

June 29, 2020

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

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06/30/20 03:22
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

Re: Docket UE-191023, Comments on Clean Energy Transformation Act Statutory Interpretation and Compliance Structure

Dear Mr. Johnson:

The Washington Public Utility Districts Association (WPUDA) appreciates the opportunity to provide comments to the Washington Utilities and Transportation Commission (UTC) in docket UE-191023. WPUDA's comments specifically focus on the UTC staff's preliminary interpretation of RCW 19.405.040(1)(a)(ii) that "use" means delivery to retail customers of "bundled" renewable and non-emitting electricity; and are in response to the June 12th UTC Notice of Opportunity to Provide Written Comments.

WPUDA is a member driven organization comprised of 27 publicly owned PUDs that provide retail electric and water services as well as wholesale telecommunications services to citizens and commercial entities across all corners of Washington state. With regard to retail electric services, PUDs delivered low-cost, low-carbon electric services to over 30 percent of Washington's retail electric customers in 2018.¹ WPUDA directly and intensively participated in the legislative development of the Clean Energy Transformation Act (CETA) given that it directly targeted a major and critical public service provided by PUDs.

¹ In 2018, according to the USDOE Energy Information Agency 56 percent of all electric utility customers in Washington state were served by consumer owned utilities (COU) including municipals, Coops and PUDs. In addition, Washington's COUs delivered 62 percent of the retail electricity at an average rate of \$0.076/kWh. Finally, the Washington State Department of Commerce Fuel Mix Disclosure report (2018 data) indicates that renewable and non-emitting generating resources produced 87 percent of the electricity that COUs delivered to retail customers.

With regard to the question of “use”, WPUDA notes that the original version of Senate Bill 5116 specified annual compliance periods. Utility stakeholders, concerned that the year-to-year variability of renewable resources – particularly hydropower but also wind – would greatly complicate compliance demonstrations, requested a 5-year period over which to average years with high levels of renewable generation against low generation years. Following much deliberation and stakeholder involvement the Legislature revised the bill to include a 4-year compliance period. This change was made specifically “to implement multiyear compliance periods, rather than an annual compliance requirement, beginning January 1, 2030” (Senate Bill Report E2SSB5116).

It is WPUDA’s belief that if the UTC Commissioners adopt the UTC staff’s preliminary interpretation that “use” means delivery to retail customers of “bundled” renewable electricity, investor owned utilities will have to track every “electron” provided to retail customers back to its generating source. Such an interpretation effectively subverts the legislative intent to allow utilities to balance over the compliance period the various times (years, months, days, hours and moments) when renewable generation exceeds retail use with times when such generation falls below use. The legislature even provided the mechanism for that balancing by directing that “electricity from renewable resources used to meet the standard...must be verified by the retirement of renewable energy credits.” (RCW 19.405.040(1)(c)). It is important to note that had language in the bill included the concept that utilities had to deliver a “bundled product,” WPUDA (and presumably other utility stakeholders) would have worked vigorously towards its removal. However, given its absence there was nothing to oppose.

Finally, WPUDA points to Legislative intent. RCW 19.405.010(7) specifically states that “[i]t is the intent of the legislature **to provide flexible tools to address the variability of hydropower** for compliance under this act.” (emphasis added). WPUDA cannot fathom how any reasonable person could conclude that the UTC staff’s preliminary interpretation is consistent with this Legislative directive.

Thank you again for the opportunity to provide WPUDA’s concerns about the UTC staff’s preliminary interpretation of RCW 19.405.040(1)(a)(ii). Also, and by way of reference, WPUDA agrees with the comments filed separately by the Public Generating Pool.

Please feel free to contact me directly if you have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nicolas Garcia', with a long horizontal flourish extending to the right.

Nicolas Garcia, Policy Director