climate solutions
accelerating the transition to our clean energy future

June 2nd, 2020

Mr. Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop S.E., Lacey, WA 98503
P. O. Box 47250, Olympia, Washington 98504-7250

Re: Climate Solutions comments relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023

Dear Mr. Mark Johnson,

Climate Solutions thanks you for the opportunity to submit comments and recommendations on *Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023*. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is at the center of the movement as a catalyst, advocate, and campaign hub.

A clean and efficient grid serves as the foundation to deeply decarbonizing Washington's economy and achieving science-based greenhouse gas limits. Proper implementation of and compliance with the Clean Energy Transformation Act are critically important, and an effective planning process and comprehensive compliance requirements are critical for achieving the intent of the law. In response to the draft rules released and questions posed by the Utilities and Transportation Commission ("Commission") on May 5th, Climate Solutions offers the following comments and suggested language changes in Attachment A relating to Clean Energy Implementation Plans ("CEIPs") and compliance with the Clean Energy Transformation Act ("CETA").

I. Purpose

The draft WAC 480-100-650 states that the purpose of the rules is to ensure that the utility meets the clean energy standards, referring to the full requirements of CETA. Climate Solutions supports the reiteration of the intent, and agrees many of the components of the rules are applicable to all of CETA. In response to Question #2 posed by the Commission, we believe the rules would benefit from additional clarity by distinguishing between the requirements of the specific clean energy standards required in RCW 19.405.040(1) and 19.405.050(1) versus the entirety of the CETA. Because the term "standard" is used in statute to refer to the specific greenhouse gas-neutral and 100% clean energy standards, the use of clean energy standard to

refer to all of CETA creates confusion in some sections of the draft rules. We strongly support the draft rules' acknowledgement that utilities must plan and invest in a way that meets the full requirements of CETA. However, there are some requirements, such as the incremental cost calculation and demonstration of progress towards the standards, that are specific to the greenhouse gas neutral and 100% clean energy standards, and therefore the CEIPs, interim targets, and enforcement provisions covered in this rule, while other elements of the law, such as providing energy assistance to low-income households, are outside of this rule's coverage. The use of two distinct terms will help clarify this distinction in rules. We recommend using "clean energy transformation act requirements" when the rules refer to the requirements of the entire act, and "clean energy standards" to specifically refer to the requirements in RCW 19.405.040(1) and RCW 19.405.050(1). In Attachment A, we have provided recommendations for when each term is appropriate to use throughout the draft rules.

II. Definitions

CETA references many terms that are not specifically defined in statute. Many of these terms would benefit from clarification in rules, providing guidance to utilities on how to implement various components of the statute. We provide suggested definitions in Attachment A, and an explanation of the reasoning for each definition below.

"Equitable distribution:" We appreciate the intent and inclusion of the term equitable distribution, but believe this definition should further clarify that an equitable distribution should be based on both current conditions *and* historic conditions. CETA seeks to mitigate and redress *accumulated* health, economic and other harms born by highly impacted communities and vulnerable populations, and these significant inequities should be considered when a utility considers an equitable distribution of benefits in planning and procurement processes. For example, the impacts of poor air quality are not felt instantaneously when exposed to it, but as a result of long-term exposure consistent with living and working in heavily polluted areas. The resulting health harms compound into financial, quality of life, and other impacts harmful to communities. An equitable distribution of benefits and reduction of burdens should help reduce immediate impacts, but also go further to mitigate its accumulated impacts.

The included definition includes laudable components, including emphasizing that an equitable distribution is not necessarily an equal one, it is also important to expand on the purpose of a fair allocation and what utilities are striving to achieve in determining how to distribute the benefits of their system. Climate Solutions recommends emphasizing an intent to mitigate disparities in resources, benefits, and burdens, and prioritizing communities that experience the greatest inequities and impacts.

"Lowest Reasonable Cost:" CETA builds upon and clarifies that environmental and public health benefits are in the public interest, and requires that utilities ensure an equitable distribution of benefits and a reduction of burdens to highly impacted communities in the clean energy transition. This language appears in multiple sections throughout CETA, emphasizing the need for utilities to consider a broad range of benefits to all customers when selecting resource portfolios for compliance, as well as ensuring that benefits of the clean energy transition are specifically being realized by highly impacted communities.

