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

Via email: records@utc.wa.gov

RE: Comments regarding Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023

Snohomish PUD appreciates the opportunity to provide feedback on the Washington Utilities and Transportation Commission’s (UTC) preliminary interpretations of RCW 19.405.040(1)(a). With 2,200 square miles of service area, serving a population of over 811,000 residents and 18,000 businesses, Snohomish PUD (Snohomish) is the second largest publicly owned utility in the Pacific Northwest and 13th largest in the nation. Snohomish serves its customers with electricity that is 98% carbon free on a four-year average, the majority of which is hydro generation and purchased from the Bonneville Power Administration.

While Snohomish is a public utility district (PUD) subject to the Department of Commerce’s (Commerce) rules pertaining to the Clean Energy Transformation Act (CETA), recent joint UTC and Commerce workshops have underscored how rules from one regulatory agency may influence or create an interest in alignment with the other. Snohomish appreciates the time and work put into the UTC’s preliminary interpretations and the outreach on those interpretations. Snohomish wishes to provide feedback on the UTC’s preliminary interpretation of the statute with concerns regarding the potential for different rules that apply to consumer owned utilities and investor owned utilities, and the potential for minimizing the flexibility utilities need to implement CETA.

Question: Do you agree with Staff’s preliminary interpretation? Please explain why or why not and how the term “use” should be interpreted.

Snohomish does not believe the UTC’s interpretation captures statutory language or intent

RCW 19.405.040(1)(a)(ii) states (emphasis added):

“To achieve compliance with this standard, an electric utility must: ... (ii) **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.**”

The UTC’s preliminary interpretation of RCW 19.405.040(1)(a)(ii) is that “‘use’ means delivery to retail customers of ‘bundled’ renewable and nonemitting electricity.” Snohomish believes the UTC’s preliminary interpretation does not accurately capture the intent and plain language of the statute. RCW

19.405.040(1)(a)(ii) refers specifically to an equivalency measurement over a multiyear compliance period. There is no statutory basis for an hourly measurement level as implied by the “delivery” language in the UTC’s preliminary interpretation. If an interim “matching” of renewable energy to load on a shorter timeframe was intended, the Legislature would have included language requiring it. The UTC’s preliminary interpretation further would directly contradict the compliance metric specified in the statute: “in an amount equal to one hundred percent of the utility’s retail electric loads over each multiyear compliance period.” RCW 19.405.040(1)(a)(ii).

During the legislative process there was specific dialogue regarding the term “delivery”, which ultimately concluded without that specific terminology in the statute, in part to communicate clearly how multi-year compliance was intended to function. The dialogue on multiyear compliance was an acknowledgement of the variability inherent in the state’s hydro-dominant energy portfolio and the need to provide adequate regulatory risk mitigation to Washington utilities whose customers had already significantly invested in carbon-free energy and had portfolios that were composed predominantly of hydropower and renewable resources.

The legislative intent supports this interpretation, with explicit references to the need to achieve CETA’s goals while maximizing the value of hydropower, providing safeguards to ensure the policy of CETA does not impair the reliability of the electricity system or impose unreasonable costs on utility customers, and to provide flexible tools to address the variability of hydropower for compliance. See RCW 19.405.010(2), (4), (7).

The use of a delivery standard also can undermine the value of variable renewable resources to the utility. By nature, these resources often do not match load. A delivery standard measured on an hourly, daily or weekly basis would require a utility to acquire renewable resources to meet its peak load, rather than managing its portfolio of resources to achieve the standard over the statutory compliance period. Such a standard also has the potential to create barriers to the use market mechanisms such as the Energy Imbalance Market (EIM). If the utility is required to match generation to load, it is less likely to bid in resources to a market in which the market operator controls the dispatch of those resources.

The statute does not create a “bundled renewable energy credit”

The UTC’s preliminary interpretation which states: because there is a definition of an “unbundled” renewable energy credit (REC) eligible for the 20% alternate compliance, RECs used for the 80% must be “bundled.” This does not comport with the statute. CETA contains no definition of a “bundled” REC and there is no statutory basis for requiring use be demonstrated by a “bundled” REC. Where a utility acquires renewable energy together with the RECs, it demonstrates the “use” of that product by retiring the REC, provided that any separated energy is sold as unspecified and not double counted, and is thus eligible for compliance under the 80% greenhouse gas neutral standard in RCW 19.405.040.

