EARTHJUSTICE

ALASKA CALIFORNIA FLORIDA MID-PACIFIC NORTHEAST NORTHERN ROCKIES
NORTHWEST ROCKY MOUNTAIN WASHINGTON, DC INTERNATIONAL

MEMORANDUM

TO: Wendy Gerlitz

FROM: Amanda Goodin

DATE: August 10, 2020

RE: Legal interpretation of the Clean Energy Transformation Act

---

This memorandum contains our legal analysis of the core mandate of the Clean Energy Transformation Act ("CETA"): that utilities use clean energy to supply their Washington retail electric customers. RCW 19.405.040(1); RCW 19.405.050(1). This memorandum also contains our initial response to the contrary legal interpretation advanced in the letter dated July 31, 2020 from the Public Generating Pool, Puget Sound Energy, Pacific Power, and Avista (hereinafter the "Utilities"), and accompanying legal memorandum.

Washington's Clean Energy Transformation Act is sweeping and transformative. The legislature explicitly intended to require a transformation of Washington's energy supply. RCW 19.405.010(1). *See also* RCW 19.405.010(2) ("It is the policy of the state to . . . transition the state's electricity supply to one hundred percent carbon-neutral by 2030, and one hundred percent carbon-free by 2045."). CETA requires all sales of electricity to be first greenhouse gas neutral and later greenhouse gas free. RCW 19.405.040, RCW 19.405.050. To implement this transformation, CETA requires utilities to use electricity from renewable resources or non-emitting generation to supply Washington customers. RCW 19.405.040; RCW 19.405.050. At every turn, CETA's plain language underscores its requirement that utilities transition rapidly to a portfolio of one hundred percent clean resources.

Commission Staff's preliminary interpretation of the term "use" in CETA is correct.[1] Under Staff's interpretation, CETA's requirement that utilities "use" electricity from renewable resources does in fact require them to use this electricity to supply their customers. This interpretation also is consistent with the mandate that utilities' sales of electricity be first greenhouse gas neutral and later greenhouse gas free, as well as the legislature's stated policy of transitioning Washington's energy supply to be one hundred percent clean. *See* RCW 19.405.010; RCW 19.405.040; RCW 19.405.050.

[1] *See* Notice of Opportunity to File Written Comments dated June 12, 2020 in Docket UE-191023.

810 THIRD AVENUE SUITE 610 SEATTLE, WA 98104
T: 206.343.7340 F: 206.343.1526 E: nwoffice@earthjustice.org W: www.earthjustice.org

Despite this plain language, the Utilities urge an interpretation of CETA that would eviscerate CETA's core requirements. Specifically, they assert that CETA allows them to rely on fossil fuel generation for any or all of the electricity they sell to Washingtonians, so long as they retain sufficient renewable energy credits ("RECs"). Under this reading, CETA's one hundred percent clean energy mandate requires no transformation of Washington's energy supply, it only requires utilities to hold title or contract for resources that may never serve Washington.

Under the Utilities' untenable interpretation, CETA's one hundred percent clean energy mandate allows them to continue to rely on fossil fuels indefinitely. Their position cannot be squared with the plain text of the statute or the stated intent of the legislature to transition to one hundred percent clean energy. The Commission lacks authority to adopt their proposed interpretation because it conflicts with the statute.[2]

I. CETA REQUIRES UTILITIES TO SUPPLY WASHINGTON CUSTOMERS WITH CLEAN ELECTRICITY

CETA requires utilities to use clean electricity to supply their Washington customers. The plain language of the mandates in RCW 19.405.040(1) and RCW 19.405.050(1) and the legislature's stated purpose and intent compel this interpretation, as do other provisions of the statute that govern penalties and planning.

