



STATE OF WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION

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January 15, 2020

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS**  
**(By 5 p.m., February 28, 2020)**

Re: Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023

TO ALL INTERESTED PERSONS:

On January 15, 2020, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to promulgate new rules to implement certain sections of the Clean Energy Transformation Act (CETA),<sup>1</sup> centered on the implementation of Chapter 19.405 RCW and revisions to Chapter 80.28 RCW. The Commission filed the CR-101 under Docket UE-191023.

The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's website at <http://www.utc.wa.gov/191023>. If you are unable to access the Commission's web page and would like a copy of the CR-101 mailed to you, please contact the Records Center at (360) 664-1234.

**BACKGROUND**

CETA requires investor-owned electric utilities to eliminate coal-fired generation from their portfolios by the end of 2025, to ensure that all retail sales of electricity to their retail customers will be greenhouse gas neutral by the end of 2030, and to source 100 percent of their power from renewable and non-emitting resources by the end of 2045. Furthermore, CETA requires that the utilities ensure that all customers are benefiting from the transition to clean energy through the equitable distribution of energy and nonenergy benefits and reductions of burdens to vulnerable and highly-impacted communities.

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<sup>1</sup> E2SSB 5116, Laws of 2019, ch. 288.

To implement these policy objectives, the legislature requires the Commission, as well as utilities and other entities, to undertake certain actions. The Commission is now engaged in a series of rulemakings to implement these requirements.<sup>2</sup> This rulemaking is focused on developing rules for Clean Energy Implementation Plans (CEIP),<sup>3</sup> demonstrating compliance with CETA, and implementing revisions to Chapter 80.28 RCW.

The Commission is seeking comments on a wide range of topics and expects to conduct a series of workshops throughout 2020 to explore some of the more complex issues in greater depth. The Commission understands that certain issues may benefit from workshops more than others, and therefore, encourages parties to highlight in their comments which issues would most benefit from an in-person discussion.

Along with this Notice, the Commission is releasing a draft schedule of major milestones in this rulemaking. This schedule does not include workshops. Please note that the Commission may revise the timing based on changes in the development of this rulemaking, Commission workload, subsequent legislative changes, or other reasons.

### **QUESTIONS FOR CONSIDERATION**

Commission staff (Staff) has conducted a preliminary review of the new law and has identified the following topics on which the Commission would benefit from stakeholder comment:

- CEIP targets;
- Public process;
- Demonstration of compliance with RCW 19.405.030, 040, and 050;
- Deferral of major projects under RCW 80.28.410;
- Compliance, enforcement, and penalties;
- Equitable distribution of benefits;
- Incremental cost of compliance; and
- Cost information within the CEIP.

The Commission requests comments on the following questions specific to these topics. The Commission also welcomes comments on other issues related to the subject of this rulemaking that these questions may not address.<sup>4</sup>

#### **Clean Energy Implementation Plans (CEIP)**

1. CETA stresses the need to maintain system reliability and resource adequacy.<sup>5</sup> RCW 19.405.060(1)((a)(iii) requires that the specific actions taken in a CEIP be consistent with the utility's resource adequacy requirements. What information should utilities include

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<sup>2</sup> Integrated Resource Planning, Docket UE-190698, Purchase of Electricity, Docket U-190837, and the Energy Independence Act, Docket UE-190652.

<sup>3</sup> RCW 19.405.060.

<sup>4</sup> At this time, the Commission is not asking questions on energy transformation projects while the Department of Ecology continues to develop the rules implementing RCW 19.405.040(2). However, commenters may submit comments on all issues pertinent to these rules.

<sup>5</sup> See RCW 19.405.010(2).

about their system reliability and resource adequacy in the CEIP? For example, should the utilities include detailed information about the resource mix it plans to use to meet system reliability and resource adequacy and how each resource type contributes?

