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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: May 6, 2025

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

Thank you for the opportunity to comment on the Commission's third 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 April 8, 2025. We provide comments below on several sections of the draft rulemaking, and following those comments are our responses to your seven additional questions.

General Comments

Comments on WAC 480-95-030 Cross-cutting assessment and planning requirements:

Under (8) Cost Test, we believe that many of the factors included in the cost test should not be evaluated solely based on their monetized values. The cost test is to determine the "lowest reasonable cost…at the portfolio level" (as stated in RCW 80.86.20 (9)). The lowest reasonable cost of a portfolio is then to be used as only one factor in evaluating that portfolio vs. alternative portfolios. It is not an overriding factor that determines which portfolio is selected as the preferred portfolio. The decision framework should be larger than the cost test. The draft rule forces the decision framework to be within the cost test. It should be the other way around: the "reasonable cost" of each portfolio as determined by the cost test should be but one factor in the decision framework.

Please see more detailed comments on cost test questions submitted by Donna Albert in a separate filing.

Comments on draft WAC 480-95-040 Assessment of Resources and Delivery System:

An assessment of all potentially available renewable energy sources is missing from the draft rule, but will be necessary to meet the requirements of Chapter 80.86 RCW.

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The draft rule does require an assessment, under draft WAC 480-95-040 (1), of distributed energy resources and electrification. The definition of "distributed energy resource" includes renewables, but only those located on the electric distribution system. This excludes potential renewable resources that would be connected by transmission outside the distribution system, such as solar or wind farms. A thorough assessment of all renewable resources, potential and currently available, including both distributed and transmission-connected resources, should be required.

The draft rules also require compliance with the Clean Energy Transformation Act (CETA), and production of a Clean Energy Action Plan. CETA requires *identifying* renewable resources, but does not require a thorough *assessment* of all *potentially* available renewable resources. Reliable energy resources cannot be identified without a thorough assessment. As recent experience with meeting CETA clean energy goals suggests, simply identifying renewable resources in a scenario-based planning process may not be adequate to ensure compliance. A more thorough assessment of potential renewable resources is essential to meet the intent of RCW 80.86.

Requirements for Electric Utility Resource Plans under RCW 19.280.030 are referenced in RCW 80.86.020 but go beyond the requirements explicitly listed in RCW 80.86.020 with regard to both assessment of renewable energy resources and evaluation of transmission requirements in electric utility planning. *RCW 19.280.030 requires assessments of renewable resources that are not necessarily distributed resources*, and comparative evaluations with non-renewables as well as transmission assessments for Integrated Resource Plans. Although the ISP is intended to replace the IRP required under RCW 19.280.030, requirements that apply to IRPs and meet the intent of RCW 80.86 should also be applied to ISPs. See RCW 80.86.020 (2)(a), which says "the commission shall complete a rule-making proceeding to implement consolidated planning requirements for gas and electric services for large combination utilities that may include plans required under: (i) RCW 19.280.030;..." We suggest that the requirements of this section, and particularly those pertaining to assessments of renewable generating resources and transmission requirements, be reviewed and added to the requirements of WAC 480-95-040 as appropriate. At a minimum, the following should be added, from RCW 19.280.030 (1):

> "(c) An assessment of commercially available, utility scale renewable and nonrenewable generating technologies including a comparison of the benefits and risks of purchasing power or building new resources;"
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> "(d) A comparative evaluation of renewable and nonrenewable generating resources, including transmission and distribution delivery costs, and conservation and efficiency resources using "lowest reasonable cost" as a criterion;"

> "(f) An assessment and 20-year forecast of the availability of and requirements for regional generation and transmission capacity to provide and deliver electricity to the utility's customers and to meet the requirements of chapter 288, Laws of 2019 and the state's greenhouse gas emissions reduction limits in RCW 70A.45.020. The transmission assessment must identify the utility's expected needs to acquire new long-term firm rights, develop new, (or expand or upgrade existing), bulk transmission facilities consistent with the requirements of this section and reliability standards."

Our previous comments included suggested requirements to not only assess but to map (assess by geography) all potential renewable energy within and in close proximity to the utility's service area. Such surveys for assessing potential wind, solar and geothermal energy over a given geography have been carried out, and effective methods have been developed.[3] While this mapping is not explicitly required by RCW 80-86, it would be important in determining the lowest reasonable cost for renewable resources (which is required by the statute), since such nearby generation resources would require less or no transmission.