We appreciate the inclusion of the social cost of carbon in the definition, but recommend that term be changed to the "social cost of greenhouse gas emissions." This term is consistent with statute, and recognizes that carbon is only one of six greenhouse gas emissions referenced in the statute, in addition to those specified by the Department of Ecology. When considering the social cost of emissions, utilities must consider the full range of greenhouse gas emissions for planning, programs, and procurements, rather than only focusing on carbon dioxide.

In addition to the social cost of greenhouse gas emissions, we recommend expanding the definition of lowest reasonable cost to include public health benefits, as well as an equitable distribution of benefits and reduction of burdens. The legislature clarified that these benefits are in the public interest, with the intent to ensure that these benefits are holistically considered in utility planning, programs, and investments moving forward. For that reason, we believe it is important that the definition of lowest reasonable cost be updated to reflect this clarification in statute.

In response to Question #1(a) posed by the Commission, we additionally believe the definition of lowest reasonable cost would benefit from the inclusion of programs, rather than limiting the definition to resources. The addition of programs will ensure that utilities are not limited to specific actions and investments that have historically been considered a resource.

"Nonemitting resource:" The statutory definition of nonemitting electric generation refers to electricity from a generating facility or a resource that provides energy, capacity or ancillary services. While the definition in the draft rules aligns with the definition provided in CETA, it does not clarify how energy from storage facilities should be treated. In order to align with the intent that utilities supply customers with renewable and nonemitting resources, the definition should clarify that storage charged with emitting resources does not meet the definition of a nonemitting resource, and therefore would not qualify as a nonemitting resource for compliance with the specific targets, interim targets, or clean energy standards.

"Retail sales:" CETA provides a definition for retail electric load, but it does not provide a definition for retail electric sales. To demonstrate compliance with the various standards, utilities must document and identify the specific resources being used to supply load to Washington customers each year, and compliance is determined based on a percentage of retail sales. Because the clean energy standards and interim targets are based on retail sales of electricity to customers, it is critical that the Commission provide clarity on this term.

The statute is clear in its intent that its purpose is to transition the electricity supply to 100% greenhouse gas free electricity. To achieve this, a utility's calculation of retail sales must include *all* electricity that needs to be generated in order to produce the delivered power, inclusive of transmission, distribution and other system losses. Utility costs and the resulting rates paid by customers incorporate such losses, which indicate that those resources are also supplied to load. On the other hand, simply acquiring generation from renewable and nonemitting resources equal to the volume of electricity consumed by customers would allow emitting resources to fill in gaps created by line losses and other factors that result in a difference between the amount of electricity generated and the amount of electricity supplied to load. In this circumstance, customers would be paying for electricity that was produced with emitting generation, and doing so would run counter to the intent of the law. This interpretation is also consistent with the fuel mix reporting requirements under RCW 19.29A.060.

When calculating the specific targets, interim targets, or requirements for the clean energy standards, it would be inconsistent for utilities to calculate targets based only on volumes of energy delivered to customers without regard to the full associated generation activity. Rather, they should consider losses along the way and ensure that each megawatt hour necessary to deliver electricity to load is from nonemitting or renewable resources. We recommend clarifying this by providing a definition of retail sales that incorporates losses between the point of generation and electricity supplied to load.

"Social cost of greenhouse gas emissions:" The definition of the social cost of greenhouse gas emissions emphasizes the cost of emissions resulting from the generation of electricity, but the generation of electricity from a fossil fuel results in emissions that occur before the actual point of generation itself. We recommend confirming in rules that utilities must include all emissions that occur as a result of generation, including those from the extraction, production, and transportation of a fuel used to generate electricity. Failing to include the full social cost of these emissions would significantly underestimate the harms of processes that are known to result in a significant release of emissions.

III. Clean Energy Standards

Title: As referenced in comments above, Climate Solutions recommends that the term clean energy standards refer to the 2030 greenhouse gas neutral standard and the 2045 100% clean energy standard required in RCW 19.405.040(1) and RCW 19.405.050(1). For this reason, we recommend amending the title of WAC 480-100-650 to separate out the elimination of coal standard from the clean energy standards.

Equitable distribution and public benefits: We strongly support the draft rules' inclusion of ensuring an equitable distribution of benefits, public health and environmental costs and benefits, and energy security and resiliency in meeting the clean energy standards. We provide recommended changes to the structure in Attachment A to clarify that utilities must incorporate public health and environmental costs and benefits, while also ensuring an equitable distribution of benefits, energy security, and resiliency when meeting both the elimination of coal and clean energy standard requirements.

