PUGET SOUND ENERGY

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

September 11, 2020

Filed Via Web Portal

Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

Re: **Dockets UE-190698 and UE-191023: Comments of Puget Sound Energy on Second Set of Discussion Draft Rules Relating to Clean Energy Implementation Plans and Integrated Resource Plans**

Dear Mr. Johnson:

Puget Sound Energy ("PSE") appreciates the opportunity to provide comments on the second set of discussion draft rules and questions posed by the Washington Utilities and Transportation Commission ("Commission") relating to Clean Energy Implementation Plans ("CEIP") and Integrated Resource Plans ("IRP"). PSE strongly encourages the Commission to streamline the proposed rules to better align with the overall goals of the Clean Energy Transformation Act ("CETA"). As explained further below, PSE believes the current draft of the rules tries to cover more topics and address more complex policy issues than are necessary at this time. PSE has significant concerns with many aspects of the draft rules and cannot support them in their current form.

PSE does not make this statement lightly. PSE recognizes that Commission staff has invested considerable time, resources, and effort in developing these draft rules. Completing a complex rulemaking like this, especially under time constraints and during a global pandemic is challenging. But in PSE's view, the rules have become more cumbersome, more onerous, and less clear from a regulatory standpoint. Simply stated, they are not workable for the utilities that will be required to achieve the already challenging targets set forth in the CETA.

PSE had significant concerns with the overall direction and content reflected in the first set of discussion draft rules, published in May 2020. However, PSE was encouraged to provide detailed feedback and to propose redlines to help shape the next iteration of the draft rules, with all parties acknowledging that there was still time and opportunity for the rules to improve. Accordingly, instead of objecting to the draft rules on a more global level, PSE invested

significant time and energy to provide constructive comments and redlines in its June 2, 2020 comments. Yet, for the most part, PSE's redlines and suggested changes are not reflected in the current, second set of discussion draft rules. Nor have the rules improved in substance or form. Therefore, PSE cannot support them.

A different, far more streamlined framework is required for utilities to have a chance at achieving CETA's policy objectives—an approach that recognizes that CETA was intended to be transformative, while ensuring key protections for customers as the transition occurs. Consistent with CETA's forward-looking, transformative nature, PSE is providing a more streamlined rule framework as Attachment A.

PSE's comments are divided into three parts:

(1) Comments on major substantive areas of concern, with examples, and where appropriate, descriptions of PSE's proposed alternatives;

(2) Responses to the Commission's questions posed in the Notice; and

(3) A more streamlined framework for the draft rules, in a separate attachment (Attachment A).

Introduction

As PSE has expressed in prior comments, CETA will drive PSE to transform over half of its power supply portfolio to carbon-neutral and carbon-free resources over the next 25 years. CETA requires doubling PSE's existing portfolio of renewable resources while incorporating new regulatory requirements. Embarking on this transition towards a cleaner and more equitable electricity future—while keeping rates affordable for all customers and maintaining reliability—will be an enormous challenge and require a tremendous amount of work.

PSE is committed to making this vision a reality. But to have any chance at succeeding, it is critical that the Commission adopt rules that create a clear, forward-looking *framework* within which utilities can act quickly and confidently to achieve CETA's ambitious goals and respond to customer demands. A continuation of the regulatory construct of the past will not suffice—which is why the Legislature granted the Commission the tools to look ahead. The current draft rules will, at best, result in utilities making slow, incremental progress hamstrung by *process* at almost every turn. Indeed, the draft rules, if adopted, represent so much process and constant re-evaluation of assumptions that they will significantly hinder and discourage PSE from moving quickly. At worst, it will make it nearly impossible for PSE to make measurable progress towards the 2030 standard over the next 10 years. The overlapping processes and input cycles required under the current draft rules could prevent utilities from making any progress, as the process might never achieve an approved path forward. If that happens, it will be the rules' insistence on endless, backward-looking process that stands in the way of success.

PSE is committed to being successful in achieving the important goals of CETA. In order to move expeditiously while also adhering to the numerous provisions in CETA, PSE needs the

Commission to take a more streamlined approach to this initial rulemaking and embrace its role as a partner in the journey to a more equitable, clean energy future. To do this, the Commission should provide utilities a framework for the Commission's review and approval of CEIPs with clear and efficient reporting requirements, but that otherwise encourages utilities to go forth and develop their first plans in accordance with CETA's requirements. The Legislature was clear: utilities should move aggressively towards meeting the goals of CETA, and that on average it should cost two percent per year over a four-year plan, while working to meet those goals. To effectively achieve CETA's interim and specific targets, utilities need the assurance that a plan, once approved, is indicative of prudence—that the utility can take action to achieve those targets in the CEIP based on market conditions at lowest reasonable cost. Unfortunately, these rules do not provide that assurance consistent with the Legislature's intent.

