PUGET SOUND ENERGY

Puget Sound Energy
P.O. Box 97034
Bellevue, WA 98009-9734
PSE.com

November 4, 2019

Filed Via Web Portal

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Drive S.W.
Olympia, Washington 98504-7250

Re: **Docket U-190652: Comments of Puget Sound Energy regarding Energy Independence Act and Clean Energy Transformation Act Rulemaking and Draft Rule Language in WAC 480-109.**

Dear Mr. Johnson:

Puget Sound Energy ("PSE" or the "Company") appreciates the opportunity to respond to the questions proposed in this docket and submits the following comments in response to the request in the Washington Utilities and Transportation Commission's ("Commission") Notice of Opportunity to File Written Comments issued in Docket U-190652 ("Notice") on October 4, 2019.

Low-income conservation

1. **Do stakeholders have concerns with the additions of the statutory definitions for "energy assistance" and "energy burden" in WAC 480-109-060?**

   PSE does not have any concerns with the new definitions of "energy assistance" and "energy burden" being proposed in WAC 480-109-060. PSE appreciates that the definition of "energy assistance" appears to be broad and flexible enough to accommodate new and creative ways of lowering household energy burden for low-income customers besides traditional energy assistance or weatherization grant programs. PSE encourages the Commission to also consider non-utility energy costs for customers in defining energy burden, specifically transportation energy costs for gasoline or diesel,

as these form the majority of household energy costs in Washington[1]. Furthermore, as PSE expects to make more targeted investments in programs to meet the clean energy objectives under CETA, such as conservation and distributed energy resources. PSE would like to target some of those investments towards reducing energy burden for some of our customers who could greatly benefit from the assistance.

2. **Please propose the level of energy burden that should be included within the definition of "Energy assistance need." Please explain and provide justification for your proposal. Industry literature suggests an affordability benchmark as low as six percent of household income**

PSE does not have a level of energy burden to suggest to the Commission at this time. PSE defers to the Commission and Commerce to recommend an affordability benchmark for "energy burden" to be considered in this rulemaking as well as Commerce's low-income rulemaking to implement Section 12 of CETA. A consistent definition of "energy burden" for all utilities would be most appropriate, so that Commerce's statewide energy assistance reporting under Section 12 can be compiled using the same benchmark for all utilities.

3. **Please propose a definition of "low-income" based on area median household income or percentage of the federal poverty level. Please explain and provide justification for your proposal. The maximum allowed in Laws of 2019, Chapter 288, § 2(25), is the higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size. Investor-owned utilities currently use 200 percent of the federal poverty level, adjusted for household size, for the low-income conservation programs.**

As with the prior question, PSE does not have a proposal for how to best define "low-income" at this time. PSE defers to Commerce on matters of income eligibility in order to remain consistent with State and Federal Weatherization Assistance Program policies and procedures.

For PSE's energy assistance programs, customers qualify if their income is within 150 percent of the federal poverty level. Potentially adjusting this threshold to as high as 200 percent of federal poverty level was discussed earlier this year by PSE's Low-Income Advisory Committee, a with representation from the local community action partners (CAPs), Commission staff, and others. This is a topic that the Committee plans to take

[1] 2019 Biennial Energy Report, Washington Department of Commerce, Indicator 7

up again after the winter season informed by more granular data about our customers once our Needs Assessment[2] is completed. At that time, PSE may have recommendations to the Commission and Commerce as to how this definition could be adjusted to better serve more customers.

For low-income conservation programs, PSE's existing eligibility level is 200% of federal poverty level or 60% of state median income, whichever is higher. Shifting to an area median income approach at the county level makes sense given the inherent variability with incomes relative to cost of living in different locations across the state. However, shifting to as high as 80 percent of area median household income could be casting too wide of a net in defining "low-income" in certain parts of our service territory where median household income is much higher. This would result in the area median income level far surpassing the 200% of federal poverty threshold for a large portion of the population, thus negating access to federal funds for customers between 200% of federal poverty level and 80% of area median income.

4. Do stakeholders have concerns with the proposed changes to WAC 480-109-100(10) addressing funding and programs for low-income energy assistance as described in the Laws of 2019, Chapter 288, §§ 2(16) and 12? Is additional language necessary? If so, please propose alternative rule language.