Equity indicators and metrics: Because a strong emphasis on an equitable distribution of benefits is an evolving area for utilities, we recommend that the Commission provide additional guidance on indicators and metrics for utilities to use in incorporating these benefits into planning, programs, and procurement. At this time, we believe guidance through a policy statement is appropriate in order to provide flexibility for indicators and metrics to evolve over time based on best practices.

IV. Clean Energy Implementation Plan

Timeline: In response to Question #4 posed by the Commission, Climate Solutions supports the timeline in the draft rules for the CEIP filing requirements. CEIPs must be submitted to advisory groups by August 2021, followed by submission to the Commission by October 2021. This aligns the CEIPs with the existing process for the biennial conservation plans, while also providing sufficient time for utilities to draft the plan after filing their Integrated Resource Plans and providing stakeholders sufficient time for review.

Interim and specific targets: Because each utility has a unique resource portfolio and specific resource needs, Climate Solutions supports maintaining some level of flexibility for utilities as they develop their interim and specific targets. However, we recommend that the Commission provide additional guidance on target development to ensure consistent methodologies for developing specific and targets. Both sets of targets should be designed in a way that provides a pathway to compliance with and demonstrates progress towards the clean energy standards as required by statute. In addition, utility targets must also ensure that highly impacted

communities are protected, and that there is an equitable distribution of benefits considered as part of the target development.

The specific and interim targets should also align with the language in RCW 19.405(6)(a)(iii). The intent of this language is to ensure that when utilities are constructing or acquiring newly constructed resources, they are prioritizing renewable resources and energy storage and accounting for any potential risks or cost savings associated with ensuring new resources will meet clean energy standards. We recommend that the Commission incorporate guidance on how utilities must ensure this requirement is considered during the development of the interim targets.

The draft rules are unclear on when utilities must set the interim targets for years outside the current CEIP. The statute requires that interim targets be set for meeting the standard during the years prior to 2030 and between the years 2030 and 2045, and we interpret this language to require utilities to set the full range of interim targets in the first CEIP, with updates and revisions in subsequent submissions. While we believe this was the intent in the draft rules, the language was unclear. We provide recommended edits in Attachment A to clarify that utilities set interim targets for each remaining four-year period in any given CEIP, rather than only for that specific four-year period.

In response to Question #6 posed by the Commission, we strongly encourage the Commission to require that interim targets demonstrate progress towards RCW 19.405.050. The statute requires a continuous demonstration of progress towards meeting both clean energy standards, and we believe this should be reflected in setting interim targets through 2045.

Storage: As referenced above in the definition of nonemitting resource, Climate Solutions recommends clarifying that energy from a storage facility may only be used for compliance with the specific targets, interim targets, and clean energy standards if the resource is charged with renewable energy or nonemitting resources. This is important to clarify in the rules for nonemitting resources, just as it is clarified for renewable resources in the draft rules.

Additionally, if a utility relies on energy from a storage facility, it must consider the facility's round trip efficiency. Compliance with the interim targets and the clean energy standards must be determined based on all electricity that must be generated in order to deliver energy to retail customers, and therefore must account for any efficiency losses that occur between the generation source and the energy supplied.

Implementation Period: In response to Question #8 posed by the Commission, Climate Solutions appreciates the use of the term implementation period to avoid confusion with the

compliance periods that are identified in the statute. We support this approach and use of this term, and believe is appropriate in this context.

Equitable distribution: Climate Solutions supports the requirement in rules that a utility must identify highly impacted communities and vulnerable populations, assess the burdens and benefits, and describe how it plans to mitigate risks. We recommend providing a minimum list of benefits and burdens to be incorporated in the CEIP, such as environmental, public health, and economic benefits and burdens, in order to ensure consistency among utilities. In addition, we recommend that a utility propose specific metrics in order to achieve the requirements of WAC 480-100-650(1)(d) though (g) in order to assess progress in subsequent years.

