June 29, 2020

State of Washington
Utilities and Transportation Commission
621 Woodland Square Loop S.E.
Lacey, Washington 98503

RE: Comments in response to June 12, 2020 Notice of Opportunity to File Written Comments, Docket UE-191023

Chelan County PUD submits these comments in response to the Washington Utilities and Transportation Commission's request for comment on how to interpret language in RCW 19.405.040(1)(a), the Clean Energy Transformation Act's (CETA) greenhouse gas neutral requirement. Specifically, the Commission requested comment on the meaning of the requirement that a utility must "use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period." During the drafting of CETA, Chelan worked alongside other utilities to develop this multi-year compliance framework and provide feedback on the statutory language memorializing the framework and appreciates the opportunity to share its understanding of this requirement with the Commission.

RCW 19.405.040 establishes four multi-year periods (2030–2033, 2034–2037, 2038–2041 and 2042–2044) during which Washington utilities must be greenhouse gas neutral. To achieve greenhouse gas neutrality, RCW 19.405.040(1)(a) states a utility must "use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric load over each multiyear compliance period." RCW 19.405.040(1)(c) requires that renewable resources used to meet the standard "be verified by the retirement of renewable energy credits." RCW 19.405.040(1)(f) requires that nonemitting resources used to meet the standard "be verified by documentation that the electric utility owns the nonpower attributes of the electricity generated by the nonemitting electric generation resource."

Further, RCW 19.405.040(1)(b) allows a utility to utilize an "alternative compliance option," including an "unbundled renewable energy credit," to satisfy up to twenty percent of its greenhouse gas neutral obligation. RCW 19.405.020(38) clarifies that a REC is considered "unbundled" if it was "sold, delivered, or purchased separately from electricity." Chelan shares Commission staff's understanding, as described in the Commission's notice, that RECs that fall within this definition of "unbundled" are not eligible towards meeting the remaining eighty percent compliance obligation. Chelan's understanding is this option to use limited amounts of unbundled renewable energy credits and other alternative compliance options was included in CETA as a tool for allowing utilities to manage the costs of transitioning to 100% clean by 2045.

Collectively, these CETA sections require that over the course of a particular multi-year period, a utility must produce or procure renewable and nonemitting energy in quantities equal to at least eighty percent of that utility's load over that multi-year period. Retirement of eligible RECs (meaning RECs that do not fall within the definition of "unbundled"), and documentation of ownership of nonpower attributes of nonemitting generation, are designated as the compliance instruments for demonstrating compliance with that requirement. If the amount produced and procured is greater than eighty percent but less than one hundred, the utility must make up that difference using an alternative compliance option.

The purpose of the multi-year compliance framework described above was selected primarily to provide flexibility to Washington utilities to manage renewable resource variability, particularly the year-to-year variability of hydropower resources. A multi-year compliance framework results in utilities building portfolios of clean resources, while maintaining utility flexibility to optimize the operation of those resources to serve load in a least-cost manner. Early versions of the bill required an electric utility to demonstrate compliance with the GHG neutral standard "each year" based on the utility's "average annual retail electric load", but the compliance period was eventually expanded to four years.[1] The Legislature clearly understood that a one-year compliance period was problematic for renewable resources during the portfolio development period and intended to eliminate the one-year compliance period and replace it with the multi-year compliance period.[2] With respect to hydro generation, in practice the framework was intended to allow utilities to utilize surplus generation from a good hydro year within a multi-year compliance period to offset low generation from a poor hydro year within that same multi-year period.

The Commission's notice mentions Commission staff's preliminary interpretation of RCW 19.405.040(1)(a)(ii) involves "delivery to retail customers of 'bundled' renewable and nonemitting electricity." Regarding the concept of "delivery to retail customers," RCW 19.405.040 does not mention delivery, and Chelan does not read RCW 19.405.040, or any other section of CETA, as supporting requiring utilities to prove delivery of specific resources to retail customers. CETA only requires the total amount of renewable and nonemitting resources used during the compliance period equals the total amount of retail load during the compliance period. The phrase "in an amount equal to" in RCW 19.405.040(1)(a)(ii) would be rendered meaningless if the compliance obligation required something other than that the multi-year sum of the loads and the multi-year sum of the use of nonemitting electric generation and electricity from renewable resources.