A. CETA's 2030 and 2045 mandates require clean electricity

CETA's core mandate directs utilities to transition to one hundred percent clean energy. This transformation of the state's electricity supply proceeds in several phases. Ultimately, by 2045, utilities must use renewable resources and/or non-emitting generation to supply one hundred percent of all sales of electricity to Washington customers. RCW 19.405.050(1). As an interim step, by 2030, utilities must ensure their sales of electricity to Washington customers are greenhouse-gas neutral. RCW 19.405.040(1). This interim 2030 standard allows utilities more flexibility than the ultimate 2045 standard by allowing utilities to rely on "alternative compliance options" for up to twenty percent of their load. RCW19.405.040(1)(b).

The statutory language requiring utilities to "use" clean electricity appears in both the 2045 and 2030 standards. *Compare* RCW 19.405.050(1) (a utility must "demonstrate its compliance with this standard *using* a combination of nonemitting electric generation and *electricity from renewable resources*") (emphasis added) *with* RCW 19.405.040(1)(a) (a utility must "demonstrate its compliance with this standard *using* a combination of nonemitting electric generation and *electricity from renewable resources*" or alternative compliance options) (emphasis

[2] "A rule that conflicts with a statute is beyond an agency's authority." *Devine v. Dep't of Licensing*, 126 Wash. App. 941, 956, 110 P.3d 237, 244 (2005).

added). Utilities comply with both standards by "using" clean electricity.[3] This identical "use" language in the 2030 and 2045 standards presumptively has the same meaning.[4]

Both the 2030 and 2045 standards mean what they say: utilities must use electricity from clean sources to supply their customers. Significantly, CETA directs this "use" requirement to "*electricity* from renewable resources." RCW 19.405.050(1); RCW 19.405.040(1)(a) (emphasis added). A requirement that utilities "use renewable resources" might create some ambiguity—but the requirement that they use "*electricity* from renewable resources" does not.[5]

While "use" is not defined in CETA, its common definition leaves little room for doubt.[6] Merriam-Webster's online dictionary defines "use" as "to put into action or service," or "to expend or consume by putting to use."[7] Utilities "use" electricity by suppling it to their customers. Selling electricity, or any other commodity, does not fit within this commonly understood definition of use. One does not explain they have sold their car by saying that they "used" it.

Terms common to the electric market similarly support interpreting CETA in accordance with the common meaning of "use." When a utility "procures" a resource, they acquire ownership of it.[8] Under the Utilities' interpretation of CETA, they need only procure renewable resources (or procure their output by contract) and retain the associated RECs to meet the clean energy mandates. Had the legislature intended to require only initial ownership of renewable resources, they could have used any number of terms, including a procurement requirement, to

---

[3] "Nonemitting electric generation" is defined as "*electricity from*" a nonemitting resource. RCW 19.405.020(28). Accordingly, CETA requires utilities to use clean *electricity* to meet the 2030 and 2045 standards, regardless of whether it comes from a renewable resource or from nonemitting electric generation.

[4] "When the same words are used in different parts of the same statute, it is presumed that the Legislature intended that the words have the same meaning." *Timberline Air Serv., Inc. v. Bell Helicopter-Textron, Inc.*, 125 Wash. 2d 305, 313, 884 P.2d 920, 925 (1994) (quoting *State v. Hutsell,* 120 Wash.2d 913, 920, 845 P.2d 1325 (1993)).

[5] *See Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9–10, 43 P.3d 4 (2002) (where the language of a statute is plain on its face, courts must give effect to that plain meaning).

[6] "When a statutory term is undefined, we typically apply the term's plain and ordinary meaning unless a contrary legislative intent is indicated." *State v. Veliz*, 176 Wash. 2d 849, 854, 298 P.3d 75, 77 (2013) (*quoting State v. Jones,* 172 Wash.2d 236, 242, 257 P.3d 616 (2011) (internal alternations omitted).

[7] When a term has a well-accepted, ordinary meaning, a general purpose dictionary may be consulted to establish the term's definition. *HomeStreet, Inc. v. Dep't of Revenue*, 166 Wash.2d 444, 451, 210 P.3d 297 (2009); *City of Spokane ex rel. Wastewater Mgmt. Dep't v. Dep't of Revenue*, 145 Wash.2d 445, 454, 38 P.3d 1010 (2002).