PART 1: PSE'S COMMENTS ON THE DISCUSSION DRAFT RULES

In part 1 of these comments, PSE explains its principal concerns with the draft rules and highlights key areas where PSE's proposed alternative framework results in a more streamlined but CETA-compliant approach.

A. The Collective Administrative Burden of These Rules Is Too High

The collective administrative burden of all the draft rules' new requirements is concerning and will challenge implementation. Yet it is the potential slowdown in the Commission's CEIP review and approval process that creates the most concern for PSE. Throughout this proceeding, PSE has consistently advocated for the Commission to adopt an initial regulatory framework that implements CETA's key requirements, but which can also be flexible enough to evolve over time. In contrast, the draft rules represent a collection of detailed, cumbersome regulatory processes that, in the aggregate, will slow and confuse the Commission's review and approval process and make it extremely difficult for utilities to make significant progress towards achieving their CETA goals.

To illustrate the ambiguity and complexity of some of these new requirements, PSE offers several examples below of requirements that are unclear, unnecessary, or in need of substantial reform. This is not an exhaustive list of PSE's concerns with the draft rules, but rather an outline of key issues or topics, that are the most burdensome *and* least necessary to provide for in rule. For more details and examples, please see the explanations included in Attachment A.

1. Re-evaluation of the baseline portfolio in calculating incremental cost is unnecessary and will impede progress towards CETA's goals

One of PSE's fundamental concerns with the draft rules is that the incremental cost calculation as currently written in the draft rules will be cumbersome, and it is based on a backwards looking approach that slows progress. CETA is hailed as being "transformational." To truly be transformational rather than regressive, the rules of engagement under CETA need to create a flexible and straightforward framework for the Commission to review and approve a four-year CEIP, which, once approved, the utility can quickly execute upon—with certainty that the suite

of investments reflected in the CEIP, if acquired reasonably and in accordance with the plan, will be recoverable.

There will be no perfect "baseline" by which to calculate incremental costs. However, the draft rules seem to be striving for perfection, and in doing so, time and momentum will be lost. Continuously attempting to account for every cost, no matter how small, against a moving baseline—and also judge whether it was spent towards meeting the standards in .040 and .050—will result in a protracted process with little certainty on the direction of progress.

Instead, the hypothetical baseline portfolio of investments should be created once when developing the CEIP to measure against when forecasting what the utility projects will be its incremental costs of compliance. The hypothetical baseline portfolio should not be updated when reporting on actual incremental costs; rather, it should be used at the outset for the utility to establish its forecasted CEIP budget and associated clean energy investments.

To implement the incremental cost, a tracker should be established to keep track of the utility's CEIP-related spending during the four-year implementation period. Spending under this CEIP tracker can be reported on by the utility as part of its annual compliance reporting pursuant to draft WAC 480-100-650(3)**.** If a utility spends just under the CEIP budget, then it should plan to expend any of that shortfall in the next CEIP. Similarly, if a utility spends over its CEIP budget, then it should adjust its next CEIP budget downward accordingly.

2. The proposed "adaptive management" requirement in draft WAC 480-100-610(6) is overbroad and unclear

One critical area where the draft rules go beyond what CETA requires—and thus create unnecessary process, regulatory burdens, and ambiguity—is in draft WAC 480-100-610. In this section, the draft rules set forth a collection of proposed "Clean Energy Transformation Standards." One of these proposed standards, included as subsection (6), creates an ambiguous and overbroad obligation that ostensibly requires each utility to "adaptively manage" its portfolio of activities, even beyond CETA's requirements. Setting aside PSE's concerns with the location of this proposed requirement within the draft rules (*see* PSE's response to question 4), the proposal in subsection (6) goes far beyond what CETA requires and is therefore unnecessary.

In general, PSE does not oppose a carefully crafted requirement that utilities manage their portfolios adaptively and nimbly to ensure they can respond to changing market conditions or new circumstances after the Commission has approved a plan. In other words, a mandate to utilities to be flexible when implementing their plans to ensure they "do not pass up a good opportunity" is reasonable. But the draft requirement in section 610(6) instead imposes the overly burdensome obligation to "[c]ontinuously" review and update *Commission-approved* plans, with no articulated conditions, limits, or thresholds. This requirement, if adopted, would result in a undefined cadence of portfolio assessments, potential updates, and inevitable disagreement that may unintentionally impede clean energy progress in the name of process alone. It might also require utilities to file updates or revisions to a plan with the Commission for additional review, rehearing, and approval, which could further contribute to delay during the implementation period.