For reference, our comments dated October 14, 2024, on the first draft rulemaking included a suggestion to add the following renewable energy assessment under WAC 480-95-030 Content of an integrated system plan. - Long term section:

> (3) Resource Availability Assessment. For use in and prior to developing scenarios and sensitivities for system modeling, quantitatively assess the availability, including the potential for constructing and acquiring the resources necessary to supply the forecast loads. The completed resource availability assessment shall be included in the ISP midway progress report.
>
> (a) Renewable energy resources.
>
> > (i) Identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may be expected to contribute to meeting the large combination utility's resource adequacy requirement (to meet RCW 80.86.020 (6)(d)).

[3] See NREL reV: The Renewable Energy Potential Model (https://www2.nrel.gov/gis/renewable-energy-potential), Resource Planning Model (https://www2.nrel.gov/analysis/models-rpm), and Esri, Mapping Renewable Energy Potential. (https://www.esri.com/about/newsroom/blog/mapping-renewable-energy-potential-nasa-power)

(ii) Identify and assess potential new renewable resources that can be constructed by the utility (to meet WAC 480-100-620 (11)(e)), electric IRP requirements to "rely on renewable resources and energy storage, insofar as doing so is at the lowest reasonable cost").

(iii) In order to adequately identify and assess renewable resources per (i) and (ii) above, assess the potential for all large-scale renewable energy (wind, solar and geothermal) by geography and total generation capacity development potential, that are within or in close proximity to (requiring transmission only within and for short distances outside) the utility's service territory.

(iv) Assess methods, commercially available technologies, or facilities for integrating renewable resources including, but not limited to, battery storage and pumped storage, and addressing overgeneration events, if applicable to the large combination utility's resource portfolio. The assessment may address ancillary services. (to meet RCW 80.86.020 (4)(p)).

Comments on draft WAC 480-95-080 Procedures:

Under (1) Public Participation, we agree that the utility should: "Provide to the large combination utility's gas customers the same level of participation and notice provided to its electric customers."

We do, however, have concerns with PSE's current handling of public participation. We feel strongly that PSE needs to engage with and respond to the public collaboratively. Their current system relies too heavily on one-way communication. We believe this needs to be addressed.

Section (2)(c) requires PSE to communicate how the public can participate, but it says nothing about what the quality or meaningfulness of those interactions should be.

Section (2)(d) addresses how advisory group comments must be handled, but has no similar expectations for comments from members of the public.

These rules should provide meaningful minimums using expected levels from the International Association for Public Participation (IAP2). PSE began to use IAP2 methods a few years ago in a process that was significantly better than their current process. Members of the public are investing their personal time and energy to help the utility. The IAP2 process and standards have been shown to result in better outcomes for all parties working together. This is what members of the public deserve and what a company with a

state-granted monopoly should be pleased to accommodate: pursuing the greater good together.

Under (3) Data Disclosure, we repeat our previous suggestion to add the redlined italic text below. Our concern is that without de-identification or aggregation, disclosure of the modelling data inputs will be inhibited by legitimate PSE concerns about meeting the commitments of their Privacy Policy, or concerns about liability on the part of interested parties from holding customer's private information.

(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 data filed as an input should be aggregated to remove customer personal or proprietary customer information, or at a minimum must be de-identified to remove personal information.*

(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*.

Under (6) Midway Update, we understand that PSE has questioned the need for a Midway Update, since interim system updates between scheduled ISPs will be published in the CEIP and CEAP updates. However, the CEIP and CEAP only address the electrical system, whereas the governing legislation requires addressing how the gas and electric utilities will be integrated. See, for instance, draft WAC 480-95-030 (6) and WAC 480-95-040 (1), (2), and (3) which will require estimates of reductions in gas distribution. Changes in electrical load projections for heating electrification must be reflected in corresponding reductions in gas resources used for heating. ISP resource planning must include plans for how the gas utility and electric utility will be integrated to achieve the stated intent of HB 1589 "to transition customers off of the direct use of fossil fuels."

See also our comments below to UTC's specific question regarding the Midway Update.

