U-240281

PUGET SOUND ENERGY

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October 21, 2024

Received
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Oct 21, 2024

Filed Via Web Portal

Jeff Killip, Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, Washington 98503

Re: Docket U-240281 Comments of Puget Sound Energy

Dear Director Killip,

Puget Sound Energy (PSE) submits these comments in response to the Washington Utilities and Transportation Commission's (Commission) September 20, 2024 Notice of Opportunity to File Written Comments in this docket (Notice). In the Notice, the Commission invites comments on the implementation of Engrossed Substitute House Bill 1589, Chapter 351, Laws of 2024 (ESHB 1589 or Washington State Decarbonization Act for Large Combination Utilities). PSE begins with general comments and then provides responses to the questions contained in the Notice. Included with these comments as an attachment is a redline version of the draft rules issued by staff concurrently with the Notice.

General Comments

I. Meeting multiple statutory requirements in the ISP requires appropriate structure and content.

The Washington State Decarbonization Act for Large Combination Utilities permits the consolidation of numerous plans under seven different statutes.[1] At the same time, it maintains that the statutory required contents of each of those plans must be met in the Integrated System Plan (ISP). The rules for the ISP should include a structure and content that enables large combination utilities to comply with existing statutory requirements of any plan consolidated into an ISP. This is particularly important for statutory requirements related to the Clean Energy Transformation Act (CETA), which includes interim and specific targets required by law. PSE recommends that these elements required by CETA – the Clean Energy Action Plan and the Clean Energy Implementation Plan -- should have distinct sections in the ISP rules to better enable transparent expectations for fulfilling PSE's CETA requirements. In particular, requirements related to energy efficiency and demand response will be especially complicated in

[1] To achieve the law's intent, however, the Commission must also consolidate other plans that are required by rule, not statute. Most notably, this includes the natural gas integrated resource plan. *See* WAC 480-90-238.

the ISP, as PSE will need to demonstrate and set specific targets for energy efficiency and demand response for CETA and also conduct energy efficiency and demand response analysis that is specific to requirements in the Washington State Decarbonization Act for Large Combination Utilities. For example, CETA uses a different definition of "cost-effective" than the definition provided in the Washington State Decarbonization Act for Large Combination Utilities, so accommodation for use of two different definitions will need to be included in the final rules.

Additionally, because these new rules are replacing existing rules associated with the previous plans, PSE must be exempt from previous WACs including: WAC 480-100-600 through 480-100-655, and WAC 480-90-238, and WAC 480-109-210. Therefore, as a legal matter, references to those existing WACs within the new ISP WAC should not be used and any specific content from existing rules will need to be added to these new rules or modified to fit the ISP purpose, or replaced with appropriate statutory references. In the attached redlines, PSE has attempted to replace some of these references where possible either with alternative language or statutory references, but has highlighted others for further discussion. In particular, the existing rule requirements in WAC 480-100-660(4) related to the CETA incremental cost calculation are not practical or straightforward to implement and should be reexamined prior to adopting rules in this proceeding.

PSE appreciates staff consolidation of the existing RPS requirements in WAC 480-109-210 into annual clean energy reports as this will help improve administrative efficiencies for both the utility and the Commission without sacrificing transparency or statutory requirements. PSE recommends further simplification of the reporting requirements rather than merely referencing the current section of the rules. Many aspects of the current reporting structure are now unnecessary, as the CETA clean energy requirements eclipse the RPS requirements for large combination utilities. PSE recommends paring the requirements to those that are embedded in the statute. PSE's proposed redlines attempt to achieve this simplification.

II. Draft rules misinterpret requirements of RCW 80.86

The Washington State Decarbonization Act for Large Combination Utilities requires that large combination utilities 1) "include scenarios with emission reduction targets…" and 2) "achieve all cost-effective electrification of end uses…"[2] It does not require the establishment of targets for either electrification or emissions reductions. PSE has provided redline suggestions to ensure the draft rules are consistent with the Washington State Decarbonization Act for Large Combination Utilities.

[2] See RCW 80.86.020(4)(c) and RCW 80.86.020 (4)(h)

III. ISP Rules require more flexibility

The Legislature created a new energy-planning framework centered on the development of an Integrated System Plan (ISP) – a comprehensive new planning paradigm to consolidate and streamline many of a large combination utility's legacy plans. PSE, in its previously submitted comments in this docket, recommended that the objective of this rulemaking should be to streamline existing planning and regulatory requirements and allow for needed flexibility to develop the first Integrated System Plan in Washington State in a relatively short timeframe. Unfortunately, by largely repeating or cross-referencing existing rules for the legacy plans that are being consolidated, the draft rules fail to achieve the streamlining and flexibility that are needed for this endeavor. Rather than detail the specific recommendations for addressing this in these written comments, PSE provides a set of redline edits in the attached that serve as initial recommendations in this regard. The redlines propose removal of sections of existing rules that are either no longer needed for the new ISP, or require modification. As an example, PSE has provided a new public participation section that will meet the needs of the ISP more effectively than previous rules that focused only on electric system resources.