Ultimately, "adaptive management" is neither a statutory requirement nor a policy concept that should be included in the first round of CETA planning and implementation. The Commission should therefore remove the proposed requirement from the rules. This will ensure that finite resources can be appropriately dedicated to plan implementation and achievement of CETA's goals, not unnecessary process. As highlighted in Attachment A, regardless of what the rules say concerning adaptive management, PSE will continue to monitor changing market conditions, developing technologies, and opportunities and will seek to take advantage of those opportunities when appropriate.

3. It is not appropriate to require a "business case" for each specific action in the CEIP

The CEIP filing requirements in draft WAC 480-100-640 are another source of significant ambiguity. This section covers a wide range of topics, including those related to plan filing requirements, contents, and targets. Among other things, this section requires that the CEIP identify "specific actions" that the utility will take during the next implementation period and provide supporting documentation, including "business cases." *See* draft WAC 480-100-640(4)(f)(iii). As outlined below in PSE's response to question 1, PSE believes this level of detail is not appropriate for Commission rules, especially before initial CEIP development. PSE also does not agree with Commission staff's interpretation that Commission approval of a CEIP is conditioned on the production of a "business case" to support each specific action.

Consistent with CETA, the draft rules already require utilities, as part of their CEIP submission, to demonstrate that their plan satisfies a number of comprehensive planning criteria and represents a "portfolio approach to investment plan optimization." Adding a nebulous and undefined requirement to include an incremental "business case" for each specific action in the CEIP—in addition to demonstrating that the portfolio is optimized and providing all data inputs—creates both duplicative work and an unrealistic expectation of perfect foresight during CEIP development, especially during the the first CEIP cycle. This expectation may become particularly problematic in cases where "specific actions" that may be included in a CEIP may stem from yet-to-be-filed requests for proposals or yet-to-be-developed programs.

Specific actions will indeed serve as building blocks of the CETA-compliant optimized portfolio. CETA outlines a robust public participation process, which would include review of criteria of portfolio balancing and inputs. But absent additional Commission clarification regarding the relationship between a CEIP and a multi-year rate plan, which may not be necessary at this time, this proposed requirement is unnecessary and ripe for second-guessing and uncertainty. Especially for the first CEIP cycle, utilities should maintain some discretion as to how they present their plans, just as the Commission should maintain its discretion to approve plans that, as a whole, satisfy the statutory criteria.

4. Targets are tools to demonstrate progress but are not compliance obligations

PSE recognizes that interim and specific targets in a CEIP are important tools to demonstrate progress towards the two key compliance obligations under CETA: the 2030 and 2045 standards. Utilities should be expected to meet their proposed targets, and consistent with

CETA, the Commission should review whether a utility has met its targets. However, there should not be a penalty associated with failing to meet an interim target. Interim targets are necessary to ensure that a utility is making reasonable progress towards the 2030 and 2045 standards, but should not serve as separate CETA compliance requirements. If the Legislature intended for the Commission to penalize a utility for failure to meet an interim or specific target, it would have specifically provided this penalty authority, as it did in RCW 19.405.090(1) for failure to meet the standards under RCW 19.405.040(1) and .050(1). Absent such statutory direction, it is inappropriate for the Commission to assess penalties for failure to meet an interim or specific target, which is why PSE strongly recommends that the penalty provisions in WAC 480-100-665 be deleted from the draft rules.

5. The scope of the proposed IRP progress report is overly broad and will not result in efficiencies

PSE appreciates the move towards a four-year cycle for the IRP, with a progress report in between. Creating a progress report suggests that this mid-point step will be more streamlined and less time consuming than a full IRP. However, the draft rules suggest that utilities are expected to engage their stakeholders throughout the development of the progress report, even involving them in the development of a "progress report participation plan." PSE is concerned that the requirement to create and execute upon a public participation plan as part of preparing a mid-point progress report or "update" will erode any efficiencies gained with a progress report as opposed to a full IRP. Furthermore, stakeholders accustomed to the four-year IRP process may become frustrated with a more limited set of considerations for the progress report.

