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Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

January 28, 2022

Re: Front and Centered Comments on Avista 2021 Clean Energy Implementation Plan pursuant to WAC 480-100-640 (Docket UE-210628)

Dear Amanda Maxwell:

Front and Centered is a coalition of organizations led by and serving communities of color in Washington. Our mission is to advocate for the interests of frontline communities, who are first and worst impacted by the climate crisis, in advocating for a just transition from an extractive to a regenerative economy. We have been following the implementation of the Clean Energy Transformation Act (CETA) and are offering these comments on Avista's Clean Energy Implementation Plan (CEIP) in support of an equitable transition to 100% clean energy in Washington and to encourage policies and practices that center the interests of impacted communities in decision-making.

Summary

Avista's CEIP details the utility's plans to begin its shift to providing fully carbon-free energy to Washington state consumers by 2045 and specifically covers the period from 2022-2025. While the CEIP demonstrates that Avista has included equity considerations in their transition plan, the planning document has room for improvement. As part of its planning, Avista has generated Customer Benefit Indicators (CBIs) and Specific Actions that correlate to these CBIs to ensure that this transition is equitable. Front and Centered is primarily concerned that

Avista has used their CBIs to justify their pre-determined choices in Specific Actions, rather than using the proposed CBIs to guide the utility's choice in action planning.

While the Utilities and Transportation Commission (UTC) regulations require a minimum of eight (8) CBIs, Front and Centered reads the statutory requirement to call for utilities to develop well more than this base number. Avista's CEIP proposes at least 13 CBIs, which is a good start. However, Front and Centered urges both Avista and the Utility and Transportation Commission (UTC) to consider whether the legislative intent of CETA would be better served by a more detailed parsing of RCW 19.405.040(8), which would lead to the development of categories for CBIs not currently considered under UTC regulations.

Further, Avista's definition for "Vulnerable Populations" is, by the utility's own admission, lacking. As a result, Front and Centered believes that Avista's CEIP does not sufficiently account for vulnerable populations.

Finally, while Avista provides significant baseline data regarding its internal employee diversity, the utility does not go far enough in its target setting for its goal of achieving employment numbers that reflect the community in which Avista operates. It sets a timeline of ten years but has demonstrated much more rapid growth in other diversity employment initiatives. Front and Centered believes that Avista can build sustainable diverse hiring pathways while simultaneously achieving short-term hiring that more appropriately reflects diverse workforce availability.

We recommend the following for the CEIP:

1. Develop more CBIs to better comply with the legislative intent of CETA.
2. Moving forward, ensure that CBIs are centered when planning and proposing future specific actions to comply with CETA requirements, rather than added after to justify the choices made.
3. Provide a more detailed definition for Vulnerable Populations that moves beyond the information provided by the Department of Health Cumulative Impact Analysis Mapping Tool to include a list of localized vulnerability characteristics. Consider these characteristics individually when proposing CBIs and their resulting specific actions for the next CEIP.
4. Ensure that more immediate action is taken to achieve a diverse workforce that is reflective of the local communities that Avista serves.

Issues with the Avista CEIP

1. Avista Should Expand its Listing of Customer Benefit Categories to Better Reflect the Legislative Intent Behind CETA

In 2019, the Washington State Legislature passed the Clean Energy Transformation Act, which requires all electricity provided to Washington State customers to be one-hundred percent carbon-free by 2045. As part of this transition, the Legislature mandated that specific focus should be given to making the transition an equitable one, with special consideration given to “vulnerable populations” and “highly impacted communities.” RCW 19.404.040(8). As part of this equity mandate, the Legislature directed utilities to consider at least sixteen (16) different areas of public interest around which the utilities should shape their proposed transitions. The statutory elements are as follows:

1. Equitable distribution of energy benefits to vulnerable populations;
2. Equitable distribution of energy benefits to highly impacted communities;
3. Equitable distribution of non-energy benefits to vulnerable populations;
4. Equitable distribution of non-energy benefits to highly impacted communities;
5. Equitable reduction of burdens to vulnerable populations;
6. Equitable reduction of burdens to highly impacted communities;
7. Long-term public health benefits;
8. Short-term public health benefits;
9. Long-term reduction of costs and risks associated with public health;
10. Short-term reduction of costs and risks associated with public health;
11. Long-term environmental benefits;
12. Short-term environmental benefits;
13. Long-term reduction of costs and risks associated with environment;
14. Short-term reduction of costs and risks associated with environment;
15. Energy security; and
16. Energy resiliency

RCW 19.405.040(8).

To ensure that utilities are actively considering the equity mandate when developing their plans to transition energy sources to be carbon-free, the UTC requires each utility, in its Clean Energy Implementation Plan (CEIP), to include at least one or more Customer Benefit Indicators (CBI), per eight (8) different category areas: (1) energy benefits, (2) nonenergy benefits, (3) reduction of burdens, (4) public health, (5) environment, (6) reduction in cost, (7) energy security, and (8) resiliency. WAC 480-100-640(4).