Chelan also does not read CETA as supporting requiring utilities to net resource and retail load quantities for compliance accounting purposes using a time step more granular than the established multi-year periods. Importantly, the operative language of RCW 19.405.040 does

[1] *Compare, e.g.,* SB 5116, 66th Leg., 2019 Reg. Sess., § 4(1)(a)(ii) (prefiled Jan. 10, 2019) *with* E2SSB 5116, 66th Leg., 2019 Reg. Sess., § 4(1)(a)(ii) (April 11, 2019).

[2] *See also*, RCW 19.405.050(1), which imposes an annual compliance requirement for the obligation to provide one hundred percent renewable and nonemitting electricity to retail customers.

not mention delivery or an hourly, monthly or annual compliance obligation. Any requirement to demonstrate delivery of resources to load would result in a *de facto* shorter compliance window than created by CETA.

Furthermore, "delivered" is used in the definition of "retail electric load" in RCW 19.405.020(36) to establish an energy metric for retail load (as opposed to a peak or average demand metric). That retail electric load metric, summed over the four-year compliance period, then sets the quantity of renewable and nonemitting resources a utility must produce or procure (consistent with the requirements outlined above) to satisfy the greenhouse gas neutral standard.[3]

Imposing a "delivered to retail load" requirement, or more granular accounting methodology than that established by each multi-year period, would negate the purpose of the multi-year framework. Utilities would lose flexibility to optimize their portfolios of clean resources across the multi-year compliance window to provide least-cost service to customers.[4] The loss of flexibility has the potential to impact reliability as utilities may be prevented from fully utilizing the market to re-supply or fill resource deficits in real-time. Surplus renewable generation would be ineligible for compliance purposes to offset periods of low renewable generation. For hydro resources in particular, these types of requirements would hinder a utility's ability to participate in bilateral and centralized market transactions that leverage the firm, clean capacity of hydro to integrate other renewables, an increasingly important function of the hydro system as the region transitions to greater levels of wind and solar generation. Chelan notes these types of requirements also generally appear incompatible with utility participation in centralized markets, as centralized markets by their nature do not result in transactions that match specific resources with specific loads. Chelan anticipates the Carbon and Electricity Markets Workgroup will examine the latter issue in greater detail.

Regarding Commission staff's use of the term "bundled" in reference to renewable and nonemitting electricity, Chelan notes CETA does not use the term "bundled." But CETA does restrict the use of RECs that fall within the definition of "unbundled renewable energy credit." For procured renewables, CETA does not specify exactly how a utility may be required to demonstrate—other than through retirement of the REC—that renewable energy is fully eligible towards meeting the greenhouse gas neutral standard. For purposes of establishing that a REC is fully eligible, Chelan believes it is reasonable to require that a utility be able to provide documentation upon audit (for example a power purchase agreement) that specifies the underlying energy and applicable REC were acquired in a single transaction.

[3] "Retail electric load" is defined similarly to "load" in RCW 19.285.030(14) with both using the term "delivered." The EIA similarly uses the load definition to calculate the quantity of required renewables without imposing an actual delivery obligation.

[4] RCW 19.405.010(2) states "In implementing this chapter, the state must…provide safeguards to ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers." Furthermore, RCW 19.405.010(7) states "It is the intent of the legislature to provide flexible tools to address the variability of hydropower for compliance…"

The Department of Commerce's discussion draft rule on this topic—draft WAC 194-40-320(2)—contemplates an additional requirement. Commerce proposes that if a consumer owned utility resells electricity and retains the associated RECs, those RECs are fully eligible towards meeting the greenhouse gas neutral standard only if the resale identified the electricity as unspecified. This proposed limitation on resales also applies to nonemitting resources and the associated nonpower attributes. Although CETA does not contain explicit language restricting a utility's ability to resell underlying electricity in a resource-specific sale, Chelan believes adopting this restriction through administrative rule is a reasonable approach to ensuring renewable and nonemitting resources are not double counted under another state's clean energy or emissions program.

Chelan PUD appreciates this opportunity to provide feedback on the Commission's interpretation of CETA.

Sincerely,

Tuuli Hakala
Energy Policy Advisor
Chelan PUD
(503) 956-3144
tuuli.hakala@chelanpud.org

Melissa Lyons
Environmental Commodities Originator/Trader
Chelan PUD
(509) 661-4369
melissa.lyons@chelanpud.org