Instead, PSE recommends deleting the progress report entirely. PSE would strongly prefer the IRP be conducted on a four-year cycle, with robust public participation in the development of the IRP. Regardless of the outcome, PSE will perform the modeling updates require to support target setting for the Biennial Conservation Plan. This includes, but is not limited to, updates to the Conservation Potential Assessment.

6. The Commission should clarify the regulatory standard of "lowest reasonable cost."

PSE requests that the Commission clarify how "lowest reasonable cost" should be interpreted and applied by utilities. This is an important regulatory standard to state clearly and consistently in rule. Currently, however, the draft rules describe lowest reasonable cost in two different ways, creating significant uncertainty. In draft section 605, the definition of "lowest reasonable cost" implies that the lowest reasonable cost portfolio will already meet the equity requirements by definition. *See* draft WAC 480-100-605 (stating that the analysis of the lowest reasonable cost must include a "demonstration that the mix of resources will be clean, affordable, reliable, and *equitably distributed.*") (emphasis added). However, the IRP, CEIP, and reporting sections of the draft rules discuss the equity requirements as modifiers that are applied to the lowest reasonable cost portfolio in determining "how" the utility meets the clean energy standards in RCW 19.405.040(1).

PSE recommends that the last sentence of the definition of "lowest reasonable cost" be modified, and the "demonstration that the mix of resources will be clean, affordable, reliable and equitably distributed" be incorporated into either the purpose section in WAC 480-100-600 or the standards section in WAC 480-100-610. Whether a lowest reasonable cost portfolio of investments is equitably distributed is going to be an evolving standard through Commission case law over time, particularly as equity indicators are developed through the equity advisory group process and applied in the CEIP process.

Furthermore, the hypothetical baseline portfolio of what the utility would have invested in, absent CETA, needs to reflect the lowest reasonable cost or least cost portfolio *without* the equity requirements or the social cost of greenhouse gas emissions already factored in. Otherwise, it is impossible to calculate the incremental cost of compliance with CETA. For this reason, PSE suggests that "alternative lowest reasonable cost and reasonably available portfolio" must be defined separately, particularly if the definition of "lowest reasonable cost" includes "equitably distributed."

B. Further Development of the Methodology for Calculating the Two Percent Incremental Cost of Compliance is Needed

PSE appreciates the Commission's focus on establishing a consistent and predictable interpretation of the incremental cost of compliance provision in CETA for all utilities. Establishing that interpretation clearly in rule language will be important and helpful to all parties.

Consistent with the text of RCW 19.405.060(3)(a), legislative intent, and discussions that took place during the development of CETA, PSE believes the appropriate statutory interpretation for purposes of calculating the two percent incremental cost of compliance considers an annual average rate increase over the four-year period. This averaging over the four year period, coupled with a rate mechanism that evens out the pace of the rate increase, allows for steadily increasing investment at predictable rates to customers.

As outlined in Question 6, Interpretation 1 is one interpretation of the direct language of CETA; however, it is inconsistent with PSE's understanding of the intent of the two percent calculation at the time of passage of CETA because it does not increase at two percentof weather-adjusted sales each year. PSE does not believe Interpretation 2 is feasible to implement, as it does not allow an ability to identify the two percent during the CEIP development, but rather relies only on an annual calculation.

PSE recommends an interpretation that is similar to Interpretation 1 that better reflects the legislative expectations and discussions during development of CETA: the two percent calculation should compound over the four-year period and the calculation of the two percent should be made during the filing of the CEIP. This legislative intent of compounding is evidenced by the phrase "two-percent increase" in the statutory language (emphasis added).

This calculation can be simply administered by making a forecast at the time of filing of the CEIP (example calculation provided below) and then tracking incremental spending in the

categories identified in the CEIP through the CEIP implementation. This can be reported transparently through the annual reporting process.

Year	Weather Adjusted Sales Revenue	2% Average Annual Incremental Cost	Non-CETA Costs	Cumulative CETA Incremental Costs During the CEIP Period Based on 2% Annual Average Incremental Cost
2020 (actual)	100			
2022 (forecast)	104.5	2.0	2.5	2.0
2023 (forecast)	109.1	2.1	2.5	4.1
2024 (forecast)	113.8	2.2	2.5	6.3
2025 (forecast)		2.3	2.5	8.5
				20.9

PSE believes that this approach is consistent with the intent of CETA. However, if the Commission believes that a true-up based on actual weather-adjusted sales revenue is necessary, then this forecast should be updated annually as part of the annual reporting process.

Regardless of the calculation methodology, actual spending is likely to vary slightly from the two pecent target. Through determining whether the utility has made "reasonable progress" towards the interim and specific targets, the Commission should have the flexibility to take minor variations into account, rather than relying solely on an after-the fact formula of spending.