### CEIP Targets

2. RCW 19.405.060(1) requires that by January 1, 2022, and every four years thereafter, each electric investor-owned utility must develop and submit to the Commission a four-year CEIP for the standards established under RCW 19.405.040(1) and 19.405.050(1). The plan must propose specific targets for energy efficiency, demand response, and renewable energy. The plan must also propose interim targets for meeting the standard in RCW 19.405.040(1) prior to 2030 and between 2030 and 2045.
  - a. Should the rules provide that specific targets must be defined cumulatively for each four year period, or identified annually, within the four year compliance period?
  - b. Should the Commission require utilities to identify interim targets by resource type or some other metric(s), such as percentage of sales to customers from nonemitting generation and renewable resources?
  - c. Should the Commission require that interim targets be defined cumulatively or annually for the years prior to 2030? For the years between 2030 and 2045?
3. RCW 19.405.060(1)(c) requires the Commission to approve, reject, or approve with conditions the CEIP and associated targets after a hearing. With conditional approval, the Commission may recommend or require more stringent targets. Are there circumstances in which the Commission can and should recommend, rather than require, more stringent targets? If so, when should the Commission recommend more stringent targets and on what basis could and should the Commission not require more stringent targets?
4. RCW 19.405.060(1)(c) allows the Commission to periodically adjust or expedite timelines when considering a utility's CEIP or interim targets. A common Commission practice is to respond to a motion to adjust timelines from any party with standing in a proceeding at any time or after hearing a compliance item at an open meeting.
  - a. What criteria should the Commission take into account in making changes to timelines?
  - b. When should the Commission consider adjusting or expediting the timeline? How should the Commission interpret the term "periodically?"
  - c. Who bears the burden of demonstrating that adjusting or expediting the timeline can or cannot be achieved in a manner consistent with RCW 19.405.060(1)(c)(i)-(iv)?
5. What level of additional detail, if any, should the specific CEIP targets include beyond the statutory language?
  - a. For energy efficiency, the target required by the Energy Independence Act, RCW 19.285.040(1)(a), follows methods consistent with those of the Pacific Northwest Power and Conservation Council and only considers first year savings. Should the

- energy efficiency target in the CEIP be based on cumulative savings, savings projected over the lifetimes of measures implemented in a given program year, or capacity savings?
- b. For demand response (DR):
    - i. How should the Commission develop a cost test to identify cost-effective demand response, as referenced in the Commission's *draft* rules under WAC 480-100-610(12)(e) (*See Integrated Resource Plan Rulemaking*, Docket UE-190698, Staff Discussion Draft Rules (Nov. 20, 2019))?
    - ii. Should demand response potential be considered only within a utility's service territory or encompass the utility's entire balancing authority?
  - c. For renewable energy:
    - i. How should the utility calculate its target? Should it be a glide path to 2030, glide path to 2045, or both?
    - ii. How should the utility consider and account for the Energy Independence Act renewable targets, as referenced in RCW 19.285.040, and nonemitting resources, as referenced in RCW 19.405.040(1)(a)(ii), when calculating the utility's renewable target under CETA?
6. Should the CEIP contain time ranges for the acquisition of capacity resources, or deadlines for acquisition?

### Public Process

7. What guidance (content and form) should the Commission provide to ensure utilities employ robust, equitable, and inclusive public involvement in drafting CEIPs?
8. Given the need for utilities to integrate their integrated resource plan (IRP), clean energy action plan (CEAP), and CEIP, what procedural outline should utilities' public involvement follow and what components (*e.g.*, advisory groups, workshops, comment periods, etc.) should be included? How should a CEIP public engagement and public involvement process emulate or differ from the proposed rules in the IRP rulemaking (*See Integrated Resource Plan Rulemaking*, Docket UE-190698, Staff Discussion Draft Rules at 17 (Nov. 20, 2019)) or the conservation planning process in WAC 480-109-110 and WAC 480-109-120? Please describe in detail.
9. Would a requirement for a utility to file a draft CEIP for public input be useful or problematic if the plan were to be litigated? Please explain why or why not.

### Demonstration of Compliance with RCW 19.405.030, 040, and 050.

10. The Commission uses a planning and reporting cycle for conservation under the Energy Independence Act described in WAC 480-109-120. Should Commission rules similarly describe the level and frequency of reporting for demonstrating compliance with RCW 19.405.030, 040, and 050?

11. Regarding the frequency of filings:
  - a. Should utilities regularly file reports on their progress toward meeting compliance metrics?
  - b. Does or should the frequency of the filings depend on the existence of a rate plan?
12. How must a utility demonstrate to the Commission that the utility has eliminated coal-fired resources from its allocation of electricity beginning in 2026, as required in RCW 19.405.030?
13. If the Commission has four years of investment information from a utility when approving its CEIP:
  - d. How often should the Commission require the utility to update the investment plans to reflect changing information?
  - e. May the updates be informational filings, or should they be formal filings subject to Commission approval?