PSE does have concerns with the proposed changes to WAC 480-109-100(10) and would like more clarity as to the intent of the changes in subsection (10)(a). In WAC 480-109-100(10)(a), the discretion to fully fund cost-effective conservation is changed to a mandate (i.e. "…***may*** fully fund repairs, administrative costs…" is changed to "…***must*** fully fund repairs, administrative costs, and health and safety improvements…" [emphasis added]). PSE has consistently worked with its low income weatherization stakeholders (such as The Energy Project, low-income agencies, Department of Commerce) to provide administrative as well as health and safety repairs funding, according to their needs and requests. PSE works closely with its stakeholders to provide: (1) health, safety and repair funding; and (2) administrative funding, based on an agreed-upon percentage of the total weatherization project cost. Currently, that percentage is 30% for both (1) and (2). These figures are consistent with agreements PSE has made with its stakeholders.[3]

[2] Docket U-180680, Multiparty Settlement, Stipulation and Agreement, Authorizing Proposed Sales of Indirect Interests in Puget Sound Energy. Section E. ¶ 44, page 13.

[3] Docket U-180680, Multiparty Settlement, Stipulation and Agreement, Authorizing Proposed Sales of Indirect Interests in Puget Sound Energy. Section E. ¶ 45, page 13. It is important to note that the Macquarie Settlement

However, revising the language in this subsection to say utilities "…must fully fund repairs, administrative costs…" indicates that PSE ratepayers are expected to pay for 100 percent of these costs. This is a significant departure from current practice and could have unintended consequences. Low-income agencies would no longer be required to obtain funding through their established networks of federal and state funding. Additionally, this requirement could potentially impact the cost-effectiveness of the Low Income Weatherization program to a point where it may become untenable.

Additionally, PSE has concerns about the breadth and vagueness in subsection (10)(b)(i). PSE seeks clarity on what is intended by the phrase "benefits that accrue to the customer over the life of each conservation measure." PSE already calculates the life of each measure in its portfolio, as well as calculating the aggregate measure lives. PSE is uncertain as to what calculation the Commission would like PSE to perform, and what the benefit of such a calculation would be.

5. **The Laws of 2019, Chapter 288, § 12(2), requires utilities to plan for the provision of energy assistance aimed toward reducing household energy burdens. To the extent practicable, this energy assistance must prioritize low-income households with higher energy burdens. What considerations should the Commission consider in determining what is practicable in the context of low-income conservation?**

In determining what is practicable, PSE recommends the Commission consider a number of existing factors (and potential limitations) that impact utilities' ability to prioritize low-income households with higher energy burdens.

Low Income Weatherization

A key consideration for low-income weatherization is that these programs are administered through the Department of Commerce.

PSE defers to the Department of Commerce's rules for implementing low-income weatherization through the community action partner (CAP) agencies, as well as implementing the LIHEAP program. Commerce also act as the hub for processing HELP applications.

only sets a funding percentage on administrative payments (#2 above). Health, safety and repair funding (#1 above) is documented in PSE's Biennial Conservation Plans.

Commerce's policies (Policy 1.2.1) already clearly define households with a high energy burden as: "…a low-income household whose residential energy burden (residential expenditures divided by the annual income of that household) exceeds the median level of energy burden for all low-income households in the State. The median level is eight percent (8%). The annual energy burden of households with high energy burden is greater than eight percent (>8.0%)."

PSE is not equipped to independently administer prioritization for either weatherization or LIHEAP/HELP funds. If the Department of Commerce's responsibility were assigned to PSE, it would be administratively difficult and impracticable for PSE to prioritize and implement prioritization based on energy burden. It is likely that PSE would need to engage a third-party implementer to administer this function, which would increase program costs.

Furthermore, assigning a level of energy burden is an imprecise and impracticable approach to awarding energy assistance, which should consider several other variables beside income level. The Department of Commerce has determined that an 8% burden is the appropriate level for assistance. If another percentage is determined to be appropriate (through a mathematical, empirical, or statistical basis), consideration should be given to:

- The number of individuals in the household;
- Past weatherization projects;
- Amount of past HELP grants;
- Housing fuel mix and energy use intensities;
- Other circumstances, such as medical needs, could also impact energy needs;
- Behavioral choices/conservation awareness (for instance, is one household maintaining a very warm environment, and thus would have a high burden, while another household is keeping a very low temperature due to medical expenses, and thus would have a low burden, but is suffering more?); and
- Conflict with Department of Commerce protocols and guidance.

Another consideration is how low-income customers will be identified. For instance, PSE could potentially make such a determination based on past applications for energy assistance. However, for the non-treated/non-granted customers, would the Commission require self-reporting, reliance on census data, or something else?

There also will be challenges in obtaining the appropriate data to calculate energy burden, including income levels. While it is possible for PSE to obtain energy use data (the numerator of an energy burden calculation), it isn't possible to determine customer-specific income values (the denominator). Therefore, it would be impracticable to report, with a high degree of accuracy, specific instances of how conservation effected low-

income households with a higher energy burden. While it may be possible to aggregate a percentage within a geographic area, this may be artificially precise.