Responses to Notice Questions

Below PSE responds to the questions in the Notice. Consistent with PSE's general comments above, the central themes underpinning each of PSE's responses are the need for regulatory flexibility and innovation during initial implementation of the law and maximizing the limited time available by focusing on the needed procedural requirements in order for PSE to prepare its first ISP by January 1, 2027.

1. Content of an Integrated System Plan (ISP): Please review Table 1.

a. Are there missing energy plans that should be included in the ISP, which are not currently identified in Table 1, above, or included in the draft rules?

No.

b. For example, should the Biennial Conservation Plan (BCP) also be included in an ISP?

Not at this time.

c. What timing is most appropriate for both plans (ISP, BCP)?

PSE proposes a schedule for the ISP in the attached redlines that changes over the first few ISP cycles with the intent to eventually align the ISP with the statutorily required timelines for the Clean Energy Transformation Act requirements. PSE recommends the current BCP timing remain the same for future BCPs.

Additionally, PSE recommends that the Electrification of Transportation Plan (TEP) be included as an optional plan that may be included in the ISP, rather than a requirement of the ISP. RCW 80.28.365 does not require Electrification of Transportation Plans, rather it sets forth requirements in the event that a utility does provide such a plan. PSE expects to determine in the coming year whether this plan would benefit from consolidation into the ISP or whether the plan should be coordinated with the ISP but remain a stand-alone plan. PSE has provided redline suggestions for this change.

2. Content of an ISP, long-term and implementation sections:

a. WAC 480-95-030: Please identify any issues with the draft rule language and provide recommendations to address those concerns through comments or redline edits.

Please see PSE's introductory comments above and the attached suggested redline edits for WAC 480-95-030.

b. WAC 480-95-040: Please identify any issues with the draft rule language and provide recommendations to address those concerns through comments or redline edits.

Please see PSE's introductory comments above and the attached suggested redline edits for WAC 480-95-040.

3. Compliance timeline: While the current CEIPs are based on a 4-year compliance period, the multiple references to "emissions reduction periods" for ISPs [RCW 80.86.010(14); RCW 80.86.020(4)(e) and (g)] suggest that a 5-year timeline may be beneficial in harmonizing the Clean Energy Transformation Act, Climate Commitment Act, and 80.86 RCW requirements in a consolidated planning environment. This may especially be true when considering the practical compliance and reporting implications in RCW 80.86.020(4)(e) and (g). As such, the Commission requests feedback on both the compliance and associated timelines:

The emission reduction periods referenced in RCW 80.86.020 require large combination utilities to include in Integrated System Plans **s**cenarios with emission reduction targets for five year emission reduction periods. Use of the emission reduction periods is limited to ISP analysis only and has no associated compliance targets. This is in stark contrast to CETA, which requires electric utilities to set a number of four year targets that have compliance requirements. For this reason, PSE recommends a schedule for ISP's that meets the statutory deadlines for the first ISP set in 80.86.020 and then gradually evolves to a schedule that is aligned with CETA's four year compliance periods. Within this four year framework, given that the ISP is a long-term view, it will be very easy for PSE to incorporate scenarios that provide for the five year emission reduction period analysis.

a. Could a 5-year compliance period be used for an integrated system plan and still meet the "statutorily required content" of a CEIP (RCW 19.405.060)? If yes, please explain.

No. RCW 80.86.020 does not establish five year compliance periods. In fact, the ISP does not have any "compliance periods" beyond the statutory requirements of CETA that are integrated into the ISP. Moving to a five year compliance period would not work for CETA purposes and PSE does not recommend taking this approach.

b. In the alternative, if a 4-year compliance period were used, how would that impact the ability of the Commission and interested parties to assess a large combination utility's potential claim that a given level of conservation or demand response was "neither technically nor commercially feasible during the applicable emissions reduction period" [RCW 80.86.020(e) and (g)]? Please explain.

Given that an ISP analysis spans 20 years or more, it will be very straightforward to demonstrate the requirements of RCW 80.86.020 (e) and (g) by looking at these elements over a five year time span.

