STATE REPRESENTATIVE
36th LEGISLATIVE DISTRICT
GAEL TARLETON

State of Washington House of Representatives

FINANCE
CHAIR
APPROPRIATIONS
INNOVATION, TECHNOLOGY & ECONOMIC DEVELOPMENT

Received
Records Management
07/08/20 08:09
State Of WASH.
UTIL. AND TRANSP.
COMMISSION

July 2, 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: Comments on Rulemaking to consider adoption of rules to implement chapter 19.405 RCW and revisions to chapter 80.28 RCW

Dear Mr. Mark Johnson,

I write in response to the notice filed on June 12 that included questions on the interpretation of RCW 19.405.040 and questions included from the Commission on the proper interpretation of the CETA requirement to "use" electricity from non-emitting and renewable resources equal to 80% or more of a utility's load. In 2019, I served as the Chair of the House Finance Committee. In this capacity, I led passage of SB5116 out of committee. I was also the prime sponsor of the bill's House companion, HB1211. The SB5116 substituting amendment I brought in House Finance eventually formed portions of the final bill adopted by the chamber.

Staff's interpretation of the meaning of the statute accurately reflects the understanding that my colleagues and I had when we approved CETA, and I urge you to ensure that the rules faithfully implement our intent.

RCW 19.405.040 includes two tiers of compliance obligation—the first tier requires renewable and non-emitting energy, fully bundled with the environmental attribute produced at the time of generation, be used to serve retail electric customers. Using the REC or environmental attribute separate from the underlying power that produced it or paired with another unit of energy, especially fossil fuel-based, was not contemplated for this portion of a utility's compliance. Whether the underlying power is sold as unspecified or not is immaterial. The second tier, specified in RCW 19.405.040(1)(b) *does* allow the use of a REC separated from the electricity that generated it. If a utility chooses to sell electricity as unspecified and retain the REC associated with it, that REC is appropriately used for this 20% compliance portion.

In drafting the CETA legislation, legislators did consider the need for flexible compliance options, including the possibility of using RECs for the 80% compliance obligation. After evaluating the implications of various options, I brought an amendment that included RCW

LEGISLATIVE OFFICE: 308 JOHN L. O'BRIEN BUILDING • PO BOX 40600 • OLYMPIA, WA 98504-0600 • (360) 786-7860
SEATTLE: (206) 545.6570 • **EMAIL:** Gael.Tarleton@leg.wa.gov • **TOLL-FREE LEGISLATIVE HOTLINE:** 1-800-562-6000 • **TTY:** 1-800-833-6388

PRINTED ON RECYCLED PAPER

STATE REPRESENTATIVE
36th LEGISLATIVE DISTRICT
GAEL TARLETON

State of Washington House of Representatives

FINANCE
CHAIR

APPROPRIATIONS

INNOVATION, TECHNOLOGY
& ECONOMIC DEVELOPMENT

19.405.040(11) to allow Pacific Power to create early action credits that would function as RECs eligible under the 80% requirement in subsection (1)(a). The presence of this carefully limited provision indicates that we considered the meaning of this section and the particular question of attributes used separately from electricity and chose to allow *only* Pacific Power the ability to use environmental attributes in this way. Beyond my own attestation on our intent, the fact that the legislature chose to explicitly provide Pacific Power this limited flexibility indicates that we considered this issue and settled it in the legislation itself. Allowing additional utilities to use separated RECs clearly exceeds the statutory authority provided to implementing agencies.

Moreover, to aid compliance for all utilities, legislators provided for four-year compliance windows to allow excess clean generation in one year to compensate for lower production in other years. I believe this flexibility is sufficient.

As the commission moves to finalize its rules, I ask you to ensure they reflect the intent I describe in this letter. Please feel free to reach out with additional questions regarding this matter.

Sincerely,

Gael Tarleton
State Representative—36th Legislative District

LEGISLATIVE OFFICE: 308 JOHN L. O'BRIEN BUILDING • PO BOX 40600 • OLYMPIA, WA 98504-0600 • (360) 786-7860
SEATTLE: (206) 545.6570 • **EMAIL:** Gael.Tarleton@leg.wa.gov • **TOLL-FREE LEGISLATIVE HOTLINE:** 1-800-562-6000 • **TTY:** 1-800-833-6388

PRINTED ON RECYCLED PAPER