June 29, 2020

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

Re: Climate Solutions and Renewable Northwest comments on Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases Electricity, Docket UE-190837.

Dear Mr. Mark Johnson,

Renewable Northwest, Climate Solutions, and NW Energy Coalition thank 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. Renewable Northwest is the region's leading non-profit focused exclusively on advocating for new, clean, sustainable, renewable resources. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The NW Energy Coalition is an alliance of approximately 100 organizations united around energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia Basin, low income and consumer protections, and informed public involvement in building a clean and affordable energy future.

A rigorous definition of "use" is important for Washington to achieve the clear aims of the Clean Energy Transformation Act ("CETA"), to ensure that utilities build and procure from the clean energy resources envisioned by the legislature, and to prevent double-counting that would compromise the integrity of the act. In response to the notice published by the Utilities and Transportation Commission ("Commission") on June 12, NW Energy Coalition, Renewable Northwest, and Climate Solutions provide the following comments and suggested language on the definition and verification procedures associated with CETA's use requirement:

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

We agree with Staff's interpretation "that 'use' means delivery to retail customers of 'bundled' renewable and nonemitting electricity," including the explanation set forth in the Notice. CETA requires that renewable resources used for compliance with the clean energy standards in RCW 19.405.040 and 19.405.050 be bundled with their renewable energy credit (REC). The only permitted use of unbundled RECs is for use as Alternative Compliance Measures, as specified in

RCW 19.405.040(1)(b)(ii). The law is absolutely clear that utilities cannot use unbundled RECs for compliance with the clean energy standards.

First, the 2045 requirement plainly doesn't allow unbundled RECs – only "non-emitting electric generation and electricity from renewable resources" can supply retail sales of electricity after 2045.

As for the clean energy standard pre-2045, the fact that unbundled RECs are explicitly included as an "alternative compliance option" under RCW 19.405.040(b)(ii) makes clear that they cannot also be a primary compliance option. The only reasonable reading of the 80%/20% requirement is that the 20% alternative options include pathways that would otherwise be unavailable (like energy transformation projects). If unbundled RECs represent an "alternative," then bundled products must be the standard form of "use." There is no reason to have a 20% alternative compliance pathway for things that can count toward the 80%.

The purpose of the statute also strongly supports the conclusion that unbundled RECs cannot be used toward the 80%. The legislative intent in adoption of CETA notes that "Washington must lead this transition…by transforming its energy supply". Allowing unbundled RECs as a mode of compliance for the clean energy standards would allow utilities to continue serving their load with current resources while pairing this with environmental attributes acquired elsewhere, out of step with the clear purpose of the law.

Additionally, the 80%/20% requirement is meant to ensure significant progress toward the 2045 requirement. It would undermine the interim 2030 target, and the legislature's intent to accelerate the transition to clean energy, to postpone progress until the 2045 deadline.

The plain language of RCW 19.405.040(1)(a) leads to the same conclusion. RCW 19.405.040(1)(a) specifies that utilities must comply "using a combination of" non-emitting electric generation; electricity from renewable resources; or alternative compliance options. Similarly, subsection (a)(ii) specifies that utilities must "use electricity from renewable resources and non-emitting electric generation." They are not "using" the electricity from those resources to meet the standards if they turn around and sell it, regardless of whether they keep the RECs.

Non-emitting electricity must likewise be documented, per RCW 19.405.040(f), and not resold, nor its non-energy attributes resold.