The above-stated requirements from the UTC are base guidelines—they set a floor, but not a ceiling. Instead, the language of the rules explicitly leaves open the possibility of more than eight CBI areas. Front and Centered would thus urge Avista to take guidance from the statutory elements contained in RCW 19.405.040(8), rather than simply complying with WAC 480-100-

640(8). The statutory categories, as listed above, would draw out a more detailed analysis from utilities when considering the impact of proposed plans. Namely, the statutory elements (1) draw out the distinctions between vulnerable populations and highly impacted communities and (2) require both short-term and long-term analysis of public health and environmental benefits and costs.

Drawing distinctions between vulnerable populations and highly impacted communities is particularly important in helping utilities move forward in their planning for a clean and equitable energy transition. While there may often be overlap between the two groups, there are important distinctions as well. Vulnerable populations, as Avista notes in its CEIP, include those who face particularized challenges and may reside within “pocket” areas that are otherwise easily overlooked. Front and Centered provides more detailed discussion regarding Avista’s Vulnerable Populations definition below, in Issue (3).

Further, drawing out distinctions between short-term and long-term public health and environmental benefits and costs will help Avista to both better plan for the immediate future and set longer-term goals. While Front and Centered recognizes that the CEIP is meant to be an intermediate-step focused document, Front and Centered also urges Avista to detail what its long-term environmental and public health goals are. Such detailing will aid both Avista and the public in determining which intermediate steps will be most effective in achieving long-term goals.

Finally, it is important to recognize that the consideration and reduction of burdens applies to all areas of analysis, and thus should be a major part of the CBI drafting process. The statute calls for the reduction of burdens with consideration to highly impacted communities and vulnerable populations, as well as an analysis of the ways a utility may reduce the costs of its actions on both public health and the environment. However, both the UTC regulations and Avista’s CEIP only consider reduction of burdens as a general category of CBI, rather than as an interwoven design throughout all other areas.]

2. Customer Benefit Indicators Should Guide Specific Action Choices, Not Justify Them

Front and Centered believes that Customer Benefit Indicators (CBIs) should be utilized by utilities to guide the choice of specific actions taken in a CBI-first approach. Avista has taken the opposite approach, by selecting a specific action and then justifying their choice through the use of CBIs.

WAC 480-100-640(5) calls for each CEIP to include “specific actions” that a utility will take to meet the standards of CETA, which in turn is defined by WAC 480-100-610(4)(c) to include the requirement that a utility ensure all customers are benefiting from the transition to clean energy through: (i) [t]he equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; (ii) [l]ong-term and short-term public health and environmental benefits and reduction of costs and risks; and (iii) [e]nergy security and resiliency.

Further, WAC 480-100-640(5)(c) requires that a utility's CEIP include values for every CBI proposed in the CEIP as they relate to the specific actions proposed by the utility. These CBIs are meant to be reflective of the equity standards set forth in WAC 480-100-610(4)(c), as written out above. A utility must also include a narrative description of how a specific action considers current baseline customer benefits and burdens and how the proposed action will affect these benefits and burdens, particularly those of named communities. WAC 480-100-640(6)(b).

Taken as a whole, it becomes apparent that a utility must have clear and detailed CBIs which in turn assist the utility in devising which specific actions to propose to meet the goals set forth by CETA.

This is first to ensure that a utility demonstrates that, internally, the utility understands what exactly is intended to be measured by a proposed CBI. Further, by clearly articulating what exactly the CBI is and how a specific action will affect the stated indicator, the utility will necessarily also include what its target goal is for the stated indicator, and thus aid both the UTC and the public in holding the utility accountable.

Clear articulation of CBIs also allows for greater public input (and thus greater self-governance) by communities who would be affected by proposed specific actions. As part of an equitable transition to clean energy, Front and Centered believes that communities must be given the opportunity to meaningfully influence the decision-making of the utilities that provide them services. The only way that communities can effectively provide such feedback is through utilities providing clear statements of their intent.

Similarly, baseline data provides yet another opportunity for utilities to clarify their intent regarding the transition to clean energy. By providing clear baseline data, a utility is necessarily required to reflect on its current and historical actions, as well as reckon with its potential capacity for growth. In this way, CBIs are not simply static target setting opportunities—they are an ongoing process in which the public and the utility can meet to help guide an equitable transition to clean energy.

Front and Centered applauds Avista for the level of detailed baseline data and detailed CBI narrative descriptions provided in its CEIP but notes that there are significant gaps regarding how these CBIs are used to shape the choice of specific actions proposed by the utility. As Avista itself recognizes in its CEIP, it formulates CBIs because of which specific actions it has already chosen to take: "Avista's CBIs are attributes of the specific actions identified by stakeholders for the Company to work on over the next four years." Avista CEIP at 3-6. Further, Avista acknowledges that CBIs were not even considered in developing the specific actions proposed in its 2021 CEIP: "[i]deally, the targets and specific actions identified in Chapter 4—Specific Actions would include non-energy impacts (NEIs) and the selection criteria for resources would be informed by Customer Benefit Indicators (CBIs)... Given the time constraints of this initial CEIP, it was not possible to incorporate the desired NEI and CBIs..." Avista CEIP at 2-2.

