demonstrating how the CEIP meets the requirements necessary for a CEIP listed in 480-100-650 and -655 and 3) demonstrating or showing actual achievement of the four year targets and actions, per WAC 480-100-655(1) Clean energy compliance report.

    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?*

        Generally, yes. RCW 19.405.030 requires actions that must be completed by 2025, within the first compliance period. Additionally, the statute requires compliance by four-year periods between 2030-2045 and the draft rules seem sufficient to measure this four-year compliance, although the Coalition does recommend more specificity in WAC 480-100-655 (2)(a) to ensure that the implementation periods coincide with the legislatively mandated four-year compliance periods in RCW 19.405.040. The intent of CETA is to ensure that utilities make continuous progress toward the 100% clean electricity target, as evidenced by the compliance periods and related language. It would be inconsistent with CETA for the rules to be set up in a manner that evaluated compliance relative to 2030 and 2045 alone.

6. *Interim Targets:*
    a. *Draft **WAC 480-10-655(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?

Yes, although we disagree with the assumption that seems to underlie this question. Reading RCW 19.405.060(1)(a)(ii) "*Proposed interim targets for meeting the standard under RCW **19.405.040**(1) during the years prior to 2030 and between 2030 and 2045*" to mean that interim targets should only be focused on the GHG neutral standard of 2030, is not consistent with the intent of CETA, and contradicts the plain meaning of the law to constantly move towards an ever cleaner grid, culminating in 100% by 2045. It would make no sense in the compliance periods between 2030 and 2045 to be trying to achieve targets that are in the past.

The immediately previous section (1)(a)(i) calls for each CEIP to state specific numeric targets for EE, DR and RE not in a vacuum, but as part of an effort to meet RCW 19.405.040 and .050. The intent to require interim targets to meet the 2045 standard is further supported in (1)(b)(iii) which spells out those specific targets must be implemented by specific actions to demonstrate progress toward meeting the standards of 040 and 050 and the interim targets. The proposed rules support the intent of the legislation.

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?*

We support the commission's use of its authority to enforce any and all sections of CETA, except where that authority is explicitly provided to another agency. It would be odd and inappropriate to arbitrarily limit the Commission's authority; the Commission should be able to enforce compliance with the law under its own authority. The Commission is well within its rights to ensure the law is implemented in whole, not just in part, and in ways that are not dependent solely on monetary penalties.

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 non-emitting 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 non-emitting and renewable resources. Is the reporting under draft WAC 480-100-665 necessary and appropriate?*

Yes. Utilities must report on their total and complete obligations under CETA, and it makes sense to streamline and combine overall reporting of compliance obligations where possible. For example, while the commission could require separate and distinct reporting requirements for RCW 19.405.040 (8), it makes more sense and is consistent

with the legislative intent to achieve clean energy in conjunction with these goals, to require combined reporting.

Additionally, in the attached redlines, the Coalition offers edits to improve the clarity of WAC 480-100-665 in meeting the requirements under RCW 19.405.040(8). Our redlines essentially support the changes recommended by Front and Centered in their submitted comments in response to this order.

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?*

   It seems to, although we do have some concerns about the clarity of the meaning of the mandatory compliance periods in RCW 19.405.040(1)(a). The years between 2030-2045 represent 4-year periods, plus one 3-year statutory compliance period, as enumerated in RCW 19.405.040(1)(a). The Coalition has not identified a problem with the term "implementation period"; however, for years between 2030-2045 it should be clear that those periods are also legally enforceable compliance periods subject to penalties enumerated in RCW 19.405.090.

   Additionally, as mentioned above, we recommend that this section require that interim targets or compliance targets between 2030-2045 match the enumerated timeframes laid out in statute. The draft rules as written seem to provide the utility opportunity to set interim targets at intervals less than four years, which would not provide adequate compliance and reporting capabilities for the mandatory compliance periods laid out in statute.

