June 29, 2020

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: Docket UE-191023: Comments of the Western Power Trading Forum Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act

Dear Mr. Johnson,

The Western Power Trading Forum[1] (WPTF) appreciates the opportunity to provide input to the Washington Utilities and Transportation Commission on Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act (CETA). WPTF comments address the questions raised in the June 12th "Notice of Opportunity to Provide Written Comments" regarding interpretation of the CETA's requirement pertaining to the "use of electricity from renewable resources and non-emitting generation" in RCW 19.405.040(1)(a).

Response to Questions for Consideration

Do you agree with Staff's preliminary interpretation? Please explain why or why not and how the term "use" should be interpreted.

Staff propose to interpret "use" as meaning "delivery to retail customers of "bundled" renewable and nonemitting electricity", based on consideration of the distinction between RCW 19.405.040(1)(b), which references unbundled renewable energy credits (RECs), and RCW 19.405.040(1)(a), which does not. WPTF agrees the CETA's language implies that RECs used under RCW 19.405.040(1)(a) must be 'bundled' but we disagree with UTC's interpretation that bundling of electricity and RECs necessitates delivery of that electricity. In our read, the only delivery requirement in Washington law is that established by the definition of an eligible renewable resource in the Energy Independence Act (EIA) in RCW 19.285.030 (12)(a). The CETA itself does not use, refer to or repeat this definition. To suggest that 'use' of electricity from renewable and non-emitting resources means that the electricity was delivered to an individual utility's distribution system or balancing area or requires hourly matching of generation and load is inappropriate and inconsistent with the CETA.

The CETA defines unbundled RECs as those that are "***sold, delivered, or purchased*** separately from electricity." Because the CETA does not establish a delivery requirement, this definition can only be understood to mean that an unbundled REC is one that is sold or purchased separately from the

[1] WPTF is a diverse organization of over 90 members comprising power marketers, generators, investment banks, public utilities and energy service providers, whose common interest is the development of competitive electricity markets in the West.

electricity. By extension, a REC that purchased with the underlying electricity is bundled. In line with this view, the Department of Commerce (DOC) has proposed an interpretation of 'use' that would require a utility to procure renewable electricity and associated RECs in a single transaction, but allow the utility to sell surplus electricity as unspecified. WPTF supports proposed DOC's interpretation. The ability to resell electricity is necessary to provide flexibility to utilities to manage load and renewable resource variability, and hence, an important means of managing costs under CETA. Further, DOC's interpretation is consistent with the CETA, as well as the practice in other states. For instance, under California's RPS program, a bundled REC is a REC that has been purchased with the underlying renewable generation: both Product Content Category 1 (directly delivered electricity) and Product Content Category 2 (firmed and shaped electricity) RECs are considered bundled under California's program.[2]

Because procurement of nonemitting electricity in the West is not tracked via the issuance and retirement of certificates, there is no possibility of a utility purchasing and using the nonpower attributes associated with nonemitting electricity without also purchasing and using the electricity itself. Since there is no 'unbundled' nonemitting electricity product, there is no need to define a 'bundled' nonemitting electricity product.

If Staff's preliminary interpretation were memorialized in rule, how should the Commission require a utility to demonstrate that it delivered "bundled electricity" to its customers and ensure that the nonpower attributes are not double counted either within Washington programs or in other jurisdictions, as required by RCW 19.405.040(1)(b)(ii)?

Please explain your position on each of the compliance options provided below:

a. The source and amount of all power injected into the bulk electric system is known and documented at the time retail load is being served. In setting the requirements for demonstrating compliance with RCW 19.405.040(1)(a), should that information and supporting documentation be required? If not, why not?

WPTF agrees that "the source and amount of all power injected into the bulk electric system is known and documented" by balancing area authorities (BAAs) for the resources located within their respective balancing areas at that time retail load is served, but not for the Western Interconnection as a whole and it certainly would not be known by individual utilities. While there may be valid reason for UTC to collect data on generating resources, it would be not be feasible for utilities to collect this data from other BAAs. More importantly, because the CETA requires matching of renewable and nonemitting generation to a utility's load over each multi-year compliance period, this information would not be relevant for demonstrating compliance with RCW 19.405.040(1)(a).

Is it possible to use the utility's fuel mix disclosure, as required by RCW 19.29A.060, to demonstrate compliance with Staff's preliminary interpretation of RCW 19.405.040(1)(a)?