Even if Avista had included CBIs in the selection criteria for resources, this would not satisfy the requirements of the UTC's CETA regulations. As noted above, Front and Centered understands CETA regulations to require that all specific actions (not just resource acquisition)

be guided and led by the CBIs selected by the utility in its CEIP. Here, it is apparent that Avista has considered CBIs only after having already proposed specific actions. This negates the point of CBIs, which are to ensure that a utility is considering whether actions will “ensure that all customers are benefitting from the transition to clean energy...” WAC 480-100-610(4)(c). Instead, it appears that Avista had already determined the actions it would be proposing and then supported their decision by selecting CBIs that fit to later justify the decision. This necessarily foregoes a primary consideration of which actions would be best from an equitable perspective, and instead elevates the utility’s own internal considerations as to which direction it wants to go before getting to an equitable analysis.

3. Avista’s Vulnerable Populations Definition is Lacking and as a Result, Leads to Limited Usefulness in Specific Action Development and Analysis

In its 2021 CEIP, Avista noted that it “utilized the Health Disparities Map but also focused on census tract areas not otherwise included in the Highly Impacted Communities list,” using census tracts that scored highly on socioeconomic or sensitive population factors as defined by the Health Disparities Map. Avista CEIP at 3-4. This is not fully in compliance with UTC’s CEIP requirements. While Avista does detail an action plan to develop a better “Vulnerable Populations” definition moving forward, even its proposed plan will not necessarily achieve the level of definitional clarity that is necessary to profoundly affect equitable change within vulnerable populations through a clean energy transformation.

UTC’s CEIP regulations require a utility to “[i]dentify vulnerable populations based on adverse socioeconomic factors and sensitivity factors developed through the advisory group process and public participation plan...” WAC 480-100-640(4)(b). Avista acknowledges that it did not fully live up to this standard in selecting to use the Health Disparities Map alone. In its CEIP, Avista notes that the census tract measurement system alone may lead to overlooking pockets of vulnerable households living near non-vulnerable households. Avista CEIP at 3-4.

Instead, Avista states that it will continue the work that it has already begun with its Equity Advisory Group to better define “vulnerable populations,” including “several population characteristics and ‘pocket’ areas within Avista’s Washington jurisdiction that could be included going forward.” Avista CEIP at 3-4. Nevertheless, Avista gives no indication beyond a brief footnote mention to mobile homes as to what such population characteristics would be.

Moving forward, even if Avista were to develop a clear list of characteristics that it ascribes to vulnerable populations, it must still make sure not to lump all these individual characteristics together into a cumulative “vulnerable populations” class when developing its CBIs and their associated metrics, as well as the resulting specific actions meant to target those indicators. Instead, Avista must make sure to recognize and detail how each characteristic is affected by a proposed action.

4. Avista’s Employment Diversity CBI Lacks Meaningful Target Setting

While most of the CBIs that Avista has proposed have very detailed narrative descriptions and good baseline data, the CBI regarding employment diversity is lacking in meaningful target setting. Avista notes that “[d]eveloping workforce diversity will take time and the Company aspires to reflect the communities we serve by 2035 as the workforce expands to bring in new employees as current employees retire or leave for other opportunities.” Avista CEIP at 3-30.

This means that Avista plans to take more than 10 years to achieve community reflection in its workforce, even as it expands its workforce to fulfill its CETA requirements. Avista should be applauded for its commitment to achieve a workforce that is reflective of the communities that it works in, but simply put, it sets the timeline too far out to lead to any meaningful change.

It is admirable that Avista desires to build sustainable pathways to achieve workforce and community representation parity, such as recruiting outreach programs, high-school pathway programs, and internal promotion. However, this does not take away from the fact that Avista can do more in the short term to achieve parity. Per Avista’s own recognition, there is availability in the workforce pool. See, e.g., Avista CEIP Table 2.7. Indeed, if Avista’s supplier diversity growth provides any indication of how rapidly the company can scale up to meet its diversity goals, then employee parity seems achievable in a much shorter timeline than proposed. Avista grew the number of suppliers it considered to be diverse from 1.6% of its total suppliers in 2020 to 5.9% in 2021. Front and Centered congratulates Avista on this achievement and is encouraged by the utility’s stated commitment to continuing along this trend. Front and Centered urges Avista to take this same immediate approach to the utility’s internal hiring as well.

Front and Centered is grateful for the opportunity to comment on this matter and looks forward to further opportunities to engage on this docket. Research and writing assistance has been provided by the Nico Wedekind, Diehl Clinical Fellow in Environmental Law, University of Washington Regulatory Environmental Law & Policy Clinic (diehlfellow@uw.edu). Please contact us if you have any questions or would like to discuss any of our comments.

Sincerely,



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