Where a utility acquires electricity with the RECs, none of the conditions outlined in the definition of an “unbundled” REC have occurred. So, although a utility could sell electricity as unspecified if the renewable resource is subsequently separated from the REC, it would not be selling, delivering or purchasing the RECs and therefore they are outside the definition of “unbundled” REC.

The UTC's proposal for a delivery standard illustrates the concept of a "bundled" REC is not practical. A REC itself cannot be "delivered" or "used." RECs are not generated hourly or even weekly, but they are placed in a Western Renewable Energy Generation Information System (WREGIS) account, on an aggregate basis, for retirement.

Snohomish believes the Department of Commerce has interpreted the language correctly, as described in their proposed draft rule language (proposed WAC 190-40-320)

Snohomish believes Commerce's proposed WAC 194-40-320 strikes a thoughtful balance between specificity of identifying renewable and nonemitting generation and flexibility for utilities with variable resources. Snohomish agrees that the language in proposed WAC 194-40-320 is consistent with both the letter and intent of the statute. Snohomish also believes the proposed WAC supports the stated statutory intent in RCW 19.405.010(7) to provide flexible tools to address the variability of hydropower.

Snohomish suggests the UTC consider Commerce's interpretation of the statute as proposed in WAC 194-40-320. As stakeholders have noted throughout the rulemaking process, where appropriate, it is generally beneficial to have alignment between UTC and Commerce rules. Consistent rules can create regional best practice methodologies and potentially market efficiencies that contribute to policy objectives being achieved at lower costs to customers.

If staff's interpretation were memorialized in rule, how should utilities demonstrate delivery of "bundled electricity" to customers and ensure that nonpower attributes were not double counted either within Washington programs or in other jurisdictions, as required by RCW 19.405.040(1)(b)(ii)?

The correct time period is a vital component of demonstration

In order to reflect the statutory language and intent of RCW 19.405.040(1)(a)(ii) where utilities 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," Snohomish believes the most important element to consider is the time period of demonstration. Snohomish suggests demonstration occur as an aggregate of renewable and non-emitting generation used within the compliance period and the aggregated retail electric loads of the compliance period, rather than on an hourly basis.

Snohomish believes that can be most efficiently accomplished by demonstrating the physical energy and environmental attributes were acquired together, by retirement of the corresponding REC and attesting that the utility has not sold any other non-power attributes. The WREGIS system already allows for annual retirement of RECs, standard transaction agreements readily identify the energy and attribution of energy purchased with environmental attributes, and attestations that no other non-power attributes were sold prevents double-counting in other jurisdictions. This framework would provide a clear and auditable mechanism for tracking compliance across the multiyear compliance period.

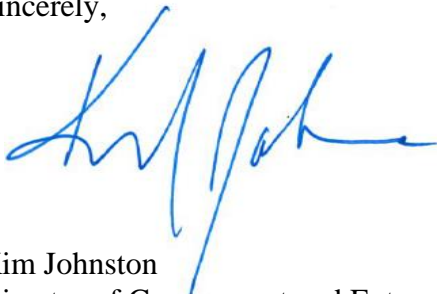
A delivery to load standard may not be feasible

A delivery to load standard would require tracking at a more granular level than that outlined in statute and may not be feasible. The likely tracking mechanism for RECs would be WREGIS, which accounts for generation on an aggregate basis, not hourly or daily. In its current state, WREGIS could not account for the granularity UTC's preliminary interpretation calls for.

Finally, Snohomish notes that transactions and participation in markets such as the EIM, or future day ahead markets need to be accounted for to properly implement CETA. The preliminary interpretation offered by the UTC initially does not appear to align with the use of these markets, such that more work should be done with the Markets Workgroup before establishing rules that make inferences about how energy may be traded, tracked, and represented.

Snohomish appreciates the work that UTC staff have put into this process and looks forward to continuing this work. If you have any questions regarding these comments, or other topics, please do not hesitate to contact us.

Sincerely,



Kim Johnston
Director of Government and External Affairs