Once the energy burden has been calculated for applicable customers, the Commission should provide guidelines for utilities to direct low-income agencies (if this responsibility is transferred from Commerce to individual utilities) to market/perform outreach to applicable customers, in such a way that the higher-burden customers are prioritized.

Additionally, the Commission should establish guidelines on how services will be audited and reported. If a CAP agency—that doesn't report to PSE—serves a customer with a lower energy burden before a customer with a higher burden, the utility should not be held accountable.

Energy assistance programs

For PSE's Energy Assistance program, grants are currently provided on a first-come, first-served basis. If prioritization requirements are modified, it is important that those requirements are relatively straightforward to administer for all parties involved. For example, revisions to the application process could result in significant customer dissatisfaction and potential Commission complaints. Any revisions to administrative and system functions for assistance programs could be very costly for both PSE and the Department of Commerce. Furthermore, from a LIHEAP perspective, program process changes would also require significant modifications approved by the Department of Commerce. In the meantime, PSE is investigating the potential of a discount program, which would eliminate the customer application burden and intrusion, and could potentially serve a broader eligible customer base.

To ensure the objectives of Section 12 in CETA are successful, PSE recommends that the UTC and the Department of Commerce work with utilities to establish a methodology for:

1) Compiling income data that is consistent, confidential, and functional;
2) Creating guidelines for auditing low-income weatherization processes, including prioritization, customer interactions, and completed projects; and.
3) Creating guidelines for consistent reporting, including aggregate assistance need, number of households treated, and resultant metrics.

Incremental hydropower method three

6. **The Commission proposes to eliminate incremental hydropower method three and its associated five-year evaluation from its rules (see WAC 480-109-200(7)(d) and (e)). A recent analysis by Avista Utilities showed method three overestimated incremental generation. The Commission subsequently approved Avista's switch from method three to method one. Since no investor-owned utility currently uses method three, the Commission believes it reasonable to remove it from the rules.**

Additionally, while the proposed rules would allow the transfer of incremental hydropower renewable energy credits (RECs) per statute (see RCW 19.285.040(2)(e)(ii)(B)), this transferability would only apply to bundled RECs that cannot be calculated using method three because method three does not deal with real-time generation. Do stakeholders have concerns about deleting method three and its associated five-year evaluation?

PSE uses method 2 for calculating incremental hydropower under WAC 480-109-200(7) and does not foresee a need to use method 3 in future. Thus, PSE is supportive of the Commission eliminating it from the rules.

Greenhouse gas emissions reporting

PSE suggests the Commission eliminate the energy and emissions intensity report all together. It would be more appropriate and efficient for the Commission and utilities— whose costs are born by our customers—to focus on reporting to ensure progress is being made toward complying with CETA. The Commission and utilities have limited resources. It seems reasonable to focus those resources on ensuring compliance with CETA, which will reduce emissions as intended by the legislature. With all the rulemakings and changes required under CETA, PSE suggests the Commission consider whether it should continue to require a report that is: (1) not specified in the statutes it is entrusted to implement; and (2) not required by the Department of Ecology, the state agency responsible for regulating air emissions.

This reporting structure was developed before Washington adopted actionable legislation for utilities to reduce carbon emissions. It made sense at the time. This report is now inconsistent with the policy direction adopted by the Legislature. It would make more sense for the Commission to focus on CETA compliance, specifically focusing on requiring utilities to demonstrate they are achieving carbon neutrality by 2030 or otherwise are making adequate progress. That is, the legislature specifically chose to reduce carbon emissions from the electric sector via a minimum of 80% renewable resources with a maximum of 20% alternative compliance to offset emissions, so that utilities will be carbon neutral—subject to the rate cap and reliability guard rails.

While the WUTC should be ensuring progress toward meeting CETA requirements, those requirements presumably will be addressed in a separate rulemaking. Additionally, it may be reasonable to consider including GHG emission forecasts in future IRP filings, though again, this should be discussed in the IRP rulemaking. The reporting of air emissions is more appropriately conducted under the jurisdiction of the Department of Ecology. In fact, CETA specifically assigns the Department of Ecology the responsibility to address unspecified market purchases—yet the Commission's questions are asking essentially the same thing. Rather than having two state agencies developing potentially different standards for the same thing, it makes more sense for the Commission and utilities to engage with the Department of Ecology as they develop rules and procedures.

