



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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November 5, 2020

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By 5 p.m., Thursday, December 3, 2020)

Re: Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023, and In the Matter of Amending, Adopting, and Repealing WAC 480-100-238, Relating to Integrated Resource Planning, Docket UE-190698

TO ALL INTERESTED PERSONS:

On November 6, 2019, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to update its integrated resource plan (IRP) rules in Washington Administrative Code (WAC) 480-100-238. The Commission filed the CR-101 under Docket UE-190698. The Commission also released first discussion draft rules for comment.

On January 15, 2020, the 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)¹ centered on the implementation of Chapter 19.405 Revised Code of Washington (RCW) and revisions to Chapter 80.28 RCW. The Commission filed the CR-101 under Docket UE-191023 and refers to this as the Clean Energy Implementation Plan (CEIP) rulemaking.

On May 5, 2020, the Commission issued a first set of draft rules in Docket UE-191023 for comment.

¹ E2SSB 5116, Laws of 2019, ch. 288.

On June 12, 2020, the Commission issued a Notice of Opportunity to Comment in Docket UE-191023 on the appropriate interpretation of the term “use” in RCW 19.405.040(1)(a) as part of its process for revising the first set of draft rules.

On August 13, 2020, the Commission issued its second set of draft rules in Dockets UE-190698 and UE-191023 for comment. On October 14, 2020, the Commission issued its proposed rules and scheduled an adoption hearing for December 9, 2020.

On August 18, 2020, the Commission entered Order 01 in the above-referenced dockets, which consolidated the CEIP rulemaking in Docket UE-191023 with the IRP rulemaking in Docket UE-190698.

ISSUE DISCUSSION

RCW 19.405.040(1)(a) provides, in part, that utilities must “use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility’s retail electric loads over each multiyear compliance period.” Initially, Staff interpreted “use” to mean the injection of renewable and nonemitting electricity into the grid with sufficient transfer capacity for that electricity to be used to serve retail customers’ loads (delivery).² Staff also interpreted renewable and nonemitting electricity as used in RCW 19.405.040(1)(a) to mean electricity from a renewable and nonemitting generation that is owned by the user along with the electricity’s environmental attributes, i.e., “bundled.”

On June 12, 2020, the Commission issued a Notice of Opportunity to Comment on Staff’s interpretation of “use.” The Commission received 14 comments. While some stakeholders agreed with Staff’s interpretation or agreed with minor modification, other stakeholders expressed concerns about the physical delivery requirement and the compliance period for delivery. Other comments argued that the interpretation of the definition of “renewable energy credit” in RCW 19.405.020(31) was too narrow.

The Commission issued proposed rules in these proceedings on October 14, 2020, but did not address the interpretation of the term “use” in RCW 19.405.040(1)(a)(ii) or include rule language addressing the related compliance, verification, or documentation requirements. In collaboration with the Department of Commerce, the agencies agreed to defer drafting rules on these issues to give stakeholders an additional opportunity to provide comments. Further guidance may be provided on this issue through the adoption order in this consolidated docket, draft rules in a later phase of this docket, or a future policy statement.

² UE-191023 Notice of Opportunity to Comment Use Interpretation, June 12, 2020, Docket UE-191023.

As the Commission continues to receive and consider comments and participate in the Markets Workgroup (MWG)³ conversations on this subject, we invite interested persons to provide additional comments on these issues. Commission Staff received two supplemental comments and proposed rule language, which have been posted to these dockets. The Joint Recommendations from the Public Generating Pool, Puget Sound Energy, Pacific Power and Avista Corporation (Joint Recommendations) are provided as Attachment A to this Notice, and joint recommendations from Climate Solutions and Northwest Energy Coalition (NWECC) are provided as Attachment B to this Notice.

QUESTIONS FOR CONSIDERATION

The Commission seeks to better understand how the different interpretations of “use” and stakeholder proposals for compliance rule language will impact the electric utilities in the transition to full compliance with CETA. Specifically, the Commission is interested in how these interpretations will: (1) impact long-term resource choices as a utility builds its lowest reasonable cost resource portfolio, considering risk, to meet the 2030 and 2045 CETA requirements, (2) affect the economic analysis of transmission necessary to enable injections of renewable electricity to serve retail load needs in Washington, and (3) affect the existing market structures and potentially new centralized market structures.