Additionally, PSE has consistently advocated for an incremental cost calculation methodology that is mirrored after the avoided cost approach. For a more detailed discussion of this methodology, please see PSE's response to Question 5 in Part 2 of these comments, as well as Attachment A, Proposed WAC 480-100-660, for PSE's suggested rule language to reflect this methodology.

C. Progress Continues to be Made on the Meaning of the Term "Used" in RCW 19.405.040(1)(a)(ii) in this Rulemaking

Since the Commission first issued its June 12, 2020 notice on this issue, steady progress has been made through ongoing dialogue amongst stakeholders on this issue, with many interested parties appearing to move closer to a consensus position and potential associated draft rule language for the Commission's consideration in this proceeding.

PSE encourages the Commission to provide an additional opportunity for interested parties to comment on this issue, either through another workshop or an additional round of written comments, or both. If the Commission does put forward draft language for stakeholder comment, PSE recommends the Commission provide draft rule language similar to what was

proposed by Renewable Northwest, as it represents a potential compromise. It is important to take advantage of the forward momentum that has taken place over the past three months on this important topic.

PART 2: PSE'S RESPONSES TO THE COMMISSION'S QUESTIONS

In Part 2 of these comments, PSE responds to the questions the Commission asked in its Notice.

1. Do you agree with Staff's interpretation of RCW 19.405.060(1)(c) that Commission approval is contingent upon the utility justifying and supporting each specific action it takes or intends to take, including providing the business cases supporting each specific action identified in the CEIP? Please explain your response.

PSE Response:

No, as stated above, PSE does not agree with Commission staff's interpretation that Commission approval of a CEIP is somehow predicated upon "business case" support for each specific action. In some cases, it may be true that a more exacting level of support for specific actions in a CEIP is necessary. For instance, more support may be necessary where the Commission is pre-approving a specific investment that is included in a CEIP but also being reviewed as part of a utility's multi-year rate plan. Nevertheless, this level of detail does not need to be included in the Commission's rules for CEIP filing requirements because this level of support may not be necessary in all instances. If there is a related rate plan filing, there will be additional processes to ensure that planned utility investments are investigated appropriately. The Commission's CEIP approval process should not be conditioned upon an interpretation such as this one when other avenues of regulatory process and Commission review may also available.

Furthermore, it is unclear what the term "business case" means. Is a "business case" strictly a quantitative analysis of project-level costs and benefits? Are there other qualitative factors? Something more? The draft rules do not answer these questions; nor should they. A more flexible approach is particularly appropriate for the first round of CEIP filings. Utilities should maintain some discretion as to how they present their plans, just as the Commission should maintain its discretion to approve plans that, as a whole, satisfy the statutory criteria. Removing the ambiguous business case requirement will not jeopardize the Commission's review process, and the experience gained during the first implementation period will better inform second round plans as well.

2. Several comments submitted in response to the first draft CEIP rules proposed that the Commission require some form of funding to support equity-related public engagement. Specific proposals ranged from requiring utilities to provide funding support for participation in a utility's equity advisory group to utilities funding support for equity-focused intervenors.

a. Does the Commission have the authority to require utilities to provide funding to support equity participation such as intervenor funding or direct payments to advisory group members?

PSE Response:

PSE acknowledges that robust public engagement from a broad and diverse set of stakeholders is a critical part in ensuring an equitable distribution of benefits in the transition to clean energy. Regulatory proceedings can be complicated and intimidating for many. PSE is committed to finding a way for all of our communities to engage meaningfully and looks forward to working through the CEIP process and other regulatory proceedings to accomplish this.

That said, PSE does not believe the Commission has the statutory authority under CETA or any other law to require utilities to provide funding for equity participation. Other states that allow or require utilities to provide financial assistance to organizations representing consumer interests appear to do so through a statutory grant of authority. Additionally, these states have established a process to ensure strict regulatory oversight by the state utility commission. For example, in Oregon, ORS 757.072 allows energy utilities to enter into agreements for financial assistance to organizations representing broad customer interests in Oregon Public Utility Commission (OPUC) proceedings. Under ORS 757.072, the OPUC must approve any agreement before financial assistance is provided. The Legislature likely would need to grant the Commission the specific authority and framework in order for the Commission to pursue either funding for advisory group members or intervenor compensation.

b. If so, what type(s) of funding should the Commission require, and how would utilities implement such funding? For example, if you advocate direct payments to advisory group members, how would the utilities structure those payments (e.g., based on an hourly rate, per diem, etc.)?