Responses to UTC Additional Questions for Consideration

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

1. Midway Update - The draft ISP rules at WAC 480-95-080(6)(a) describe certain conditions that, if met, would require a large combination utility to file a midway update approximately half-way through the four-year implementation period.

a. The current draft rules include slightly different conditions as compared to the second draft proposed in WAC 480-95-080(7)(a)(i)-(iii). What additions, deletions or changes should be made to the draft rules? If so, why?

> *Response: Suggest inserting the words "load forecast, resource availability and costs, and all other significant planning" before "assumptions…" in WAC 480-95-080(6)(a)(ii), to be clear about the kind of assumptions to be considered.*

b. The current draft includes a requirement for a company to consult its advisory groups on whether a midway update is required at least one year prior to the potential filing deadline. Is one year far enough in advance to discuss whether the utility plans to file a midway update? Is it too far in advance? Please explain your answer.

> *Response: In addition to meeting at least one year in advance, the utility should be required to also meet with its advisory groups at any time that it determines a midway update is <u>not</u> required, and solicit the advisory groups' opinions regarding whether its targets and assumptions should remain unchanged. Deciding to not complete a midway update should require soliciting prior advisory group opinion regarding that decision.*

2. Elimination of Ongoing Draft ISP Requirement – A requirement to file a draft ISP has been removed from the requirements outlined in the draft rule. Is the requirement to submit a draft ISP important, or is a final ISP filing adequate? If a draft ISP is important, please explain how to weigh the value of a draft ISP against the cost (in time and resources of all interested persons) of submitting only a final version.

> *Response: Any important planning document should be prepared in draft form for review by interested and knowledgeable parties before finalizing. This is simply good planning practice. The value of reviewing a draft depends entirely on what mistakes or potential improvements are uncovered in a review. What is the value of finding a serious mistake? It depends on the mistake, which of course can't be determined ahead of time. Therefore, it's not possible to determine the value of a specific draft review until after it is completed and the time and resources saved by suggested changes can be tallied. A draft ISP should be provided to the commission and the*

public, in service of the public interest, before an ISP is finalized. This is consistent with past practice for IRPs. If the draft planning document is well and properly prepared, very little time will be required for review and preparation of the final plan. Over time and with experience, the review process might be streamlined.

3. Time horizons. Integrated resource plans, clean energy action plans, and clean energy implementation plans have time horizons of 20+ years, 10 years, and 4 years, respectively. There is a parallel between these plans and the contents of the ISP that meet these consolidated plans' requirements. Are there any parts of the rules where these time horizons need to be made more explicit or where the time horizon of a given requirement is unclear?

Response:

The beginning year is not stated for the 10-year Clean Energy Action Plan (CEAP) planning period (required under draft WAC 480-95-050 (7)). The CEAP is an "action plan for implementing RCW 19.405.030 through 19.405.050," per draft WAC 480-95-050 (7). The referenced RCW sections are part of the Clean Energy Transformation Act (CETA), which itself under RCW 19.405.060 requires the 4-year Clean Energy Implementation Plan (CEIP) in order to implement these same RCW 19.405 requirements. The shorter-term CEIP, which has different but overlapping requirements with the CEAP, is required to be "informed by" the longer-term CEAP.

RCW 19.405.060 required the first 4-year CEIP to have been submitted by January 1, 2022, and then every four years thereafter. The first 10-year CEAP for the large combination utility (integrated gas and electric) would be submitted, as part of the first Integrated System Plan (ISP), by April 1, 2027 (per WAC 480-95-080 (4)). The entire ISP requires updating every two years and presumably this includes the CEAP, with a moving ten-year planning horizon.

The rulemaking (WAC 480-95-050 (7)) should state, for clarity, that both the current CEIP and the current CEAP (completed under RCW 19.280.030 as part of the Integrated Resource Plan) for the large combination utility's electric utility should be updated as part of the initial ISP, in order to incorporate the utility integration requirements of RCW 80.86. The rulemaking should also state that subsequent 4-year updates to the CEIP should be informed by the most recent or simultaneously updated CEAP.

Similarly, it's unclear how the 10-year cost-effective conservation potential assessment as determined under RCW 19.285.040, which must inform the CEAP per WAC 480-95-050 (7)(b), aligns with the 10-year CEAP itself. RCW 19.285.040

requires updating the 10-year conservation potential assessment every two years. We suggest simply adding the word "latest" before "ten-year cost-effective conservation potential assessment" in WAC 480-95-050 (7)(b).