[8] Other sections of CETA use "procurement" to refer to utility ownership of resources, indicating that the legislature was familiar with this term and would have used it if they intended to impose an ownership requirement in the clean energy standards. *E.g.*, RCW 19.405.080(3)(e).

convey this more limited obligation. They did not. Instead, the legislature required utilities to use "*electricity from* renewable resources." RCW 19.405.050(1); RCW 19.405.040(1)(a). Utilities may "use" clean electricity regardless of whether they own the underlying resource – purchased electricity satisfies CETA's requirements, so long as it is clean. Conversely, if a utility owns a renewable resource but does not use the *electricity* from that resource, it does not satisfy CETA's requirements.

The legislature's stated purpose and intent in CETA also compel the conclusion that utilities must use clean electricity to supply their Washington customers.[9] The legislature envisioned that Washington would "transform[] its energy supply" and "transition the state's electricity supply" to one hundred percent clean. RCW 19.405.010(1)-(2). This language directed to the state's "energy supply" and "electricity supply" underscore that the legislature intended to require change in the generating resources that actually supply Washington with electricity. Requiring electricity from renewable resources to supply Washington customers is consistent with this explicit goal. In contrast, under the Utilities' interpretation, nothing would prevent a utility from relying on fossil fuel-fired power generation to supply some or all of their customers' electricity, so long as they retain a sufficient quantity of RECs from resources that may never serve Washington. This is entirely inconsistent with the legislature's stated intent to transform Washington's energy supply to one hundred percent clean.

B. CETA's penalty and planning provisions also require clean electricity

The Commission must interpret CETA's "use" requirement in the context of the entire statute.[10] The penalty and planning provisions in CETA make clear that CETA's clean electricity mandates require utilities to use clean electricity to supply their Washington customers.

CETA provides penalties for a utility that "fails to meet" the 2030 clean energy standards. RCW 19.405.090(1)(a). These penalties apply "for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting generation." *Id.* This language could not be plainer. If a utility uses electricity that is not clean to "meet load," then they must pay a penalty, weighted by the type of fossil resource that led to the violation. *Id.* The only reasonable interpretation of this language is that meeting load with electricity from fossil resources constitutes a failure to meet the 2030 clean energy standard.

---

[9] In interpreting a statute, the Court's "fundamental purpose is to ascertain and carry out the intent of the legislature." *Quinault Indian Nation v. Imperium Terminal Servs., LLC*, 187 Wn.2d 460, 468, 387 P.3d 670 (2017). "If the statute at issue, or a related statute, incorporates a relevant statement of purpose, our reading of the statute should be consistent with that purpose." *Matter of Adoption of T.A.W.*, 186 Wn.2d 828, 840, 383 P.3d 492 (2016).

[10] "Plain meaning' is to be discerned from the ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole.'" *Lake v. Woodcreek Homeowners Ass'n*, 169 Wash.2d 516, 526, 243 P.3d 1283 (2010) (quoting *State v. Engel*, 166 Wash.2d 572, 578, 210 P.3d 1007 (2009)).

Under the Utilities' interpretation of CETA's "use" requirement, utilities would be compelled to pay a penalty for conduct they believe falls squarely within what the statute allows. Namely, the Utilities believe that so long as they retain RECs, the 2030 clean energy mandate allows them to use electricity from fossil fuels to supply their customers. But under the penalty provisions, if such fossil fuel generation is used to "meet load"—as it would be, if it supplies their customers—then it would incur a penalty payment.

The Commission's interpretation must reconcile the use requirement in the clean energy standards with the penalty provisions that enforce it.[11] The only way to do this is to interpret the clean energy standards to require utilities to use the electricity from clean sources to supply their customers. The Utilities' interpretation of "use" would create irreconcilable inconsistencies in the statute, such that the same conduct—supplying their customers with fossil fuel generated electricity—would be permissible under the 2030 standards while also being financially penalized as a failure to meet the 2030 standards.[12]