PSE Response:

As described in subsection (a) above, PSE believes the Commission does not currently have the authority to require utilities to provide funding or direct payments to support equity advisory group members without securing that authority through legislation.

PSE is very supportive of bringing new and diverse customer voices to the table as it works to implement CETA. Reducing barriers to participation is important. To the extent that compensation for advisory group participation may be one way to enable a more diverse group of customers to participate, PSE supports exploring such mechanisms for compensation.

c. What other issues arise if the Commission were to require utilities to provide funding or direct payments to support equity advisory group members?

If the Commission were to require payment to some advisory group members to enable their participation, the Commission would need to provide careful oversight and management of the necessary programmatic details, such as eligibility requirements, payment amounts, verification processes, and mechanisms for cost recovery by the utilities.

PSE could support compensation for advisory group participation, particularly for individuals that do not represent professional organizations, in cases where the compensation is based on

demonstrated need. PSE does not recommend the Commission pursue intervenor compensation at the time. Further stakeholder discussions on the merits and construct of such a proposal should take place prior to moving forward on this topic.

3. The Commission appreciates the value stakeholders have said they see in having commissioners and the agency participate in broad conversations about equity needs. Due to restrictions on commissioners taking part in ex parte conversations concerning items that are before the Commission to decide, the commissioners cannot engage in such conversations or otherwise participate in utility advisory groups to discuss issues related to particular CEIPs. However, the Commission will be involved in the process through workshops, special open-meetings, and other available proceedings with stakeholders to discuss important issues. The Commission additionally awaits guidance from the state Environmental Justice Task Force on agency engagement with equity issues and looks forward to addressing recommendations internally and throughout agency divisions as needed. The Commission is further committed to addressing agency awareness of equity issues and needs through continued agency-wide learning. The concerns stakeholders raised through their comments are beyond what this single rulemaking can address and may be better addressed outside of this docket. In preparation for future process and discussions, please provide a list of CETA-related topics the Commission should address immediately following or concurrent with this rulemaking.

PSE Response:

PSE shares the Commission's desire and commitment to better incorporate diversity, equity, and inclusion into the utility regulatory system, and it intends for that work to complement and augment PSE's equity-focused efforts in clean energy implementation. PSE agrees that many of the comments made by stakeholders in this proceeding with respect to equity beyond the development and implementation of the CEIP are important but may be better addressed outside of this docket in future conversations—through equity advisory groups and other venues. PSE believes the current rule framework enables many of those conversations to occur, with equity advisory groups most immediately focused on the development of equity indicators related to CEIP implementation.

In addition, PSE looks forward to continued dialogue with the Commission and stakeholders around equity issues, particularly after the EJ Task Force has concluded its work and made its recommendations. Potential next steps will become clearer as conversations around this topic continue to mature and evolve.

4. Draft WAC 480-100-610(6) requires each utility to adaptively manage its portfolio of activities to achieve the requirements in the section. Some commenters recommended that this section belongs in the section that describes the CEIP. Staff proposes to place this provision in section 610 because adaptive management is an expectation of all the utility's investments and operations for achieving the requirements of CETA. Please state whether you agree that this adaptive management requirement is appropriately placed in section 610 and explain your response.

PSE Response:

No, section 610 is *not* the appropriate location for the proposed adaptive management requirement. Further, consistent with PSE's discussion of this requirement above, this proposed requirement should not be included in rule at all in its current form. The only components that should be included in section 610 are those that flow directly from CETA's statutory language. For example, proposed subsections (1), (2), and (3) represent CETA's three principal standards in RCW 19.405.030, 040, and 050: respectively, the elimination of coal, greenhouse gas neutrality by 2030, and 100 percent clean energy by 2045. Similarly, proposed subsection (4) reflects the considerations in RCW 19.405.040 and 050 that utilities must balance in making progress towards achieving CETA's goals (e.g., equity and reliability).

Conversely, the proposed adaptive management requirement in subsection (6) has no statutory foundation in CETA, and the rule language appears to have application beyond the requirements of CETA. Accordingly, although ensuring the best information is used during the development and implementation of a CEIP is important, the Commission should delete subsection (6) from the draft rules, and this section should otherwise addresses only statutory requirements.

5. (Abbreviated) In draft WAC 480-100-660(4)(c), Staff proposes to require the utility to update the verifiable inputs of the alternative lowest reasonable cost and reasonably available portfolio (baseline portfolio). Please respond if the utility should be required to update the assumptions in its baseline portfolio when reporting its actual incremental costs, or if it should not.