Notwithstanding this recommendation to eliminate the reporting requirement, PSE provides the following specific responses.

7. Do stakeholders have concerns with the additions of the statutory definitions for "carbon dioxide equivalent" and "greenhouse gases"?

No, these definitions appear consistent with the definitions provided in CETA.

8. Electric utilities currently report their carbon dioxide emissions through the energy emissions intensity reports required by WAC 480-109-300. The Laws of 2019, Chapter 288, § 7, requires reporting of "metric tons" of "carbon dioxide equivalent," which is further defined in the Laws of 2019, Chapter 288, § 2(22). Do stakeholders have concerns with the changes proposed in WAC 480-109-300? If so, please provide alternative rule language or justifications for retaining the existing language.

PSE does not have any concerns with the definition of "carbon dioxide equivalent" in CETA. The switch to reporting in metric tons is consistent with other reporting. However, if emissions reporting continue under this Commission rule, PSE recommends the WAC 480-109-300 be amended to define and incorporate all technical methodologies needed to calculate GHG intensity, and to ensure that these methodologies are consistent with CETA. This will streamline the reporting process and produce consistency in the calculations, which will make results more comparable over time.

9. The Laws of 2019, Chapter 288, §§ 2 and 7, define "greenhouse gas" and "carbon dioxide equivalent." However, the Laws of 2019, Chapter 288, § 7, does not provide a default emissions rate for greenhouse gas emissions other than carbon dioxide from unspecified electricity. How should the Commission's rules specify an emissions rate for greenhouse gas emissions other than carbon dioxide from unspecified electricity? What data source(s) and methodology should the Commission use to establish a default emissions rate from greenhouse gases other than carbon dioxide?

PSE disagrees that the Commission should develop rules to specify an emissions rate for greenhouse gases other than carbon at this time. PSE recommends Commission staff work with Ecology to standardize the default emissions rate for unspecified electricity to make it consistent with current market default emission rate. If Ecology does not develop default emission rates for the GHGs associated with unspecified electricity, PSE recommends applying the emission rates published in the Emissions & Generation Resource Integrated Database (eGRID). eGRID is issued by the EPA and links air emissions data reported under 40 CFR 98 with electric generation data reported to EIA. eGRID emission rates represent the actual output of a facility and can be presented at the state and NERC regional levels.

10. The Laws of 2019, Chapter 285, § 15, requires natural gas companies to put a price-per-ton cost on greenhouse gas emissions, including "emissions occurring in the gathering, transmission, and distribution" processes. Should WAC 480-109-300 include language requiring electric companies to report on greenhouse gas emissions occurring during the gathering of fuel for electricity generators?

House Bill 1257 applied the social cost of carbon and upstream emissions for the purposes of conservation planning for gas utilities. It may be reasonable to consider this in the IRP rulemaking, which would specifically be in the Commission's jurisdiction. PSE suggests the Commission consider the purpose of the legislation, to ensure that life-cycle emissions are considered. It does not make sense to include the carbon footprint of upstream gas emissions while ignoring the life-cycle GHG emissions associated with every element of the supply chain associated with all resources.

Definitions and other changes

11. Do stakeholders have concerns with any of the proposed changes to chapter 480-109 WAC described in Attachment A?

PSE does not have any concerns with the proposed changes to chapter 480-109 WAC at this time.

12. Do stakeholders have suggestions to simplify or clarify the language? If so, please cite the specific rule and propose alternative rule language.

PSE has no suggestions at this time.

13. Do stakeholders believe a workshop is necessary for this rulemaking?

For most of the topics in the rulemaking, PSE believes a workshop is not necessary. However, for Questions 1-6 defining "energy burden" and "low-income," PSE believes further conversation at the Commission, or in the low-income rulemaking led by Commerce, may be appropriate, particularly once draft rule language is proposed. PSE would prefer a consistent definition for these terms amongst all the utilities so that Commerce's statewide reporting under Laws of 2019, Chapter 288 section 12 reflects consistent metrics.

14. Are there other definitions from Laws of 2019, Chapter 288, that the Commission should include in chapter 480-109 WAC?

At this early stage in the rulemaking processes under CETA, PSE is not aware of any other definitions that should be incorporated into chapter 480-109 WAC.

15. Should this rulemaking establish protocols for designating confidential information in utilities' annual RPS reports? If so, how should the language in chapter 480-109 WAC be revised to address such protocols?

No, the designation of confidential information in RPS reports is a discrete issue outside of implementation of the EIA under CETA and should not be addressed in this rulemaking. Any change to the confidentiality rules should take place within WAC 480-07-160 (Confidential and other restricted information) as opposed to WAC 480-109-201 (EIA Rules). Furthermore, PSE is uncomfortable with having different rules for confidentiality in different parts of the WAC.