CETA's planning provisions likewise support reading the clean energy "use" requirement to mean what it says. The legislature anticipated the need for "upgrades to electricity transmission and distribution infrastructure" to meet the Act's clean energy mandates, and noted that it takes significant advance planning in order to "deliver electricity generation sites to retail electric load." RCW 19.405.150. If, as the Utilities suggest, they need not use electricity from renewable resources to supply their retail electric customers, then there would be little need for the advance transmission and distribution planning process the legislature required.[13]

II. THE UTILITIES' INTERPRETATION IS CONTRARY TO CETA'S TEXT AND INTENT

CETA's plain language and stated legislative purpose permit only one interpretation: utilities must use electricity from renewable resources and non-emitting generation to supply Washington retail electric customers. In a legal memorandum accompanying their July 31, 2020 letter, the Utilities advance a number of arguments supporting their contrary interpretation. Their attempts to find loopholes in the statutory language fail on their own terms.

---

[11] "The 'goal is to avoid interpreting statutes to create conflicts between different provisions so that we achieve a harmonious statutory scheme.'" *Am. Legion Post #149 v. Washington State Dep't of Health*, 164 Wash. 2d 570, 585, 192 P.3d 306, 314 (2008) (*quoting Echo Bay Cmty. Ass'n v. Dep't of Natural Res.*, 139 Wash.App. 321, 327, 160 P.3d 1083 (2007), *review denied,* 163 Wash.2d 1016, 180 P.3d 1290 (2008)).

[12] Courts "must interpret statutes to avoid absurd results." *Cent. Puget Sound Reg'l Transit Auth. v. WR-SRI 120th N. LLC*, 422 P.3d 891, 902 (Wash. 2018).

[13] *See In re Estate of Mower*, 193 Wn. App. 706, 720, 374 P.3d 180 (2016) (courts are required to "avoid interpretations of a statute that would render superfluous a provision of the statute").

More broadly, none can justify an interpretation of CETA's one hundred percent clean energy requirements that would allow utilities to rely on fossil fuels indefinitely. Nowhere in their legal arguments do the Utilities attempt to justify the glaring inconsistency between CETA's stated purpose of transitioning Washington to a one hundred percent clean energy supply, and their interpretation which would allow utilities to continue to use electricity from fossil fuels to supply Washington customers.[14]

A. The Utilities misread CETA's plain language

1. The legislature's language is clear

The Utilities begin by arguing that the legislature would have used the word "delivery" in CETA if it had meant to impose a "delivery requirement." As discussed above, the legislature did plainly require utilities to "use electricity" from clean sources and to transition their electricity "supply," which clearly impose a requirement on utilities to actually use electricity from clean sources. There is nothing special about the word "delivery," such that its absence justifies re-writing the plain language the legislature did include.

Moreover, the Utilities do not mention the fact that the "use" requirement appears, in identical language, in both the 2030 standard and the 2045 standard. *Compare* RCW 19.405.040(1) *with* RCW 19.405.050(1) (an "electric utility must demonstrate its compliance with this standard *using* a combination of nonemitting electric generation and *electricity from renewable resources*") (emphasis added). The Utilities are silent as to whether they believe they may continue to supply Washington customers with electricity from fossil fuels in 2045 and beyond, but other language in the 2045 standard makes clear that they may not. RCW 19.405.050(1) ("It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045."). The legislature did not use the term "delivery" in the 2045 standard, it repeated the requirement that utilities "use electricity" from clean sources. RCW 19.405.050(1). The Utilities offer no reason to interpret this identical language differently in the 2030 and 2045 standards.[15]

[14] "Statutes should be interpreted to further, not frustrate, their intended purpose." *Bostain v. Food Exp., Inc.*, 159 Wn.2d 700, 712, 153 P.3d 846 (2007) (internal quotations and citation omitted).

[15] "When the same words are used in different parts of the same statute, it is presumed that the Legislature intended that the words have the same meaning." *Timberline Air Serv., Inc. v. Bell Helicopter-Textron, Inc.*, 125 Wash. 2d 305, 313, 884 P.2d 920, 925 (1994) (quoting *State v. Hutsell*, 120 Wash.2d 913, 920, 845 P.2d 1325 (1993)).