PSE Response:

PSE has proposed an alternative method to calculate the incremental cost, which it outlined in its comments on June 2, 2020 in this proceeding and discussed at a subsequent Commission workshop held on July 7, 2020. PSE's proposed alternative method establishes a common baseline for the alternative lowest reasonable cost modeled after existing energy efficiency cost effectiveness tests and standard offer for small power producers.

PSE's proposed method of calculating incremental costs regularly updates the baseline portfolio because it builds on annual filings of avoided cost, which each utility already makes under WAC 480-106-040 and the Commission approves those costs. This method also follows a similar path in consideration of portfolio construction and portfolio cost as the determination of cost effective portfolios of energy efficiency resources. Actions within a CEIP would be determined by balancing the results of the most recent IRP and CEAP, current market conditions for resources and programs, risks, and the equity factors of CETA. This balance, supported by both the IRP model and factors external to the model, would establish the interim and specific targets. The incremental cost of the portfolio in the CEIP would be determined by summing the incremental cost of each action in the CEIP to ensure that such sum does not exceed the two percent incremental annual cost calculation discussed in Question 6.

PSE, like all other electric companies, also uses the schedules of estimated avoided costs filed under WAC 480-106-040 in developing tariff schedules for purchases from small power

producers under WAC 480-106-030—currently PSE's Schedule 91. This Commission-approved schedule includes both an avoided cost of energy and an avoided cost of capacity. PSE calculates the avoided cost of energy based on a current forecast of market prices for energy, calculated as part of the IRP process and typically updated annually. PSE calculates the avoided cost of capacity based on the most recent, acknowledged and filed IRP. The avoided capacity cost includes projected fixed costs of its next planned capacity addition based on either the estimates in its most recently acknowledged IRP or the most recent project proposals received in an RFP, whichever is the most current. The Commission-approved rates under Schedule 91, as outlined in WAC 480-106-060, are just, reasonable and in the public interest and do not discriminate against any qualifying facility in comparison to rates for sales to other customers.

PSE proposes to use the filing under WAC 480-106-030 and WAC 480-106-040, modified for other values provided by actions in the CEIP, such as avoided transmission and distribution cost and reduced risk, as the baseline cost of the alternative lowest reasonable cost portfolio. Such use is consistent with existing practice of using the Commission-approved annual filings of avoided cost under WAC 480-106-040 and already has precedent in establishing costs for energy and capacity that balances the interests of qualifying facilities and PSE's customers. It is also similar to the method by which avoided costs are updated for purposes of determining the energy efficiency cost-effectiveness test, by relying on the avoided costs from the most recent IRP cycle.

In contrast, the current draft rules propose using the baseline cost from the portfolio optimization modeling from the utility's most recent IRP that reflects the "reasonably available portfolio that the utility would have implemented." In effect, this proposal requires the Commission to develop a new, second baseline cost. This new baseline cost would only be used for the purpose of determining the incremental costs of RCW 19.405.040 and RCW 19.405.050 and would be separate and independent from that used for implementation of energy efficiency programs and to establish avoided costs paid to small power producers.

In direct response to Question 5, PSE submits that updating the baseline portfolio is not necessary. If the Commission were to require updating of the baseline using the portfolio optimization model, it would also have to make successive determinations of what the utility "would have implemented." This is reflective of the constant re-evaluation structure set up by the draft rules.

PSE's proposed alternative method offers a simple way to calculate baseline and incremental costs and is supported by both precedent and methods developed and vetted over many years. PSE recognizes that understanding this incremental cost calculation through actual calculations and associated impacts to customer rates is vital to transparently understanding the costs of CETA. PSE could support including both methodologies (and potentially others, if proposed by stakeholders) in the rules at this point to allow transparent development of this issue through the first CEIP cycle.

6. The Commission is considering two alternative interpretations of the incremental cost of compliance option in RCW 19.405.060. First, both interpretations find the Directly Attributable Costs of compliance by finding the difference between the RCW 19.405.040 and RCW 19.405.050 Compliant Portfolio and the Baseline Portfolio.

. 040 & .050 $Compliant\ Portfolio - Baseline\ portfolio = Directly\ Attributable\ Costs$

To determine whether the utility can exercise the incremental cost compliance option, the Commission is considering two alternative interpretations. One interpretation calculates incremental cost as the directly attributable cost in any given year, and the other interpretation calculates incremental cost as the year-over-year change in directly attributable cost. The Department of Commerce's draft rule, WAC 194-40-230(1)(b) – Compliance using 2% incremental cost of compliance, takes the second approach.