#### **Deferral of Major Projects under RCW 80.28.410**

14. RCW 80.28.410 allows utilities to defer costs incurred in connection with major projects in the CEAP or that are identified in bids for resource acquisition. How should the Commission interpret “major projects” in this context? What metric should the utility use to identify major projects? How should these projects be included in the CEIP?
15. RCW 80.28.410 provides for the deferral of both the capital and the variable costs for new resources. Through the power cost adjustment mechanisms (PCAM), utilities recover only the variable power costs of resources. How should costs for new resources be treated in the PCAM in light of the additional deferral allowed under RCW 80.28.410?
  - a. Should the Commission require changes to the utilities’ power cost adjustment mechanisms to match the cost of new resources with the benefits in compliance with the statute?
  - a. During the period of deferral allowed under Chapter RCW 80.28.410(1) for a new energy resource, should the Commission provide deferral within the power cost adjustment mechanism for the difference between the hourly marginal costs of power production (or purchases) used to set the authorized power cost in effect during the deferral and the variable costs of the new energy resource not deferred under RCW 80.28.410(2)? If not, please explain why not? If so, should this change be requested as part of the CEIP, or through a separate proceeding?
  - b. During the period of deferral allowed under Chapter RCW 80.28.410(1) for a capacity resource, should the Commission provide an adjustment to the deferral within the power cost adjustment mechanism for the lower power costs resulting from the addition of a lower heat rate generation unit to the utility’s portfolio? If not, please explain why not? If so, should this change be requested as part of the CEIP, or through a separate proceeding?

### Compliance, Enforcement, and Penalties

16. RCW 19.405.090 provides that upon its own motion or at the request of the utility, and after a hearing, the Commission may issue an order relieving the utility of its administrative penalty obligation, if certain conditions are met. Does the Commission need to provide more guidance on the application of penalties and waivers of penalties in rule? If yes, please describe what additional guidance should the Commission provide.

### Equitable Distribution of Benefits

17. RCW 19.405.040(8) states:

In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.140, ensure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

- a. Please provide a list of costs and benefits (*e.g.*, public health, pollution) that the Commission should consider when determining a utility's compliance with RCW 19.405.040(8).
  - b. Please provide a list of which geographic areas, populations, customer demographics, or other factors the Commission should consider when determining a utility's compliance with RCW 19.405.040(8).
18. In the Commission's IRP rulemaking in Docket UE-190698, many stakeholders commented that the Commission should determine compliance with RCW 19.405.040(8) as part of the CEIP process. If the Commission were to do so, what types of guidance on RCW 19.405.040(8) compliance should the Commission provide in its CEIP rules? If the Commission were to provide guidance on RCW 19.405.040(8) compliance in a form other than rules (*e.g.*, an interpretive and policy statement), what type of guidance should the Commission provide? Please be as specific as possible in your responses.
19. Should a utility's demonstration of compliance with the requirements in RCW 19.405.040(8) include qualitative data, quantitative data, or both? Please explain your response. If you recommend qualitative data, which of the following approaches for approximating hard-to-quantify impacts are most appropriate: (a) service territory-specific studies; (b) studies from other service territories; (c) proxies; (d) alternative thresholds; or (e) or another approach? Does your response depend on a particular factual scenario? If so, please describe the scenario and explain why the approach you recommend is best suited for that scenario.
20. Please provide any existing data sources or methodologies of which you are aware for quantifying non-energy costs and benefits, and other equity-related impacts.

21. How should the Commission interpret RCW 19.405.060(1)(c)(iii)? How are the requirements in that statute different than the requirements in RCW 19.405.040(8)?