The timelines for 20-year ISP forecasts and the 4-year implementation periods are stated clearly as beginning as of the filing date of the ISP.

4. Low-income electrification consent. Draft WAC 480-95-060(4)(b) includes a requirement that large combination utilities obtain explicit customer consent from a low-income customer if participation in an electrification program would increase that customer's energy burden. How burdensome would it be to conduct and provide this level of analysis (at an individual customer level), how would it impact the feasibility of the program overall, and how should a company balance that effort with transparency and maintaining affordability for low-income customers.

*Response: Our opinion is that this provision in the draft WAC 480-95-060(4)(b) should not be in the rule. It is not in RCW 80.86.020, which requires that the energy burden for low-income customers **not** be increased by electrification programs, and that rebates, incentives and energy assistance programs be used to reduce energy burden for these customers. RCW 80.86.020(4)(h)(ii) requires that electrification programs provide **decreased** energy burden to low-income participants. And 80.86.020(4)(h)(iv) requires the programs to provide low-income customer protections to mitigate energy burden, if electrification measures would increase a low-income participant's energy burden. The utility should not be allowed to ask low-income customers to sign away these protections and consent to increased energy burdens.*

5. Nonpipeline alternatives assessment. ESHB 1589 requires large combination utilities to assess nonpipeline alternatives. This requirement includes identifying projects anticipated at least over the next 10 years. The language in draft WAC 480-95-040(3)(b) includes this requirement, but extends the outlook to at least 20 years, rather than 10 years. Is it important to align the nonpipeline alternatives assessment with the long-term analysis required in draft WAC 480-95-050? Please explain why or why not.

Response: Yes, the alignment proposed by UTC is important. The requirement in draft WAC 480-95-040(3)(b) is to identify "all known and planned gas infrastructure projects." It should not be in any way burdensome for the utility to disclose known and planned projects over any time frame. Neglecting already-planned infrastructure projects that would occur within the required portfolio analysis period to meet the 20-year demand forecast could significantly distort the comparison of

economics among the alternatives. Extending the outlook for infrastructure projects is very important.

6. Balanced consideration of targeted electrification geography. The current draft ISP rules require a large combination utility to demonstrate that targeted electrification actions consider electrification of gas loads not served by the large combination utility (not only dual-fuel customers). Is this requirement overly burdensome? Is this a concern that needs to be addressed in rule?

Response: This requirement would not be overly burdensome. The utility must plan for projected electric loads in its electricity service area. If the projected economics of electrification would drive customers to electrify their gas loads, the utility should be prepared to service those electric loads, regardless of the supplier of the abandoned gas load. This is simply reasonable planning for the electric utility.

*But we don't see this requirement in the current draft rule. Draft WAC 480-95-060 (4)(d) requires consideration of targeted electrification in areas where the large combination utility provides **only** gas service but **not** electricity. (In these areas, the large combination gas utility must cooperate with the local electric utility to implement electrification of the gas load.) UTC's question above addresses the opposite situation, areas where the large combination utility provides electric service only, but no gas. We do not think the requirements stated in draft WAC 480-95-060 (4)(d) for the large combination utility's gas only service areas are overly burdensome either. They require only provision of data that should be readily available.*

7. Licensing Fees. Are there any concerns about the cost of the licensing fee(s) mentioned in WAC 480-95-080(3)(d), both the direct cost, and any indirect cost to parties/staff from learning/using the fees in the long term?

Response: A substantial cost would be of concern. But we assume the license fee for the software required to examine the utility's planning analyses would be a microscopically small part of the utility's rate base. If that's the case, then we are not concerned.

8. Public Participation Plan. WAC 480-100-655 requires electric utilities to file public participation plans every May of an odd-numbered year. Staff believes this is unnecessary and conflicting with the timeline of an ISP, and so has proposed in draft WAC 480-95-080(1) that large combination utilities instead must file a public participation plan at the same time as a work plan, as seen in WAC 480-95-080(5). As the draft rule stands, large combination utilities would have to file a work plan and a public participation plan

separately, along the same timeline. Staff is interested in feedback on this change, and alternatively, about the possibility of including the public participation within the work plan (rather than as a separate filing).

> *Response: We have no objection to staff's proposed changes to the filing dates for the public participation plans, to align them with the work plan submission dates.*