   We do not offer redlines to this affect, but it may be preferable for the rules to distinguish between the interim targets prior to 2030 and the mandatory compliance period interim targets between 2030-2044 and each year thereafter, as specified by 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?*

It is not unreasonable for the Commission to decide, in very specific instances, not to issue a penalty. That decision will depend heavily on the facts and circumstances of the particular shortcoming. It is possible that a specific target for renewables, scheduled for construction in the latter two years of a compliance period, might be delayed for reasons beyond the control of the utility; in that case, it would be reasonable not to issue a penalty. It is also conceivable that a new technology might emerge that could be used more effectively in place of a planned action; since WAC 480-100-665 addresses both annual reports and the compliance reports, we would expect those proposed changes to be treated as a new substitute, specific target, highlighted in an annual report and assessed in subsequent annual and compliance reports. Not issuing a penalty for failure to meet a specific target in no way relieves a utility from meeting the other requirements of the act, and should be allowed only under very limited circumstances, as meeting the standards will likely depend on fulfilling the specific targets by taking specific actions; the failure to meet a specific target because the utility failed to act in a timely manner to meet the targets the utility itself set, for example, should be penalized.

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 SCHGH, 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 SCG HG affects the calculation of the incremental cost of compliance.*

    (1) The law requires the inclusion of the SCGHG in both the alternative lowest reasonable cost and reasonably available portfolio. RCW 19.280.030 (3) requires that a utility "incorporate the social cost of greenhouse gas emissions as a cost adder when: (i) Evaluating and selecting conservation policies, programs and targets; (ii) Developing integrated resource plans and clean energy action plans; and (iii) evaluating and selecting intermediate term and long-term resource options." Further, RCW 19.405.060(1)(a) requires that the utility clean energy implementation plans be 1) "informed by an investor-owed utility's clean energy action plan" and 2) "identify specific actions to be taken over the next four years, consistent with the utility's long range integrated resource plan…" both of which explicitly require the incorporation of the SCGHG. Furthermore, the CEIP is a planning document developed by the utility to evaluate and select resource options to meet the clean energy standards, and as such explicitly, on its own merits, requires the integration of the SCGHG. The statute contains no exceptions for any portions of these plans or evaluations that must incorporate the

SCGHG, so, therefore, the only reasonable interpretation is that each relevant element or evaluation should include this value.

(2) NA

(3) The SCGHG must be included in the calculation of both the alternative lowest reasonable cost and reasonably available portfolio. The incremental cost calculation is specifically crafted to evaluate the cost of meeting only the requirements in 19.405.040 and 19.405.050. The requirement to incorporate the SCGHG does not appear in those sections, but in an entirely different portion of the statute and thus is not a factor to be solved for by applying it in one scenario and not the other in the incremental cost calculation. The legislative intent of requiring the SCGHG is to ensure that going forward, externalized costs associated with the emission of greenhouse gases are accounted for in resource decisions. This is separate and distinct from the clean energy standards established in sections .040 and .050.

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?*
    a. *If yes, please use the table provided below for discussion purposes to indicate if there are any FERC accounts listed that should not be included? Conversely, are there any FERC accounts that are not listed that should be included? Please include comment on the rational to either include or exclude a particular FERC account.*

       The FERC accounts listed below include almost all revenue, with one exception. FERC has yet to create an account for storage services sales (there is only one currently for batteries that support internal systems in the distribution accounts). The rules should specify where storage costs and revenues should be presented.

    b. If no, please provide the challenges encountered by a stand FERC account listing.

Additional Comments on the Proposed Rules

<u>WAC 480-100-6XX Definitions</u>

The definition of “energy assistance need”, as previously discussed in our comments submitted on April 30, 2020 in Docket 190652, should provide a minimum standard for energy burden at 6% of household income, but provide language that is flexible to allow utilities, where

appropriate for local conditions, to select a lower energy burden. Please see language suggested in our attached redline comments.

The Coalition recommends adding a definition for "energy security" as presented in the attached redline comments.

The Coalition recommends clarifying language for the definition of "equitable distribution", as reflected in the attached redlines.

The definition of "lowest reasonable cost" should include a reference to the CETA legislative intent as in 19.405.010 (6). Additionally, the term "carbon dioxide" at the end of the definition should be replaced with "greenhouse gases."

