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Chair David Danner, Utilities and Transportation Commission
Commissioner Ann Rendahl, Utilities and Transportation Commission
Commissioner Jay Balasbas, Utilities and Transportation Commission
Director Lisa Brown, Department of Commerce

Northwest & Intermountain Power Producers Coalition’s Comments on the Interpretation of “Use” in RCW 19.405.040(1)(a) (Docket UE-191023)

Dear Commissioners and Director Brown:

The Northwest & Intermountain Power Producers Coalition (NIPPC)¹ thanks the Utilities and Transportation Commission (Commission) and the Department of Commerce (Commerce) for the ongoing opportunity to provide input on the agencies’ consideration of how to implement the Clean Energy Transformation Act (CETA).

In implementing CETA, Washington can demonstrate an effective way to decarbonize that harnesses existing and emerging competitive market mechanisms. Implementation of CETA should take advantage of the primary function of markets: efficiently allocating available resources among participants in a wide geographic footprint. Harnessing this function will allow renewable resources to serve more load without being curtailed, provide load-serving entities with greater access to renewable resources based on their customers’ needs, and allow all market participants to manage both variability in supply and load and the risks of such variability.

In light of the discussion at a recent public workshop hosted by the agencies on July 27, NIPPC provides comments here on the agencies’ respective interpretations of RCW 19.405.040(1)(a), focusing especially on the Commission’s pending interpretation in docket UE-191023.

NIPPC is encouraged by the agencies’ evident interest in converging on a common interpretation of this provision of CETA. Like other commenters,² NIPPC believes that the Commerce discussion draft rules released on April 28, 2020, are an appropriate

¹ NIPPC is a trade association representing competitive power participants in the Pacific Northwest. NIPPC members include owners, operators, and developers of independent power generation and storage, power marketers, and affiliated companies. Collectively, NIPPC represents over 4,500 megawatts of operating generation and an equal amount permitted or under development.

² See Joint Utility Letter and Legal Memo (July 31, 2020).

starting point for establishing a procurement-based framework for implementing CETA's greenhouse gas neutral standard rather than a delivery-based framework. A common approach by both agencies that aligns the mechanics of the competitive power markets with the statutory requirements of RCW 19.405.040 is critical to achieving the objectives of CETA at the lowest cost and least risk. The markets, in turn, are likely to reward this alignment by relaying a clear investment signal from Washington to renewable energy developers, operators, marketers, and investors.

As a starting point, NIPPC urges the Commission to provide a more detailed legal analysis of the Commission staff's preliminary interpretation of the meaning of "use" in RCW 19.405.040(1)(a)(ii). The Commission should provide this more detailed analysis before proposing an implementation rule for this provision, assuming the Commission is considering adopting the same statutory interpretation with respect to delivery to load that was discussed at the July 27 workshop. Stakeholders would greatly benefit from being able to consider and respond to a more detailed view than the cursory interpretation included in the notice of opportunity to file written comments on June 12, 2020,³ and the subsequent oral discussion at the workshop on July 27.

With respect to the specific interpretation of this provision, NIPPC first offers a broad perspective on the general challenge of selecting a compliance framework for clean electricity mandates. Returning to one of the questions posed previously by Commission staff in this proceeding,⁴ NIPPC agrees notionally with a premise that the "source and amount of all power injected into the bulk electric system is known and documented" but notes that this documentation by itself is of limited value once the identified power flows on the grid. While it is possible to identify aggregated flows and available transmission pathways, once power is "injected" onto the grid, it is practically impossible to trace and identify its ultimate "ejection" (i.e., delivery) to load. The physics of networked electric power flows preclude this identification.

Therefore, attempts to identify power delivered to load are necessarily administrative fictions that approximate, for accounting purposes, the actual behavior of power flows on the grid. NIPPC does not believe that CETA requires the Commission and Commerce to adopt the approximation represented by a delivery-based approach. A delivery-based approach would add enormous complexity to implementing CETA, impinge on Washington's ability to leverage regional markets, and make compliance with CETA more expensive, all without decarbonizing any faster.

In its interpretation of the word "use" in RCW 19.405.040(1)(a)(ii), the Commission should instead use its administrative discretion to establish a procurement-based program that simply considers procured electricity from a renewable resource to be "used" once its affiliated renewable energy credit (REC) is retired. Retiring RECs is already required in subsection (c) of the same paragraph. This approach is commonly used across the nation for compliance with renewable energy programs. It would harness the best combined features of organized markets and renewable energy

³ Notice of Opportunity to File Written Comments in Docket UE-191023 (June 12, 2020), p. 1-2.

⁴ Id., "Question for Consideration" No. 1, p. 2.

tracking systems, and it would allow the Commission to meet its statutory obligation by matching the amount of acquired (owned or contracted) electric power against the amount of retail electric load during the multi-year compliance periods. Meeting this obligation will ensure that the necessary supply of renewable energy will be developed and deployed to serve Washington customers.

Consistent with this approach, a Washington load-serving entity should not be able to simultaneously sell specified power into California and claim the same power for compliance under RCW 19.405.040(1)(a)(ii). Conversely, this approach would not preclude a load-serving entity from selling unspecified power while simultaneously retiring the associated REC for compliance with CETA. NIPPC believes that these respective scenarios related to double counting deserve further discussion by the agencies.

In addition to supporting a procurement-based approach, with respect to resources used to comply with CETA that are located outside of a load-serving entity's service area, NIPPC supports establishing a requirement to use specified points of delivery along a clear perimeter of the regional transmission network. This approach could take advantage of the footprint of existing and emerging organized market footprints while giving the Commission and Commerce the ability to ensure that procured electricity may, in fact, be used by retail customers in Washington. The agencies should hold further discussions to select an appropriate perimeter and eligible points of delivery, while acknowledging the ongoing regional dialogue to design market rules that treat all participants fairly.

Finally, NIPPC emphasizes the value of continued discussions within the Carbon and Electricity Markets Stakeholder Workgroup. Feedback from this workgroup and stakeholders engaged with it could provide further input to the Commission and Commerce as you consider how to implement this important provision at the core of CETA.

Thank you for your attention and for your careful consideration of these regulatory matters.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. Gray', with a stylized flourish at the end.

Spencer Gray
Executive Director
Northwest & Intermountain
Power Producers Coalition