

STATE REPRESENTATIVE
34th LEGISLATIVE DISTRICT
JOE FITZGIBBON

State of
Washington
House of
Representatives



ENVIRONMENT & ENERGY
CHAIR
APPROPRIATIONS
RURAL DEVELOPMENT,
AGRICULTURE &
NATURAL RESOURCES

July 7th, 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

Received
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State Of WASH.
UTIL. AND TRANSP.
COMMISSION

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

Mr. Johnson,

These comments are in response to the notice filed by the Utilities and Transportation Commission on June 12 that included questions on the interpretation of RCW 19.405.040 and its requirement for utilities to achieve greenhouse gas neutrality by 2030 and use renewable and non-emitting generation equal to at minimum 80% of their total retail sales. In my capacity as Chair of the House Energy & Environment Committee, I oversaw the passage of SB 5116, the Clean Energy Transformation Act (CETA), through my committee and through the House of Representatives. I offered a striking amendment to SB 5116, which was accepted by the committee. The amendments I brought to SB 5116 in committee (as well as the subsequent striking amendment I offered in the Appropriations Committee) largely formed the final text of the bill as passed the House and signed into law by Governor Inslee.

I agree with staff's interpretation as provided in the June 12 notice. It is consistent with my interpretation of the statute and with my legislative intent when amending SB 5116. I am confident that my House and Senate colleagues who voted in support of SB 5116 share this understanding.

The plain meaning of the RCW 19.405.040 is that utilities are required to serve their customers with electricity that comes from at minimum 80% renewable or non-emitting generation and that any renewable energy certificates (RECs) or environmental attributes from that electricity be retired for compliance at the same time as that electricity is delivered to customers (that the clean electricity be bundled). It was not our intent that utilities continue using fossil fuel-generated electricity and pair it with a REC that the utility acquired or produced at another time from power that was sold off. The purpose of the 20% of compliance obligations that included additional flexibility under RCW 19.405.040(1)(b) was to provide space for utilities to use

unbundled RECs as an interim step to eventually eliminating all greenhouse gas emission by 2045. It is only for this share of compliance that RECs separated from the electricity that produced them should be allowed.

The statute provides utilities other forms of flexibility, especially the use of multi-year compliance periods. The purpose of these was to allow utilities to average the share of their delivered bundled clean energy across multiple years so that low clean energy generation in one year could be balanced with higher availability in future years, allowing the average share over a given compliance period to meet the 80% minimum set out in the law even if individual years dipped below that requirement. The purpose of multi-year compliance was not to allow environmental attributes to be separated from electricity that was sold off, unless these attributes were to be used for the 20% portion.

A key goal of legislators in passing CETA was to ensure near-term progress on greenhouse gas reduction from the electricity sector while we move towards a fully decarbonized electricity sector in 2045. For this reason, we included the provision requiring coal elimination by 2025 and the greenhouse gas neutral standard by 2030. Interpreting the requirements of RCW 19.405.040 to allow RECs separated from their electricity to be used for the entirety of a utility's obligation would substantially weaken this key interim target. Were this the meaning of the statute, I and my colleagues would have sought to strengthen it substantially. As it is, and as interpreted by staff, CETA is a strong law that is a key component of Washington's carbon reduction future. I urge you to adopt into rule the interpretation you have described.

Please do not hesitate to reach out with questions on this or other matters regarding this statute.

Sincerely,



Joe Fitzgibbon
State Representative, 34th District
Chair, House Environment & Energy Committee