U-240281

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Memorandum

To: *Jeff Killip, Executive Director and Secretary,* Washington Utilities and Transportation Commission

From: Tom Kraemer[1]/Third Act Washington and Don Marsh[2]/Washington Clean Energy Coalition

Date: February 18, 2025

Subject: Comments on ESHB 1589 Rulemaking, Docket U-240281

Thank you for the opportunity to comment on the Commission's second draft rule for implementing ESHB 1589 (RCW 80.86), as requested by the Commission in its Amended Notice of Opportunity to File Written Comments of January 17, 2025. We provide comments below on four sections of the draft rulemaking, and following those comments are our responses to your seven questions.

Comments on draft WAC 480-95-040 Assessment of resources and delivery system:

As described in our previous comments, we believe an assessment and mapping of all technically feasible potential power from wind, solar and other renewables within and in close proximity to the utility's service area should be required by the rulemaking. This assessment is essential in order for UTC to judge whether adequate efforts are taken by the utility to meet both the emissions reduction requirements of HB 1589 (80.86 RCW) and the clean energy requirements of the Clean Energy Transformation Act.

Both RCW 80.86.020 (5)(d) and WAC 480-100-620 (11)(e) specifically require evaluation of renewable resources. The draft rulemaking includes a brief subsection (4) requiring assessment for *integrating* renewable resources (listing storage methods and overgeneration events), but not for assessing the renewable energy sources themselves or the potential for acquiring them. Assessing the potential for renewable nonemitting resources is essential to the goals of the decarbonization act, RCW 80.86, that this rulemaking is intended to implement.

This assessment might also be included in the current draft's WAC 480-95-030 "*Cross-cutting assessment and planning requirements*" section, since the assessment should be done prior to development of modeling scenarios.

Comments on draft WAC 480-95-050 Content of an integrated system plan – long-term section

To be consistent with RCW 80.86.020 (4)(c) and (d), add the following to WAC 480-95-050 (1):

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(c) Load forecast scenarios that include the effect of electrifying gas loads, in order to include the effects of emission reductions for both gas and electric systems, and account for the interactions between gas and electric systems.

Comments on draft WAC 480-95-060 Content of an integrated system plan – implementation section.

This section includes primarily requirements of the Clean Energy Transformation Act, which applies only to the electric utility. However, the wording is often unclear as to which utility, gas or electric or both, specific requirements apply. For example, the Clean Energy Action Plan applies only to the electric utility under the statute, but this is not stated.

Of particular concern is that the specific targets of draft WAC 480-95-060 (3)(a)(i), (ii) and (iii) all apply only to the electric utility. Then (3)(a)(iv) Emissions reduction follows, but it is not evident that this emissions reduction requirement also applies to the gas utility. While interim targets are explicitly required for electric nonemitting and renewable sources under WAC 480-95-060 (2) (b), there is only a reference to RCW 70A.45.020 under (3)(iv) that the reader must understand requires gas utility emissions reductions as well as electric, and also requires interim reductions, albeit different from those of the electric utility.

The requirements for incremental GHG emission reductions of 45% (below 1990 levels) by 2030, 70% by 2040, and 95% percent/net zero in 2050 per RCW 70A.45.020 should be listed explicitly here, so that the public, as well as the regulated utilities, understand the requirements clearly. The requirement for reductions of the gas utility's GHG's that are proportional to the above and at the time intervals required by RCW 80.86.020 (4)(c) and (11)(g)(i) may not be apparent unless these are spelled out in the rulemaking.

Comments on draft WAC 480-95-080 Procedures

We suggest adding the following under (1) Public Participation:

(c) Engage the required range of expertise needed to meet all requirements. The utility shall propose, for approval by the commission, a procedure for members of the public and community-based organizations to volunteer services and be selected for advisory group issues or types of expertise as determined by the utility or the Commission. The Commission reserves the right to review the selection of advisory committee members and to reject members selected by the utility and select alternate volunteering members.

(d) Provide reasonable opportunity and resources for the public to meaningfully engage in the planning process. During development of the ISP, meetings of ISP advisory groups shall be open to the public, held in person and online, and publicly announced sufficiently ahead of time for public attendance. The utility shall prepare agendas in advance outlining topics for each public meeting including clear instructions on how members of the public may submit oral or written comments. During each meeting, public attendees shall be allowed to ask questions, provide suggestions, and interact directly with PSE staff and advisory group members for a reasonable amount of time.

(e) Solicit and consider public input on each ISP draft. After each draft of an ISP is released, the utility shall hold public meetings to consider written and oral comments from the public. The commission shall review and approve a utility's public meeting plan for each ISP draft, including a schedule and allotted times for meetings, procedures for responding to public comments, an initial list of topics for which the utility will solicit public input, and other information as needed to obtain public input for successful implementation of the ISP.

We suggest adding the redlined text below into the draft text under (3) Data disclosure:

(a)The large combination utility must file its modeling data inputs with the commission in native format per RCW 19.280.030 (10)(a) and (b) and in an easily accessible format as soon as they are reasonably available during the integrated system plan developing process. Customer usage data filed as an input should be aggregated to remove customer personally identifiable information, or at a minimum pseudonymized to remove direct customer identifiers.

(c)The large combination utility must provide any confidential inputs, outputs, and any associated modeling files in native format and in an easily accessible format to commission staff and all interested parties who have signed a confidentiality agreement or nondisclosure agreement which includes a commitment to not attempt re-identification of customer personally identifiable information.

Responses to UTC questions

Questions asked by UTC are followed below by our responses in italics.