If the Commission chooses to proceed with addressing confidentiality as part of this rulemaking, please note that the proposed language does not accommodate PSE's historic practice of claiming only REC Sales (transacted) as Confidential. To address this, PSE proposes the following underlined language:

a) The annual renewable portfolio standard report must be non-confidential, except for the following items:

i. Renewable energy credit price forecasts,
ii. Transacted renewable energy credit sales or purchases, and
iii. Planned (i.e., not yet transacted) renewable energy credit sales or purchases

16. Should the Commission consider changes to WAC 480-109-200 addressing incremental cost calculation for eligible renewable resources? Specifically, what modifications to the language in chapter 480-109 WAC do you propose to address potential upgrades or renovations to existing eligible renewable resources?

The methodology current in place in WAC 480-109-200 and WAC 480-109-210 appears to be consistent with the intent of the law. PSE does not have any proposed changes to this rule at this time. However, it might be beneficial to revisit the methodology for the incremental cost calculation at a later date once other CETA-related rulemakings are farther along in their development.

17. The Laws of 2019, Chapter 288, § 10, requires the Commission and the Department of Commerce to adopt rules that "streamline" the implementation

of this statute with chapter 19.285 RCW. Given that the Commission and the Department will be conducting several rulemakings resulting from enacted legislation in the next few years, should this streamlining be addressed in the current rulemaking or should streamlining take place closer to the point when both agency's finalize rulemakings implementing statutory changes? What sections of rules in WAC 480-109 should be subject to streamlining?

PSE supports postponing rules to "streamline" implementation of CETA with the EIA until Commerce and the Commission are farther along in the development of their rules. At that point, all parties will have a better sense of the direction of the CETA rules and be better equipped to make suggestions for streamlining CETA with the EIA.

18. **The Laws of 2019, Chapter 288, § 6(a)(i), requires specific targets for energy efficiency, demand response, and renewable energy. Should planning and reporting requirements for energy efficiency integrate the planning and reporting requirements for demand response and other distributed energy resources? If so, how? Should any of this be addressed in chapter 480-109 WAC?**

PSE does not have an opinion on this topic at this time. As more CETA related rulemakings get underway, such as the clean energy implementation plan rulemaking, PSE will be in a better position to offer feedback on whether and how to integrate planning and reporting requirements for energy efficiency into the planning and reporting requirements for demand response and other distributed energy resources, if appropriate.

19. **Do stakeholders recommend any additional changes to chapter 480-109 WAC in this rulemaking? If so, please explain and provide justification for the change.**

PSE recommends updating the definition of "renewable resource" to include more sources of biologically or renewably generated fuels. The current definition only allows biodiesel and certain types of "Biomass energy" to qualify. Given the interest and policy direction in HB 1257 towards different biogas sources and hydrogen, as well as the broader definition of "renewable resource" for purposes of the CETA, PSE suggests broadening the definition of renewable resource in this rule to explicitly include a variety of biogas sources. For hydrogen and other produced fuels, the current definition appears to qualify these fuels as "Renewable resources" if they are produced from renewable resources:

(31) "Renewable resource" means:
(a) Water;
(b) Wind;
(c) Solar energy;
(d) Geothermal energy;
(e) Landfill gas;
(f) Wave, ocean, or tidal power;
(g) Gas from sewage treatment facilities, landfills, digesters, and other produced biogas;
(h) Biodiesel fuel as defined in RCW 82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006;
(i) Generation facilities in which fossil and combustible renewable resources are cofired in one generating unit that is located in the Pacific Northwest and in which the cofiring commenced after March 31, 1999. These facilities produce eligible renewable resources in direct proportion to the percentage of the total heat value represented by the heat value of the renewable resources; or
(j) Biomass energy, where the eligible renewable energy produced by biomass facilities is based on the portion of the fuel supply that is made up of eligible biomass fuels.

PSE appreciates the opportunity to provide responses to the questions identified in the Commission's Notice of Opportunity to File Written Comments. Please contact Kara Durbin at (425) 456-2377 for additional information about these comments. If you have any other questions please contact me at (425) 456-2142.

Sincerely,

/s/ Jon Piliaris

Jon Piliaris
Director, Regulatory Affairs
Puget Sound Energy
PO Box 97034, EST07W
Bellevue, WA 98009-9734
425-456-2142
Jon.Piliaris@pse.com

cc: Lisa Gafken, Public Counsel
Sheree Strom Carson, Perkins Coie