2. CETA's four-year compliance period does not negate the requirement that utilities use electricity from clean sources

The Utilities next focus on the language surrounding the four-year compliance provisions in RCW 19.405.040(1)(a)(ii). Because RCW 19.405.040(1)(a)(ii) requires utilities to use electricity from renewable resources or nonemitting generation "in an amount equal to" their "retail electric load" over a four year compliance period, the Utilities conclude that it does not matter whether they use electricity from clean sources to supply their customers. Not so. RCW 19.405.040(1)(a)(ii), like the sentences that precede it, still require utilities to "*use electricity* from renewable resources and nonemitting electric generation."

The Utilities misstate both the language and the intent of RCW 19.405.040(1). This section does include significant flexibility for utilities by creating a four-year compliance period, and allowing utilities to use clean electricity "in an amount equal to" their retail electric load over that four-year period. This means that a utility can comply with the 2030 standard despite fluctuations in the total percentage of a utility's load that it meets with clean electricity within a four-year period. Because many of the state's utilities are heavily dependent on hydropower, which fluctuates seasonally and annually, this four-year compliance period gives effect to the legislature's stated intent to account for the variability of hydropower. *See* RCW 19.405.010(7).

In short, under CETA's four-year compliance period, utilities may only count clean electricity that they actually use to supply their customers toward their CETA obligations, but they may be able to accommodate fluctuations in the total percentage of their load that they meet with clean energy within a compliance period. This interpretation is consistent with both the requirement that utilities "use electricity" from clean sources, and the allowance to use it "in an amount" equal to their load over four years. The Utilities focus solely on the four-year language in RCW 19.405.040(1)(a)(ii), but their interpretation impermissibly reads the requirement that utilities "use electricity" from clean sources out of the statute.[16]

3. Verification requirements are not coextensive with the compliance obligation

CETA provides that renewable energy used to meet the clean energy standards must be "verified" by the retirement of renewable energy credits. RCW 19.405.040(c). The Utilities argue this shows that REC retirement is all that is required for compliance with the standards. The Utilities offer no argument for why the verification requirement must necessarily be coextensive with the compliance obligation. Nor do they mention the fact that the penalties for non-compliance with the 2030 standard apply to every megawatt-hour of electricity a utility uses to "meet load" that comes from fossil fuels, as discussed above. RCW 19.405.090(1)(a). While it would make no sense to penalize conduct that the statute allows, it is entirely plausible

[16] Statutes must be interpreted "so that all the language used is given effect, with no portion rendered meaningless or superfluous." *State v. Larson*, 184 Wash. 2d 843, 850, 365 P.3d 740, 743 (2015) (internal citation omitted).

that the legislature imposed a verification requirement that is narrower than the compliance obligation.

CETA's treatment of "nonemitting electric generation" also supports reading the "use" requirement according to its plain terms. RCW 19.405.020(28). "Nonemitting electric generation" is defined as "*electricity from* a generating facility or a resource" that does not emit greenhouse gases, and that is not a renewable resource. RCW 19.405.020(28). Nonemitting generation used to comply with CETA is verified when it is generated during the compliance period and the utility owns the nonpower attributes. RCW 19.405.040(1)(f). As the Utilities agree, these provisions require utilities to use the electricity from a nonemitting resource to supply their customers in order for it to count toward their compliance with the clean energy standards. But CETA uses the same terms to establish the compliance obligation for both nonemitting generation and renewable resources: in both instances a utility must use "electricity from" the resource. RCW 19.405.040(1)(a); RCW 19.405.020(28)(a). Different methods of verification do not change the fact that for both types of resource, the compliance obligation provides a utility must use the electricity.

4. The Energy Independence Act creates a different regulatory model

The Utilities correctly note that the Energy Independence Act ("EIA") does not require utilities to deliver clean electricity to their customers. They err in assuming that CETA's requirements are similarly limited. The EIA includes a renewable portfolio standard, which requires utilities to acquire RECs. In contrast, CETA includes a clean energy standard that requires utilities to use clean electricity. These are fundamentally different requirements.