V. Process for Review of CEIP and Updates

Public hearing: We appreciate the opportunity for a public comment period on the utility's Clean Energy Implementation Plan. Given the importance of public participation, in addition to the public comment period, we also recommend a formal public hearing before the Commission to provide an opportunity for public input prior to approval, conditional approval, or rejection by the Commission. This provides the Commission with an opportunity to hear from stakeholders or customers who wish to express concerns or provide feedback in front of the Commissioners, and an opportunity for the Commissioners to ask any clarifying questions of stakeholders or customers.

VI. Reporting and Compliance

Clean energy compliance report: In response to Question #7 posed by the Commission, Climate Solutions supports the inclusion of information beyond a utility's percentage of renewable energy and nonemitting resources in the compliance report. There are various requirements in CETA that extend beyond the percentage of nonemitting and renewable resources, and these components should be demonstrated in the compliance report as well.

Retirement of nonpower attributes: While utilities are required to demonstrate that they have met specific targets, interim targets, and progress towards the clean energy standards, it is important that the nonpower attributes be retired in order to be used for compliance. We recommend the rules clarify that retirement of renewable energy credits and other nonpower attributes are necessary for using such resources for compliance.

Interim and specific targets: After development and approval of the specific and interim targets, we support the requirement for utilities to demonstrate compliance with the interim and specific targets and document the specific resources being used to serve load in Washington each year.

In response to Question #9 posed by the Commission, we recommend that the Commission impose penalties if a utility does not meet the interim or specific targets, but also provide a process by which utilities may propose updated targets if market conditions or circumstances change over the four-year period. The Commission should provide specific guidance on required information and justification from a utility to update the targets, which is critical for ensuring a consistent process across all utilities.

Annual Clean Energy Progress Report: Because utilities have not broadly incorporated public health benefits, environmental benefits, and a requirement to ensure an equitable distribution of benefits, the progress report should also include an update on progress and metrics for achieving these statutory requirements. As an evolving process, we believe it is important to have continuous monitoring, and recommend that the Commission specifically require that utilities provide progress on these metrics.

VII. Public Participation

Decisions that are made in the CEIPs will directly impact all utility customers, and a critical component of the planning process is to ensure that the public is able to provide meaningful input into the decision-making process. Interim targets, ensuring an equitable distribution of benefits, and resource decisions will all be determined through the CEIP process. Feedback from the public, industry experts, community partners, and other stakeholders should be heavily considered during the development of the plan, and we strongly support the inclusion of various advisory groups in the utility process. We additionally recommend that the utility identify barriers to participation, and recommend that the Commission and the Department of Commerce create a statewide equity advisory board to advise on broader policy considerations connected to the requirements of the act.

Equity Advisory Group: Given that the CEIP must also ensure an equitable distribution of benefits, it is critical that utilities proactively engage and reach out to highly impacted communities to ensure that CEIPs and targets are prioritizing the needs of specific communities in their service areas. We appreciate the creation of a utility equity advisory group, and believe this will be important for advising the utility on a range of metrics, benefits, and community priorities to ensure benefits flow to highly impacted communities and vulnerable populations.

Traditional engagement processes have often led to low engagement from disadvantaged communities. In the public process plan, utilities should create a process for identifying barriers to participation and engage the communities and community organizations in developing strategies to overcome identified barriers. These may include providing resources for

participation in the equity advisory group, such compensation for time, defraying costs associated with travel or childcare, or other needs that are identified by the utility and the community.

Statewide Equity Advisory Board: In addition to the utility equity advisory group, we recommend that the Commission and the Department of Commerce create a statewide equity advisory board that can more holistically advise utilities, the Commission, and Commerce on best practices with regards to implementing and ensuring an equitable distribution of benefits to highly impacted communities and vulnerable populations. Rather than being specific to any one utility, this advisory board would take a broader look at best practices and provide recommendations to the Commission and Commerce on how to incorporate these concepts as new information and processes become available over time.

VIII. Incremental Cost of Compliance

Specific and Interim targets: The cost-protection mechanism allows a utility to be considered in compliance if the annual average incremental cost of meeting the standards *or the interim targets* over the four-year period meets a two percent increase in the utility's weather-adjusted cost basis above the previous year. The law specifically referenced both the interim targets and the clean energy standards in cost-protection mechanism, and utilities should be able to use this compliance mechanism for the targets set prior to 2030, as well as those set between 2030-2045. If a utility does not meet its identified specific or interim targets pre-2030, nor relies on the incremental cost of compliance mechanism, then the utility should also not be allowed to rely on the incremental cost of compliance mechanism in later years. This distinction is important in ensuring that utilities begin planning to meet CETA obligations immediately, rather than waiting to invest in 2030 and rely on the cost-protection mechanism without having demonstrated progress and making investments in prior years.

