

November 4, 2019

SENT VIA WEB PORTAL

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop S.E.
P. O. Box 47250
Olympia, Washington 98504-7250

***RE: Rulemaking for Energy Independence Act (EIA), WAC 480-109, Docket UE-190652
Comments by Washington Environmental Council***

Dear Mr. Johnson:

Thank you for the opportunity to comment on draft language to address amendments to the EIA enacted by Laws of 2019, Chapter 288, and Laws of 2017, Chapter 315. This letter constitutes our response to the notice of opportunity to file written comments on the draft rules, Docket U-190652.

Washington Environmental Council is a statewide not-for-profit environmental advocacy organization that has been working to protect and restore the environment for all Washingtonians. We work in collaboration and coordination with other environmental organizations, environmental justice organizations, tribal nations, labor unions, businesses and more to affect change.

In evaluating and moving forward the work to synchronize the EIA and Clean Energy For All law, the following are a few themes:

- Continue to clarify only incremental hydropower projects owned by qualifying utilities or by the Bonneville Power Administration (BPA), if BPA provides both power and non-power assets in a transaction with the qualifying utility, may be used to meet renewable energy targets under EIA. Additionally, the protection of wildlife and preservation of habitat is a key component for these limitations on incremental hydropower.
- Continue to document the use of eligible renewable resources and RECs for compliance with the EIA. In particular, specifying that RECs from electricity generated by freshwater must be bundled and may only be used to meet a renewable energy target under EIA in the year the electricity was generated is key since these limitations help to prevent hedging and maintain REC integrity.
- Revise the process for determining the emissions rate for unknown generation sources under EIA so that it matches the process used future compliance with CETA. This will prevent utilities from reporting different metrics of energy and emission intensity for the same activities.
- Continued, ongoing, and durable coordination between the Department of Commerce and Utility and Transportation Commission is critical for the long-term success of implementation and clarity of requirements.

In addition, below are comments on select Commission questions:

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Low-income conservation questions

- *Do stakeholders have concerns with the additions of the statutory definitions for “energy assistance” and “energy burden” in WAC 480-109-060?*
 - We do not have concerns with the additions of the definitions verbatim from the statute.
- *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.*
 - We support identifying the level of burden that most accurately and equitably captures the comprehensive need of Washingtonians in receiving assistance. We look to those who have direct expertise in this work such as the Energy Project, Front & Centered, and NW Energy Coalition to provide specific guidance.
- *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.*
 - Similar to above, we support defining ‘low-income’ in a way that most equitably and accurately reflects the needs of Washingtonians. Being thoughtful about the definition of ‘low-income’ is critically important since it determines which households are eligible for energy assistance and other programs. We look to those who have direct expertise in impacts and results of programs for low income people, such as the Energy Project, Front & Centered, and NW Energy Coalition to provide specific guidance.
- *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.*
 - The amendments are important to avoid a split incentive and to clarify that utilities must fully fund and implement low-income conservation programs. The amendments also ensure that planning efforts are aligned under CETA and the EIA. However, the proposed WAC 480-109-100 (10)(b) should be amended to reflect that the utility’s biennial conservation plan should be adapted and improved so that progress is made toward meeting energy assistance need.
- *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?*
 - We believe that the Commission should require utilities to fully document their work in providing assistance and consider a way to receive feedback from low-income household customers as part of the review process of determining what is practicable.

Greenhouse gas emissions reporting questions

- *Do stakeholders have concerns with the additions of the statutory definitions for “carbon dioxide equivalent” and “greenhouse gases”?*
 - We do not have concerns with these additions. It is important to add these definitions so they are aligned across the administrative code and across agencies.
- *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.*
 - We do not have concerns. It is important to revise the process for determining the emissions rate for unknown generation sources under EIA so that it matches the process used for future compliance with CETA. This will prevent utilities from reporting different metrics of energy and emission intensity for the same activities.
- *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?*
 - We suggest the Commission (and Commerce) work with the Department of Ecology to establish default emission rates for greenhouse gases other than carbon dioxide.
- *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?*
 - Yes, we believe that all greenhouse gas emissions reporting for all greenhouse gases should include upstream evaluations.

Additional questions

- *Do stakeholders believe a workshop is necessary for this rulemaking?*
 - We support ongoing public engagement and public comment periods.
- *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?*
 - This rulemaking should reinforce public accountability and transparency.
- *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?

- We encourage the Commission to continue the current rulemaking in order to understand if any further streamlining is needed. Once the Commission has an assessment of the need for further streamlining, then we encourage the Commission to daylight and provide opportunity for public input on that.
- *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?*
 - Energy efficiency, demand response and renewable energy tools should be integrated into planning processes and there should be appropriate cross-referencing between the various regulatory components managed by the Commission.

Thank you for the opportunity to comment on this important rulemaking.

Sincerely,

Eleanor Bastian
Climate and Clean Energy Policy Manager