Specifically, the EIA directs utilities to "use eligible renewable resources *or acquire* equivalent renewable energy credits" to meet its standards. RCW 19.285.040(2)(a) (emphasis added). Because utilities can comply with renewable energy credits alone, the renewable portfolio standard under the EIA does not require that electricity from renewable resources actually serve a utility's customers. So long as a utility obtains adequate RECs, it generally does not matter how the associated electricity is used.

In contrast, the core mandate of CETA is that all "sales of electricity" be greenhouse gas neutral and (later) greenhouse gas free. RCW 19.405.040(1), RCW 19.405.050(1). Utilities must demonstrate compliance "*using* a combination of nonemitting electric generation and *electricity from* renewable resources." RCW 19.405.040(1)(a) (emphasis added). These requirements that utilities "us[e] . . . electricity from renewable resources" and that "sales of electricity" be greenhouse gas free have no analog in the EIA.

These differences are unsurprising. Renewable portfolio standards are regulatory tools that have been used to encourage initial investment in renewable resources. Washington was far from the first state to adopt such a standard, and Washington's renewable portfolio standard

has been in place since the EIA was adopted in 2006. At this early stage, the voters sought to encourage any investment in renewable resources.

Nearly fifteen years later, the cost of renewable resources has fallen dramatically and our awareness of the urgency and severity of the climate crisis has deepened. Responding to these changed circumstances and the urgent need for action, the legislature chose a one hundred percent clean energy standard to transform Washington's electricity supply. This different regulatory tool comes with different, and more stringent, requirements.

Nor do these differences undermine the legislature's direction to streamline compliance with both statutes. RCW 19.405.100(1). CETA goes further than the EIA, but the two nonetheless address related subjects. Directing the agencies to streamline and simplify compliance is common sense; using that direction to undercut CETA's core requirements is not.

5. Creating new categories of RECs does not change CETA's requirements

The Utilities next focus on CETA's definition of "unbundled renewable energy credit." RCW 19.405.020(38). Because unbundled RECs are defined as RECs that are "sold, delivered, or purchased separately from electricity," RCW 19.405.020(38), the Utilities reason that a REC that is separated from the underlying electricity in other ways may be used more broadly. Specifically, the Utilities believe that if a utility acquires a REC from generation at a facility it owns, it may retain that REC to comply with CETA even if it sells the underlying electricity.

This does not follow. Even if so-called "retained" RECs are not "unbundled," that still does not allow utilities to rely on them to meet CETA's clean energy standards. Nowhere does CETA provide that RECs of any sort may be used to comply with the one hundred percent clean mandates, except as part of the twenty percent alternative compliance option for the 2030 standard. RCW 19.405.040(1)(b).

CETA requires sales of electricity to be carbon free, and requires utilities to comply using electricity from renewable resources. RECs are not electricity. Instead, RECs are defined as a "tradeable certificate of proof" that includes the "non-power attributes associated with that one megawatt-hour of electricity." RCW 19.405.020(31). CETA's plain language requires the *electricity* that serves Washingtonians to be clean. By definition, RECs cannot meet that requirement no matter how they are categorized.[17]

6. Impossibility

Finally, the Utilities insist that CETA cannot mean what it says because it is difficult or impossible to track electricity and RECs. While there may be challenges associated with tracking, particularly in the context of regional markets, the markets have been able to adapt to

[17] *State v. Roggenkamp*, 153 Wn.2d 614, 625, 106 P.3d 196 (2005) (courts must "assume the legislature meant exactly what it said and apply the statute as written") (internal citations and quotations omitted).

other clean energy requirements, such as California's. There may also be alternatives to tracking electrons to ensure that utilities are using renewable and nonemitting resources to serve load. There are ten years before CETA's provisions take effect. With that amount of lead time, the Commission and the markets can settle on requirements that are both feasible and consistent with CETA's command that utilities use electricity from clean sources.