### **Incremental Cost of Compliance**

22. RCW 19.405.060(3) requires an electric investor-owned utility to use its weather-adjusted sales revenue to customers as reported in its most recent Commission basis report (CBR) as part of its incremental cost calculation. Each investor-owned utility is different in how it reports its weather-adjusted sales revenues and adjusts its sales for “weather.”
- a. Should the Commission standardize its CBR rules to be able to effectively implement the incremental cost calculation requirements in RCW 19.405.060(3)? If so, please describe how the Commission should revise those rules.
  - b. Can the Commission allow each utility to use a different weather normalization method and still create a consistent methodology for calculating incremental cost?
23. RCW 19.405.060(3)(a) states that an electric investor-owned utility complies with its Clean Energy Implementation Plan if, over a four-year compliance period, the utility’s average incremental cost to comply with RCW 19.405.040 and 19.405.050 increases by two percent over the utility’s weather-adjusted sales revenue.
- c. If a utility relies on the incremental cost compliance option as detailed in RCW 19.405.060(3)(a), when should the Commission determine whether the utility has achieved the incremental cost threshold for compliance? For example, should the Commission determine the utility’s compliance based on a forecast, at the time the utility files its Clean Energy Implementation Plan, based on actual data at the conclusion of the four-year period or through interim reporting, or a combination of these options?
  - d. If the Commission allows a utility to forecast its reliance on the incremental cost of compliance option, and the utility’s actual incremental costs increase more or less than two percent averaged over the four-year period, would a true-up mechanism be allowed and necessary to reconcile the differences between the actual and the forecasted incremental cost?
24. When using the incremental cost compliance option, RCW 19.405.060(3)(a) requires all of a utility’s costs to be directly attributable to the actions necessary to comply with RCW 19.405.040 and RCW 19.405.050. How should the Commission require a utility to demonstrate that such actions were “directly attributed and necessary” for the utility to take only to comply with CETA?
25. RCW 19.405.060(3)(b) states that if a utility relies on subsection (a) (incremental cost as a basis of compliance), the utility must demonstrate that it has “maximized investments in renewable resources and nonemitting electric generation prior to using alternative compliance options.” In what type of proceeding should the Commission require a utility to demonstrate that it has maximized investments in renewable resources and nonemitting

electric generation? What documentation should the Commission require the utility to provide?

### **Cost information within the CEIP**

Conservation plans include an element describing program budgets and cost recovery approaches for different resources. (*See* WAC 480-109-120 and 130.) As an example, a utility must recover transmission and distribution investments through a general rate case, while the utility may recover program costs through a conservation tariff rider. Further, changes to RCW 80.04.250 allow the Commission to provide for rate changes up to 48-months after the initial rate effective date. Finally, the Commission must approve a utility's CEIP, in the context of which the Commission may approve new cost-recovery approaches.

26. How should the utility address investment planning and cost recovery in its CEIP?
27. How could a utility's CEIP be used to set rates prospectively? Would using a CEIP to set rates prospectively be in the public interest? Please explain your answer.
28. Which elements of a CEIP should a utility recover through general rate cases? Which elements of a CEIP are appropriate for a cost recovery mechanism?
29. Should the Commission require a utility to provide in its CEIP (a) information on program budgets related to incremental programs for compliance with CETA; (b) descriptions of, and details about, capital budgeting for all investment; or (c) both?

### **WRITTEN COMMENTS**

The Commission gives notice of the opportunity to submit written comments no later than **5 p.m., Friday, February 28, 2020**.

Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in WAC 480-07-140(5), those comments must be submitted via the Commission's web portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing). If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at [records@utc.wa.gov](mailto:records@utc.wa.gov) or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (Docket UE-191023).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.utc.wa.gov/191023>.



If you are unable to file your comments electronically the Commission will accept a paper document.

### **FUTURE STAKEHOLDER WORKSHOPS**

Stakeholders will have further opportunity for comment at future workshops. Information about the workshop schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's website as it becomes available. Persons filing comments in response to this Notice will receive future communications the Commission issues in this docket. If you do not file comments but wish to receive such information you may contact the Commission's Records Center by telephone at (360) 664-1139 or by email [records@utc.wa.gov](mailto:records@utc.wa.gov) and ask to be included on the mailing list for Docket UE-191023.

When contacting the Commission, please refer to Docket UE-191023 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

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

If you have questions regarding this rulemaking, you may contact staff lead Brad Cebulko at (360) 259-5315, or by email at [bradley.cebulko@utc.wa.gov](mailto:bradley.cebulko@utc.wa.gov).

### **NOTICE**

**If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Executive Director and Secretary in one of the ways described above and ask to be included on the mailing list for Docket UE-191023. If you do not do this, you might not receive further information about this rulemaking.**

MARK L. JOHNSON  
Executive Director and Secretary