4. Definition of "commercially feasible" (RCW 80.86.020(4)(e) and (g)): Commission Staff (Staff) interprets the term "commercially feasible" to be different from the term "cost-effective" as used in the EIA. Staff interprets "commercially feasible" as related to the Technically Achievable Potential as determined in utility Conservation Potential Assessments (CPA). Further, Staff believes the definition of "commercially feasible" may be an eventual compliance question regarding conservation achievement.

a. Should there be a definition of "commercially feasible"? If yes, please provide proposed definition.

Under the EIA, the conservation target is set by the CPA, which determines achievable technical potential, and the IRP, which determines what level of conservation is economical based on a comparison of levelized costs of energy between various supply-side resources. The EIA then requires PSE to set a two-year conservation target at the two-year pro-rata of the ten-year economic achievable technical potential. ESHB 1589 appears to adopt an entirely new target criteria; 2% of annual load, or higher (if the Commission deems it cost effective) or lower (if the Commission finds it to be not technically or commercially feasible). "Technically feasible" seems to be a reasonable proxy for the CPA's achievable technical potential. "Commercially feasible" is a new term, which is not defined. Currently in PSE's conservation planning process, it executes an RFI and RFP to commercial vendors in its service territory and builds a conservation portfolio for the subsequent two years that can be deployed in the market and meets the Total Resource Cost test. PSE proposes that this RFI/RFP process represents the best available way of determining what is commercially feasible in the local market over the short-term target window (such as the subsequent biennium). Unlike the CPA, which uses modelling and assumptions based on the best available sources to determine conservation

potential over time, the RFI/RFP process has the benefit of taking into account the latest programs and tactics the market can deploy, given all known pricing and market conditions in the short term. The CPA's technical achievable potential may suffice as a longer-term target within the ISP's 20-year planning horizon, but the short-term target should take into account market conditions as they exist. PSE is not certain that a definition of "Commercially Feasible" is the appropriate approach to incorporate this concept of using this existing process as the way to determine what the commercial market is able to deploy for short-term target setting.

b. How is "commercially feasible" different from "achievable" cost-effective conservation in the EIA?

The primary difference between "achievable" cost-effective conservation in the EIA and "commercially feasible" in Washington State Decarbonization Act for Large Combination Utilities would appear to be the manner in how they are developed. PSE understands "achievable" to mean the maximum technically achievable conservation that is assumed to be adopted by customers, based on adoption curves provided by the NW Power Council. Though they should theoretically yield similar results, the CPA models long-term conservation potential based on assumptions such as the NW Power Council regional ramp rates, building stock assessments, and the effect of codes and standards, whereas commercially feasible conservation could be, as proposed above, a portfolio developed in conjunction with commercial vendors who are intimately familiar with our service territory, the markets they serve and the best practices in program design. Just as an example, PSE recently deployed a Virtual Commissioning program, in which a commercial vendor uses data analysis to identify businesses whose energy consumption appears high based on their proprietary algorithms, and they then engage with the business to execute simple commissioning steps that lower their energy use. It is unlikely that a high-level analysis of conservation potential based on the CBSA or NW Power Council assumptions could have captured such an innovative approach that was available on the market. For this reason, PSE proposes that "commercially feasible" is different from "achievable", and that "commercially feasible" should be based on more short-term market-facing engagements such as PSE's RFI/RFP process as described above.

5. Definitions – general: Are there other definitions within the proposed rules that are missing or need to be changed? If yes, please explain.

Yes. PSE has a number of recommendations in the definitions section. First, there is a complicated issue to manage relating to the definition of "cost-effective". This term now has two different statutory definitions. The first definition is found in RCW 80.52.030 and used by reference in RCW 19.285.030 to apply to energy conservation and renewable energy targets established by the Energy Independence Act in RCW 19.285.040. This definition is applied to CETA conservation targets, which must be consistent with 19.285.040, and uses this existing definition of "cost effective." The second definition is established by RCW 80.86.010 and is currently in the draft rules. PSE points out that for purposes of CETA compliance, the rules need

to reference and use the earlier definition of cost-effective found in RCW 80.52.030. PSE's redlines propose a separate cost-effective definition at the beginning of the chapter related to the Clean Energy Action Plan and the Clean Energy Implementation Plan to accomplish this statutory requirement.

Additionally, PSE recommends modifying a number of definitions and adding one definition as described here and in the attached redlines.