B. Purpose and intent

The Utilities next turn to the legislature's stated purpose and intent in RCW 19.405.010. They do not so much as mention the legislature's repeated statements on the need to transform Washington's energy supply and transition to one hundred percent clean energy. *See id.* Nor do they attempt to explain how their interpretation, which would allow utilities to continue to rely on fossil fuels indefinitely, is consistent with those statements. The Commission and the Department of Commerce must interpret CETA in a way that furthers, rather than undermines, these core goals.[18]

The Utilities instead assert that the legislature's intent to account for hydropower variability and include cost safeguards supports their interpretation. Not so. The legislature did state its intent to "provide flexible tools to address the variability of hydropower." RCW 19.405.010(7). Accordingly, the legislature incorporated a four-year compliance period into the 2030 standards. The Commission should not dilute the statute's core requirements to meet a goal the legislature already accommodated.

The legislature also found that Washington can meet the clean energy standards while "maximizing the value of hydropower," "continuing to encourage" clean energy sources, and maintaining "stable and affordable rates" for all customers. RCW 19.405.010(4). Accordingly, CETA contains a number of explicit cost protections for customers, ranging from energy assistance for energy-burdened households, to a cost cap for utilities. *E.g.*, RCW 19.405.120; RCW 19.405.060(3). Nothing in CETA's requirements or in the statement of legislative intent suggest that allowing a utility to comply solely with RECs while providing its customers with fossil fuel generated electricity was what the legislature intended. Moreover, reading CETA to allow utilities to continue to rely on their existing fossil fuel resources would undercut the legislature's intent to spur job growth by limiting utilities' need to invest in clean resources. *See* RCW 19.405.010(4) ("Clean energy creates more jobs per unit of energy produced than fossil fuel sources, so this transition [to clean energy] will contribute to job growth in Washington.").

[18] "Statutes should be interpreted to further, not frustrate, their intended purpose." *Bostain v. Food Exp., Inc.*, 159 Wn.2d 700, 712, 153 P.3d 846 (2007) (internal quotations and citation omitted). *See also Quinault Indian Nation v. Imperium Terminal Servs., LLC*, 187 Wn.2d 460, 468, 387 P.3d 670 (2017) ("[W]hen passing laws that protect Washington's environmental interests, the legislature intended those laws to be broadly construed to achieve the statute's goals.").

Fundamentally, the Utilities complain that serving their entire load with clean energy will be complicated and costly. Acquiring a one hundred percent clean portfolio is undeniably more challenging than simply acquiring renewable resources without regard to whether they produce electricity when it is needed. But that is the challenge the legislature required utilities to meet over the course of the next several decades. Renewable resources are cost-effective now, and CETA's cost cap provides a backstop to protect customers. With aggressive investments in conservation and efficiency, demand side management, storage, and different renewable resources spread out geographically that peak at different times, Washington's utilities can meet this challenge – especially with the decades of lead time the statute affords.

The Utilities' interpretation, in contrast, incentivizes utilities to purchase whatever renewable resources are cheapest, regardless of whether the energy they produce will meet their customers' demand. Under their interpretation, so long as a utility holds title or contracts for renewable resources, they could retain the RECs, sell the energy, and continue to meet virtually all of their customers' demand with fossil fuels. This is not what the legislature intended in requiring the "transformation" of Washington's energy supply to be "one hundred percent carbon free." RCW 19.405.010(1)-(2).

CETA requires utilities to invest intelligently in renewable and non-emitting resources that meet (or change) the shape of their customers' demand. It also allows utilities to continue to participate in markets to purchase and sell electricity, so long as the electricity they purchase to supply Washington is clean. CETA's one hundred percent clean standards pose a challenge – one that the legislature explicitly envisioned would "spur transformational change in the utility industry." RCW 19.405.010(5). The Commission must give effect to the legislature's intent by adopting rules that advance Washington toward an optimal clean energy system, one that uses a broad portfolio of clean energy resources to meet customer load.

* * *

In sum, CETA's plain language and stated legislative purpose require utilities to use electricity from clean sources to supply their Washington customers. The Commission's initial interpretation of this requirement is correct, and is the only interpretation that is consistent with the statute.