Significant modifications to the fuel mix disclosure reporting requirements would be needed to ensure consistency and to support demonstration of compliance with the use requirement. In contrast, the existing framework for reporting and verifying compliance under the EIA, (independent of eligibility and delivery requirements) is better suited as a basis for demonstration of compliance with RCW 19.405.040(1)(a). Although the CETA allows electricity from nonemitting resources to be used for

[2] See http://docs.cpuc.ca.gov/WORD_PDF/FINAL_DECISION/156060.PDF, at page 33

compliance, there are very few of these compared to renewable resources. Accordingly, WPTF anticipates that the utilities will comply mainly through procurement of renewable electricity. Thus, we expect that REC acquisition and retirement will be the primary basis for demonstrating compliance with the CETA. Since the EIA is based on reporting and verification of REC retirement, relatively minor changes, such as modifying reporting to accommodate multi-year compliance and to cover nonemitting resources, would be needed to demonstrate use of electricity from under CETA. RCW 19.405.100(1) supports use of this approach.

How would the Commission ensure that the nonpower attributes are not double counted?

The potential for double-counting of renewable and nonemitting electricity used under the CETA in accordance with RCW 19.405.040(1)(a) arises if that electricity is resold and subsequently imported into California and reported as specified electricity under the California cap and trade program[3]. Under California's program, an entity that imports electricity and wishes to report that power as specified (and thus report a zero emission rate) must demonstrate the direct delivery of that power from source to California sink on a single NERC tag, and show that it has rights to claim that electricity as specified through the contractual chain of sales[4]. This latter provision, referred to as the "Seller Warranty"[5], requires that each seller of the electricity from the generator to the importing entity has warranted that the electricity is sold as specified. To facilitate the calculation of appropriate emission factors, electricity importers are also required to register specified sources with the California Air Resources Board.

WPTF agrees that double-counting of the zero-carbon attributes must be avoided. Thus, WPTF supports an interpretation of use that would allow a utility to resell electricity from renewable and nonemitting resources used under RCW 19.405.040(1)(a), provided that the resale is of unspecified electricity. In effect, this proviso would mean that the utility cannot resell electricity as if it were from specific clean resources, but rather sells surplus undifferentiated electricity from the mix of resources supplying its system. Since the electricity would not be specified as renewable or nonemitting electricity, nonpower attributes would not convey with the sale.

UTC should require that each utility submit an attestation that renewable and nonemitting electricity used pursuant to RCW 19.405.040(1)(a) has not been resold as specified electricity. This attestation, in conjunction with audit of the utilities resource specific sales and other documentation would ensure that nonpower attributes of the electricity are not double counted.

If the Commission relied on utility attestation for compliance with RCW 19.405.040(1)(a), what underlying documents would the utility rely on to make that attestation?

California's program requirements could facilitate Washington utilities' demonstration that nonpower attributes are not double counted in support of their attestations. UTC could check the reporting workbook for "electric power entities" under the California program each year to determine whether any resources used for CETA compliance have been registered as specified sources in California. If a

[3] In the case of entity that is registered as an Asset Controlling Supplier (ACS) under the California Program, a system emission factor is assigned to that entity based on the entity's owned generation, market purchases and sales. Further consideration would be needed to determine the appropriate way to account for electricity used under RCW 19.405.040(1)(a) and included in the calculation of the system emission factor.

[4] The exception to this rule is when an entity directly imports electricity from a generating resource that it owns or operates into California. Those imports are always considered specified.

[5] https://www.arb.ca.gov/cc/reporting/ghg-rep/regulation/mrr-2018-unofficial-2019-4-3.pdf, at page 101

resource that supplied electricity used under the CETA has not been registered in the California program, then electricity from that resource has not been claimed as specified in California. If not, an auditor could examine the utility's sales contracts to see whether electricity has been sold as specified.

Lastly, an attestation and supporting contract documentation would also help to ensure that renewable and nonemitting electricity used pursuant RCW 19.405.040(1)(a) has been appropriately procured. For renewable electricity, contract terms would show that electricity and associated RECs were purchased in a single transaction. For nonemitting resources, contract terms would demonstrate that the utility purchased the nonpower attributes.[6]

Do you propose another alternative? If so, please describe it and how it complies with the letter and the spirit of the Act.

WPTF proposes an expansion of the EIA reporting and audit procedures as discussed in the questions above.

[6] The Western States Power Pool's "Specified Source Exhibit", which modifies the Schedule C Agreement, is an example of contract terms to document transfer of these attributes.