"Retail electric sales" is the basis for the clean energy standard calculations and should be defined in rule. Our attached redlines provide the following suggested definition:

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

Clarify language in the "social cost of greenhouse gas emissions" definition to ensure full calculation of emissions associated with electricity generation sources.

WAC 480-100-650 Clean Energy Standards.

This section as written currently overlooks some requirements of the clean energy standards that should be specifically enumerated in the rules.

First, in complying with the clean energy standards in RCW 19.405.040 and .050, a utility is required to "pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail load." This language should be added to this section of the WAC.

Second, in conversations regarding the requirements of RCW 19.405.040 and .050 there has been some misunderstanding on the part of stakeholders regarding the appropriate use of unbundled RECs. Due to these conversations, we recommend clarifying in this section of the rules that any renewable energy used to meet the clean energy standards in RCW 19.405.040 and .050 must be verified by the retirement of bundled renewable energy certificates.

We also recommend adding language that specifies that non-emitting generation must be generated during the compliance period and verified by documentation that the utility owns the nonpower attributes.

WAC 480-100-655 (6) Equitable Distribution

The commission should require utilities to establish measureable and descriptive indicators to evaluate the equitable distribution of benefits and risks. The commission, by rule or advice, should establish a minimum set of indicators that all utilities are required to report, and should allow utilities, in conjunction with their equity advisory groups and other stakeholders, to establish additional unique indicators that represent their individual service territories.

WAC 480-100-655 (13)

The biennial CEIP update should establish a minimum set of requirements under which a utility is required to file proposed CEIP changes in this update. We recommend the following conditions for commission consideration:

1) deviations of expected progress toward interim target or specific targets of 10% or more;
2) significant challenges in addressing equity metrics/indicators;
3) other changes that will have a material impact.

WAC 480-100-675 Incremental cost of compliance

The Coalition recommends deleting 480-100-675 (1)(b). There will be many categories of costs included in the calculation of the incremental costs associated with RCW 19.405.040 and .050. It is unclear why the commission has selected "changes in wholesale power expense or revenue" to enumerate in rules, while not referencing any other potential specific costs. This addition, with the exclusion of other potential costs, is confusing. We would like to better understand the intent behind the inclusion of this language; however, in the absence of a substantive explanation for this singular calculation element, we recommend deleting this language.

Compensation/Renumeration to Facilitate Public Participation

Involvement in utility planning processes requires considerable investment of time and resources for any stakeholder. While several advocacy groups that have been engaged in this process for decades have resources for this work, many groups representing, in particular, vulnerable and impacted customers of the utility are not. To enable successful, robust public participation, it will be necessary to identify resources for these groups to participate in the planning process. This is especially true for groups or individuals that maybe sought after for equity advisory groups. We encourage the commission to consider ways to adequately resource this element required in and indispensible to the success of CETA. Utilities could be required to provide resources directly, or, like many commissions across the country, use intervener

funding to accomplish these objectives. We strongly encourage the incorporation of some means to allocate funding to compensate vulnerable and impacted community representatives to enable them to participate in the process. The reality for these groups and individuals is that without these resources, participation will likely be lacking in form and substance to the detriment of the intent of the law to both provide meaningful benefits and mitigate impacts on these customers.

Treatment of Storage Resources

Storage is a unique resource in that it provides the ability for a utility to control when electricity is delivered to its system. In this regard, it is not unlike demand response resources, which allow the utility to control where electricity is needed at specific times and locations. Storage does not generate electricity. Therefore, storage should only be accounted for as a pass-through resource, and what should be counted toward CETA compliance is the original electricity used to charge the storage device, including any electricity losses associated with the use of the storage device. Please see the resulting redline changes that we suggest in WAC 480-100-655 Clean Energy Implementation Plan or "CEIP", subsection 3 (iii).

We look forward to continuing to work with the UTC and other stakeholders through the rulemaking process. Please do not hesitate to reach out to us if you have questions or wish to discuss these comments in more detail.

Regards,

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