2. 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:

We recommend adoption of a modified version of Oregon's rules regarding REC accounting and RPS compliance, in particular looking to the Oregon Department of Energy's rule language at OAR 330-160-0025, with suggested adjustments for Washington purposes included below:

> (1) Each bundled renewable energy certificate used to comply with the clean energy standards must be supported by documentation demonstrating that one megawatt-hour of electricity that was associated with the bundled renewable energy certificate was delivered to one of the following points for the purpose of subsequent delivery to the distribution system serving the customer of the electric utility:
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> (a) Bonneville Power Administration;
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> (b) The transmission system of an electric utility;
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> (c) Another delivery point designated by an electric utility for the purpose of subsequent delivery to the electric utility; or
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> (d) A delivery point mutually agreed to by an electric utility and an electricity supplier.
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> (2) To demonstrate that a renewable energy certificate is bundled under Subsection (1) of this rule, an electric utility must either:
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> (a) Electronically affix to the certificate a valid North American Electric Reliability Corporation (NERC) electronic tagging number ("e-Tag") or another unique identifier adopted by WREGIS or the Commission, which demonstrates that one megawatt hour of electricity was delivered to a point described in Subsection (1) of this rule; or
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> (b) In a manner prescribed by the Commission, submit documentation to the Commission demonstrating that:
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> (A) The renewable energy certificate for the qualifying electricity was acquired by an electric utility by a trade, purchase or other transfer of electricity that includes the certificate that was issued for the electricity; or by an electric utility by generation of the electricity for which the certificate was issued; and
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> (B) The qualifying electricity associated with the bundled renewable energy certificate was initially delivered to a point described in Subsection (1) of this rule.

> (3) An electric utility required to demonstrate compliance with the clean energy standards through the use of bundled renewable energy certificates, and which demonstrates that a renewable energy certificate is bundled pursuant to Section (2)(b), may be required to electronically affix to that certificate a unique identifier adopted by WREGIS or the Department.
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> (4) The Commission may conduct verification audits or may designate a third party for verification services to review any documentation submitted under Subsection (3) of this rule for purposes of verifying compliance with the clean energy standards.

As organizations that work in both Washington and Oregon, our understanding is that these rules do an effective job of guiding how utilities may both avoid double-counting of non-power attributes and demonstrate the same to regulators and other stakeholders. When existing rules from another relevant jurisdiction appear to be working well, there is no need to start from scratch on new rule language.

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?

As we understand it, it is possible to identify the resource mix generating the electricity sold on the wholesale market but it is not currently possible for a market purchaser to identify whether its share of the market electricity generated from renewable energy is tied to nonpower attributes. This setup means that the nonpower attributes associated with power injected into the bulk electric system may be sold on the REC market, raising the possibility of double-counting if the Commission were to allow documentation of the market resource mix to support a utility's compliance with CETA's standards and interim targets.

The information and supporting documentation identified in the question may therefore be useful to help the Commission and stakeholders better understand the interaction between wholesale electric markets and utilities' efforts at complying with CETA; however, they are not sufficient evidence of compliance with CETA's standards or interim targets. A utility must be able to affirmatively demonstrate that a bundled product is delivered to its retail customers using methods we recommend in response to question (2) or similar methods.

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

We do not believe it would be possible to use a utility's fuel mix disclosure to demonstrate compliance, as the fuel mix disclosure runs into the same issue regarding market-purchase

accounting and possible double-counting of nonpower attributes as is discussed in response to question (a) above.

c. 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?

Attestation would be appropriate provided it is supported by the documentation identified in the draft rule language we have provided in response to question (2) above. For renewable power, the Commission should not rely on attestations alone. As for documentation of the amount of non-emitting power that was used for retail sales, each utility is notified by Bonneville Power Administration ("BPA") of its use of this electricity. Any documentation provided by the generator to BPA must be transmitted to the utility provider and in turn documented to UTC or the Department of Commerce.

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

We support Staff's interpretation. The draft language we have provided above reflects staff's interpretation, has been tested in another relevant jurisdiction, and will protect against double-counting of nonpower attributes. These characteristics will help the rules uphold CETA's ultimate goal to "transition the state's electricity supply to one hundred percent carbon-neutral by 2030, and one hundred percent carbon-free by 2045." (E2SSB 5116 sec. 1(2).)

Thank you again for the opportunity to provide comments on Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023 and verification parameters for CETA's renewable and non-emitting resource use requirement. We look forward to continuing to engage with commissioners, staff, and other stakeholders as the Commission finalizes these rules.

Sincerely,

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