- PSE recommends modifying the definition of "demand response" to include natural gas usage and service. This recommendation is included in PSE's attached redlines.
- PSE recommends modifying the definition of "low-income" to reference the appropriate RCW section rather than the WAC rules.
- PSE recommends adding a definition for "nonwires solution." A recommended definition is proposed in PSE's redlines.
- PSE recommends modifying the definition of "resource" to encompass gas system resources.
- PSE recommends modifying the definition of "social cost of greenhouse gas emissions" to remove the reference to the generation of electricity and to remove extraneous information not needed for the definition.

Finally, PSE identified definitions that are not needed, which it recommends removing from the rules:

- "Costs of greenhouse gas emissions"
- "Implementation period"

6. Pipeline replacement plan data: To support safety and reliability, gas utilities plan for replacement miles of gas pipeline every year. Additionally, avoiding gas distribution pipeline replacement through targeted electrification must be considered within an ISP. As such, does the language outlined in WAC 480-95-050 adequately include costs without impacting safety and the approval processes for necessary repairs, improvements, changes, additions, or extensions?

No. PSE provides a more streamlined suggestion in the attached redlines that incorporates the requirement to use pipeline replacement plan data directly in the relevant ISP section of the rules.

7. Outreach to consumer-owned utilities: Is the language in WAC 480-95-050(2) adequate to ensure communication with consumer-owned utilities, while maintaining sufficient flexibility?

The language provided in RCW 80.86.080 is sufficient; WAC 480-95-050(2) which is materially similar but not the same as the statutory language is not needed and alterations in language could result in confusion or misinterpretations. Further, RCW 80.86.080 also conveys responsibilities on the consumer-owned utilities. PSE understands that as the Commission does not regulate consumer-owned utilities, it would be inappropriate to include these responsibilities in rule, however, providing rules for only a portion of this statutory subsection is neither necessary nor does it provide a clear interpretation of statutory intent. In summary, PSE asserts that rule language is not needed for this section of the new law.

Perhaps more critically, PSE is confused about the basis for the inclusion of WAC 480-95-050 (3) in the draft rules. PSE cannot find anything in the Washington State Decarbonization Act for Large Combination Utilities that discusses or implicates the content of this draft rules section. Furthermore, PSE contends that the content in this draft section of the rules is indeed counter to the intent of the legislation, which seeks to encourage geographically targeted electrification where it is cost-effective for customers. The practical impact of this section will be instead to discourage, or even make impossible, the first instances of geographically targeted electrification, due to the challenges associated with the question of customer allocation of costs associated with such investments when the customers are in different utility service territories. PSE therefore recommends removal of this section in the final rules.

8. Plan development and timing: RCW 80.86.020 requires the Commission to approve, reject or approve with conditions an ISP within 12 months of filing.

a. Please describe the filing and review process that you envision for an ISP.

PSE is interested in the thoughts of other interested parties to this rulemaking on this topic. At a high level, the process for filing and reviewing an ISP should be clear, transparent, and lead to an efficient and timely decision by the Commission. PSE envisions the development of an ISP will involve a considerable amount of engagement, collaboration and consultation prior to filling the ISP with the Commission. PSE's expectation is that this process of engagement should set the stage for a swift and efficient approval process at the Commission.

b. How does that differ from the current draft rules?

There are several aspects of the draft rules that can be improved. First, PSE does not recommend using the existing CEIP approval process in WAC 480-100-645 without modification. The existing rules are not ideal for the CEIP, and should not be applied to the ISP. The existing rules undermine the Commission's decision-making authority and have the potential to lead to the Commission, interested parties, and the Company expending considerable time, legal fees and other expenditures on adjudicated processes that may not be needed. PSE recommends that the Commission should have the authority whether to adjudicate an ISP in a

formal proceeding; this is not a decision that should be made by one individual or party. PSE's redlines provide suggested language in this regard.

The second improvement is for the rules to provide some expectation of timing and process for the draft and final ISP leading up to the Commission's decision. PSE does not provide redlines specifically for this purpose here, but suggests that this may be the subject of further discussion with interested parties to this rulemaking.

c. Further, should it resemble the existing IRP or CEIP process more?

No. The ISP is a new endeavor and should not necessarily resemble either the IRP or the CEIP process. PSE recommends improvements beyond both of these existing processes.

9. ISP midway progress report: In the draft rules, the Commission proposes an ISP midway progress report that would update major long term planning assumptions, necessary implementation details, and significant changes in law or economic conditions.