Interpretation 1: $\frac{Directly\ Attributable\ Costs}{Weather\ Adjusted\ Sales\ Revenue}$

Interpretation 2: $\frac{Change\ in\ Directly\ Attributable\ Costs\ from\ Previous\ Year}{Weather\ Adjusted\ Sales\ Revenue}$

Please respond with a recommendation for the appropriate calculation. See attachment C to the Notice for sample calculations of these two interpretations.

PSE Response:

Consistent with the text of RCW 19.405.060(3)(a), legislative intent, and discussions that took place during the development of CETA, PSE supports a methodology similar to Interpretation 1 to reflect an annual rate increase that is calculated over the four-year CEIP period, as opposed to a series of one-year calculations that are then averaged. This two percent calculation should compound over the four-year period, which then gives the utility a forecasted CEIP budget to plan for and spend within.

An example calculation of PSE's recommended variation on Interpretation 1 is provided below:

Year	Weather Adjusted Sales Revenue	2% Average Annual Incremental Cost	Non-CETA Costs	Cumulative CETA Incremental Costs During the CEIP Period Based on 2% Annual Average Incremental Cost
2020 (actual)	100			
2022 (forecast)	104.5	2.0	2.5	2.0
2023 (forecast)	109.1	2.1	2.5	4.1
2024 (forecast)	113.8	2.2	2.5	6.3
2025 (forecast)		2.3	2.5	8.5
				20.9

7. Commenters have raised additional concerns about how utilities should demonstrate elimination of coal from the allocation of electricity. Current draft rule language relies on attestations or audits and e-tags. Some commenters suggest waiting for the work of the markets workgroup to finish before developing rules for compliance with RCW 19.405.030(1)(a). Do stakeholders have concerns about whether e-tags are capable of tracking all electricity generated from coal-fired resources? Should the Commission wait for recommendations or comments from the markets workgroup before addressing this issue in rule?

PSE Response:

Upon further review and consideration of stakeholders' comments, PSE agrees that the collection of information available in an electronic tag may not be sufficient or helpful for utilities to demonstrate compliance with RCW 19.405.030(1)(a), which states that coal-fired resources must be eliminated from the utility's "allocation of electricity." E-tags often do not identify a specific generating resource or type of resource as the source of electricity. Nor do they always represent that electricity from a specific resource is used to meet specific load. Given these and potentially other issues, the Commission should not mandate the use of e-tags or any other specific mechanism in rules.

Referring this issue to the markets workgroup is preferable to adopting draft rules that include an e-tag requirement, but the Commission need not refer this issue to the markets workgroup. Instead, the Commission could adopt the rule language proposed in PSE's Attachment A, which, although more general, reflects the statutory requirement and allows for the development of additional tools that may support the required attestation. Consistent with CETA, this inquiry should focus on "setting electricity rates," not operational or physical requirements. *See* RCW 19.405.020(1) (defining "allocation of electricity" as "*for the purposes of setting electricity rates*, the *costs* and *benefits* associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.") (emphasis added).

PART 3: PSE'S PROPOSED STREAMLINED RULE FRAMEWORK

In Attachment A, PSE provides a more streamlined rule framework. This framework is narrowly focused on what rules are necessary in order for utilities to confidently develop their first CEIP, and for the Commission to review and approve CEIPs, as well as provisions regarding the development of integrated resource plans. In many instances, PSE recommends striking some of the detail in rule on the basis that it is not needed or may be overly prescriptive. Some of these details may be better suited for a policy statement, indicating the general leaning of the Commission at this time, but not locking in a particular approach into more rigid rules.

Conclusion

It has been said many times during this rulemaking that the rules of engagement for CETA will, by necessity, be "iterative." This is the first iteration. PSE strongly encourages the Commission to re-evaluate the totality of the draft CEIP rules at this pivotal stage in the rulemaking process and determine what is absolutely necessary for this first iteration of rules, and codify only those. Attachment A reflects PSE's vision for what it believes is necessary. And although there may be other approaches, it is PSE's desire to see the breadth and scope of the draft rules narrow considerably in the CR-102 draft, so PSE can be in a position to potentially support them.

PSE appreciates the opportunity to provide comments in response to the Commission's Notice. Please contact Kara Durbin at 425-456-2377 with questions or to seek 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

Attachment:
Attachment A - Proposed Redlines