1. Reorganization. While much of the language has not changed since the last draft, Staff has reorganized the draft rules in order to help streamline them. Do you believe the reorganization is a net positive change to the draft rules? Do you have any suggestions for alternative organizations (major or minor)?

Response: The reorganization is an improvement over the first draft rulemaking, making it easier to find specific information and requirements.

2. Purpose. In this draft of the ISP rules, Staff proposed removing the explicit purposes in each section in favor of a single purpose section for the ISP as a whole. Do you believe there is a reason to have purposes (plural) for different sections of the ISP rules, or is it more appropriate to describe one overarching purpose of the ISP? In either case, please describe why.

Response: The single purpose statement for the ISP seems adequate. A summary statement like item (1) under the new draft WAC 480-95-030 might be helpful for the other sections as well.

3. Definitions. Staff proposes three new definitions in this draft of the ISP rules.

a. **Commercially feasible**. Do you believe the definition proposed in these draft ISP rules for "commercially feasible" is appropriate given the places in statute[3] and these draft rules[4] where that term appears? Please explain why.

Response: The statutory requirements say that the required targets for conservation and energy efficiency resources and for demand response/ flexibility can be relaxed if meeting them is not commercially feasible. The proposed definition of commercially feasible, however, describes commercial feasibility as a calculated quantity without identifying the quantity that would permit relaxing the targets. It also says that information on technically feasible resources may be used to demonstrate commercial feasibility, but this does not define commercial feasibility.

Commercial feasibility generally refers to the economic viability of a project, ensuring that it can generate sufficient revenue to cover its costs and provide a reasonable return on investment. A definition of commercial feasibility for the purpose of this rulemaking might be based on the demonstrated ability of commercially available resources to provide a return on investment statutorily allowed for the investor-owned utility.

b. **Commercially available**. Do you believe it is important to define this previously undefined term? If so, do you believe Staff's proposed definition is appropriate? Why or why not?

Response: The meaning of "commercially available" seems clear without a definition. It means available for the utility to buy.

c. **Nonwires solution**. Do you believe it is important to define this previously undefined term? If so, do you believe Staff's proposed definition is appropriate? Why or why not?

Response: "Nonwires solution" should be defined because it is not a commonly used English language term. Staff's proposed definition is appropriate because it is a broad, explanatory definition that aligns with typical use in the power industry.

4. Cross-cutting assessment and planning requirements. Staff attempted to consolidate any overarching requirements that apply to all sections of the ISP into draft WAC 480-95-030.

a. Are there any requirements within this section that you do not believe should apply to all parts of the ISP? Are there any requirements missing from this section?

[3] RCW 80.86.020(4)(e) and (g)
[4] Draft WAC 480-95-030(4), (5), and –050(5)(c) and (d)

b. Are there other sections of the draft ISP rules that contain these requirements that no longer need to include them given they are now covered by this overarching requirements section?

Response: The need for this section is not clear. All of the requirements of this section, except for the Requirement to Use Iterative Analysis and the Cost Test, are partially repetitive with similar requirements in other sections. The additional wording in the Cross-cutting section should be added to the other sections where these requirements occur, for clarity, and thus would not need to also appear in a new cross-cutting section. The requirements for iterative analysis appear to only apply to the long-term ISP content section, along with the other modeling requirements and should be listed in that section only. The Cost Test may merit a section of its own, since it is statutorily separate from the ISP requirements.

5. Energy assistance potential. Language in draft WAC 480-95-040(1)(ii) comes from existing WAC 480-100-620(3)(b)(iii). Is there a more appropriate place for this language in the draft ISP rules than its current location? If so, where would you recommend putting it?

Response: WAC 480-95-040(1)(ii) is within the Distributed Energy Resources subsection of the Assessment of Resource and Delivery System section of the draft rule. WAC 480 100-620(3)(b)(iii), the source of WAC 480-95-040(1)(ii), is also within a subsection of WAC 480-100-620 (Content of an IRP) titled Distributed Energy Resources. WAC 480-100-620(3)(b)(iii) references RCW 19.405.120, which pertains more generally to energy assistance than just distributed energy resources. The larger requirements of RCW 19.405.120 are included in WAC 480-95-060 (4) (Customer Benefit Data), but distributed energy sources are not specifically required to be identified as such. Therefore, it is appropriate to include, separately, the distributed energy resources identified in accordance with 19.405.120 and include them in the assessment required under WAC 480-95-040(1). Their location of the current draft language is appropriate.

6. Data disclosure. Planning analysis requires the use of large amounts of data and sometimes opaque and expensive modeling processes and software. Staff has taken commenters' feedback into account and attempted to update draft WAC 480-95-080(3) to strike a balance, understanding software access and the sensitive data at issue are in tension with the need for transparency. Do you have any suggestions for changes to this language? If so, please explain your reasoning.

Response: We have no suggestions for changes to the proposed language.

7. ISP midway update. Staff proposes in these draft ISP rules certain conditions which, if met, would require a large combination utility to file a midway update approximately half-way through the four-year implementation period.

a. Do you believe a midway update is important, or is an ISP filing only every four years adequate?

Response: A midway update is important for adequate planning and public

information, if any of the conditions described for triggering an update per the new draft rule occurs. Any of these events could require significant changes to the utility's plans within a two-year time frame.

b. Please comment on the conditions described in draft WAC 480-95-080(7)(a)(i)-(iii)? Are there any you would add, remove, or change? If so, why?

Response: A fourth condition should be added: (iv) Information becomes available to the utility that could reasonably cause a substantial change in the utility's load forecasts or resource assumptions.