PSE strenuously objects to the creation of a midway progress report. Nothing in the statute requires or contemplates a midway progress report. Further, an ISP requires an extensive amount of engagement, study, analysis, modeling, as well as documentation, writing and other time intensive endeavors. It will not be possible for PSE to produce a midway progress report as envisioned in the current draft rules. Additionally, PSE believes it would be burdensome on its advisory groups, interested parties and the Commission for little practical gain. PSE supports the rule sections that require annual progress reports and suggests that this will be a more meaningful approach to ensuring that a utility is adequately implementing and making progress on its approved ISP.

a. Should the information provided in this document allow a utility to request changes to previously approved targets? If yes, what standards should be met for the Commission to change targets?

The nature of planning requires a utility to predict unknown future conditions and circumstances and inevitably these planning assumptions often turn out to be incorrect. If circumstances change materially, a utility should be provided with the opportunity to petition the Commission for a change to its previously approved CETA targets. Due to the nature of uncertainty, PSE does not recommend establishing criteria at this time as each particular future circumstance may be different. The Commission should weigh the merits of a request to change previously approved targets at the time of the filing.

b. If so, please describe what an appropriate process would be for review of this document. Should this process be subject to adjudication or not?

The process should be through a petition to change the previous order of the Commission. The Commission has the authority to determine if an adjudication is necessary to reach a decision or whether the decision can be made through the open public meeting process or some other Commission led proceeding.

10. Reporting and compliance: What metrics are important to include in reporting and compliance filings to demonstrate progress towards electrification and emissions reduction targets?

As previously discussed, nothing in the Washington State Decarbonization Act for Large Combination Utilities establishes electrification or emissions reductions targets or associated compliance requirements. PSE is open to a discussion about whether metrics, in addition to those currently reported for other purposes, are needed for the ISP but does not have any specific recommendations at this time.

11. Public participation: Are there missing elements, or areas that need to be changed, in WAC 480-100-655 that should be included in a public participation plan for an ISP? If yes, please explain.

PSE proposes a streamlined but comprehensive public participation section in the attached redlines. PSE's redlines aim to streamline duplicative documents created by requiring both the former IRP workplan and CEIP public participation plan for the new ISP. Those two documents and their overlapping objectives can be streamlined into a single document that is more accessible, transparent and meaningful to interested parties.

12. Named communities and WAC 480-95-030(10): Staff interprets vulnerable populations, highly impacted communities, and overburdened communities -- including customers of both electric and gas systems – to be considered and referred to as "named" communities, which should be considered within ISP. Do you agree? Further, are there any other places in the rules where this may also apply?

The only complication that PSE sees with this is that CETA only includes "vulnerable populations and highly impacted communities, which PSE has generally referred to as "named communities." However, since the definition of overburden community cross references vulnerable populations and highly impacted communities, this is likely a reasonable approach as long as the interpretation of overburdened communities does not diverge from these two CETA definitions. This topic may warrant more discussion to ensure that definitions and intent are clear in the requirements for the ISP.

13. Enforcement: What enforcement mechanism should the Commission consider with the emission reduction targets and other aspects of the ISP? For example, should the

Commission add language in a new enforcement section language modeled after WAC 480-100-665?

As previously discussed, nothing in the Washington State Decarbonization Act for Large Combination Utilities establishes electrification or emissions reductions targets or associated compliance requirements. Therefore, any requirement for targets and especially any enforcement mechanism for such targets would be beyond the scope and authority provided by statute.

14. Amendment to definition of IRP in WAC 480-107, Electric Companies—Purchases of Resources: Is there a nexus between acquisition rules and filings made in accordance with WAC 480-95-030, the new ISP? If yes, what additional revisions are needed beyond connecting the IRP and ISP requirements with acquisition processes? If no, please explain.

Yes. The challenge before large combination utilities that the legislature has determined to address through CETA and the Washington State Decarbonization Act for Large Combination Utilities requires significant changes to Washington's energy system. These changes will require significant procurement, particularly of electric resources. PSE's recent experience with the existing Purchase of Resources rules is that the rules are often cumbersome and are not well suited to the frequent and streamlined acquisition processes PSE finds are necessary to meet current and future needs. PSE suggests that the amendment of WAC 480-107 Electric Companies – Purchase of Resources should provide for adaptations to the rules that are more suitable to the procurement needs of large combination utilities in light of new requirements. PSE plans to provide more extensive comments and redlines for WAC 480-107 in the near future.

Thank you for the opportunity to submit these comments. PSE looks forward to participating in the related workshop on October 25. If you have questions about this filing please contact Stephen Collins, Regulatory Affairs Initiatives Manager, at Stephen.Collins@pse.com. If you have any other questions, please contact me.

Sincerely,

/s/ Wendy Gerlitz

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Attachment:
PSE Draft Rule Redlines (10-21-2024)