Baseline lowest reasonable cost portfolio: Because CETA applies to all resources, rather than just a share percentage of resources as in RCW 19.285, we strongly support the draft rules' requirement to calculate incremental costs on a portfolio basis. In comparing the baseline lowest reasonable cost portfolio to a portfolio that includes compliance with the clean energy standard, only the costs of meeting the standards and interim targets must be included in the average annual incremental cost, and any CETA requirement that does not fall under RCW 19.405.040(1) and 19.405.050(1) should be included in a utility's baseline costs. The language in RCW 19.405.060(3)(a) does not focus on the cost of compliance with all of CETA, but rather only on costs that are directly attributable to actions necessary to comply with the specific clean energy standards.

In response to Question #10 posed by the Commission, we believe that the inclusion of the social cost of greenhouse gas emissions in the baseline portfolio is required by statute. The baseline portfolio should assume all compliance obligations under current law and any other obligations under CETA that are separate from the specific clean energy standards under RCW 19.405.040(1) and RCW 19.405.050(1). Examples of actions not directly attributable to RCW 19.405.040 and 19.405.050 include low income assistance programs in RCW 19.405.120; the application of the social cost of greenhouse gases in RCW 19.280.030 and Commission IRP acknowledgement letters to Puget Sound Energy, Avista, and Pacific Power; the elimination of coal requirement in RCW 19.405.030; requirements under the Energy Independence Act requirements in RCW 19.285; and many others. The baseline portfolio must include these and all other legal requirements, and be compared to a portfolio of resources that are necessary to meet the clean energy standards. We support the clarification that the social cost of greenhouse gas emissions be included in a utility baseline, but recommend the Commission provide further guidance on how to incorporate any costs of ensuring an equitable distribution of benefits in the baseline portfolio as well.

Alternative compliance mechanisms: Funds spent on alternative compliance options should not be part of the incremental cost of compliance calculation unless a utility has exhausted all renewable resource and nonemitting electric generation options. The statute states that all costs included in the determination of the incremental cost impact must be directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050, meaning a utility would not be able to achieve the standard or identified interim targets without that investment. CETA explicitly allow an electric utility to satisfy up to twenty percent of its compliance obligation with alternative compliance options, but these compliance options are optional and are not the primary means of compliance necessary to comply with the clean energy standards. If they were removed as an option for compliance, the utility would still maintain an ability to comply with the clean energy standards, unless the utility has exhausted all renewable energy and nonemitting electric generation options. Therefore, unless a utility has exhausted all options for renewable energy and nonemitting electric generation, and there is no resource option available, alternative compliance options, including energy transformation projects and the alternative compliance payment, should not be included in the incremental cost calculation. Were the legislature's intent to allow the use of alternative compliance mechanisms in calculating the incremental cost in all circumstances, the language would omitted the word necessary.

The statute also states that a utility must maximize investments in renewable resources and nonemitting electric generation prior to using alternative compliance options. This language

aligns with the interpretation discussed above, indicating that utilities must exhaust all options for renewable resource and nonemitting electric generation prior to relying on alternative compliance options when relying on the incremental cost of compliance mechanism. We recommend the rules clarify that alternative compliance mechanisms cannot be included in the calculation of the incremental cost of compliance, unless all other renewable resources and nonemitting electric generation has been exhausted.

Wholesale market impacts: The draft rules do not specify all types of potential incremental costs for the incremental cost calculation, and we believe it is unnecessary to specifically require that utilities account for wholesale market impacts at this time. While wholesale market impacts may be a valid incremental cost - or benefit - calculating the impact of the clean energy standards on the wholesale market will be a complex process and warrants additional guidance from the Commission on a consistent and fair methodology. We recommend deleting the language in WAC 480-100-675 (1)(b) at this time, and propose this question be addressed more holistically through workgroups and formal guidance from the Commission.

IX. Conclusion

Thank you again for the opportunity to provide comments and recommendations on the proposed rules in the matter of *Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023*. Achieving the intent of the law is dependent on a robust and effective planning process and compliance obligations, and we look forward to continuing to engage with you as this process moves forward.

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