The Commission requests comments on the rule language provided in Attachments A and B. Particularly, the Commission is interested in comments that focus on whether the proposed language adequately addresses leakage or resource shuffling, prevents double counting, and promotes servicing locational loads with a balanced, feasible schedule. Stakeholders may submit suggested redline edits to the suggested rule language provided in Attachments A and B.

The Commission is committed to working constructively with stakeholders to evaluate the various proposals and develop rules or policy guidance that upholds CETA’s statutory requirements while allowing for the efficient operation of energy markets. The Commission requests stakeholder participation to assist with this goal. In addition to the above requested feedback, the Commission seeks responses to the following questions.

1. Do the rules provided in Attachment A or B allow CETA to be enforced as an offset program?
 - a. If no, which portion of the rule language prevents CETA compliance from functioning as an offset program?
 - b. If yes, which portion of the rule language permits CETA compliance to function as an offset program?

³ Section 13(1) and (3) of CETA required the Commission and Commerce to convene a carbon and electricity markets workgroup. The Markets Workgroup meeting information may be found in Docket UE-190760.

2. Do the rules in Attachment A or B allow a utility to produce renewable electricity in excess of the amount required to serve its load and use the RECs from that excess renewable electricity, sold off system, to cover periods of load in which more than 20 percent of its load is served by GHG emitting resources as a means of complying with RCW 19.405.040(1)(b)(ii)?⁴ For example, can a utility comply with the 80 percent requirement through buying 1000 MWh of hydroelectricity in excess of its load service needs in every hour of the day during the spring runoff and resell that power while retaining the nonpower attributes for compliance?
3. Attachment A states in (2)(C)(ii)(4) that the delivery of resources used for compliance may occur at “another point of delivery designated by an electric utility for the *purpose of subsequent delivery to the utility* [emphasis added].”
 - a. Does the term “purpose of subsequent delivery” mean that the electricity must be delivered to the utility, or only that it was intended to be delivered?
 - b. What constitutes “delivery to the utility”?
4. How will the suggested rules in Attachment A and B affect long-term portfolio planning and acquisition?
 - a. CETA requires that all of a utility’s load be served by renewables or nonemitting resources by 2045. Do the rules in Attachment A or B support this objective? Do they allow compliance with the 2030 goal in a manner that diverges from the 2045 goal?
 - b. Do the suggested rules in Attachment A or B support a long-term resource portfolio plan that matches the production of renewable electricity with the utility’s load and has sufficient transmission service between the point of injection of its planned source of renewable electricity and the utility’s load to enable the renewable electricity to serve that load?
5. Could the Energy Imbalance Market (EIM) provide a prorated share of the attributes of the resources that provided energy in a market interval to the loads that received energy in that market interval?
 - a. If EIM loads were to receive the attributes of the generators providing energy in the market, should constraints in the dynamic transfer capacity be incorporated

⁴ RCW 19.405.040(1)(b)(ii) allows electric utilities to satisfy up to 20 percent of their compliance obligation under RCW 19.405.040(1)(a) with an alternative compliance option, which may include using unbundled RECs provided that there is no double counting of any non-power attributes associated with RECs in Washington or programs in other jurisdictions. This includes unbundled RECs produced from eligible renewable resources, as defined under RCW 19.285.030, which may be used by the electric utility for compliance with RCW 19.285.040 as provided under RCW 19.285.040(2)(e), and other unbundled RECs that represent electricity generated within the compliance period.

into the calculation of the distribution of those attributes to load? Is it possible to reflect those constraints in the distribution of attributes to locational loads?

- b. If EIM loads could receive the attributes of the generators providing energy in the market, is there a means of allocating those attributes by a bid price mechanism?
6. Energy serving load in a day-ahead market (DAM) is unspecified. If the DAM bid awards were mostly surplus hydro, would the loads receiving energy from the DAM only receive unspecified energy under the rules in Attachments A and B? Does this mean that a utility that was a net buyer from the DAM at a time of excess hydroelectric generation would only receive unspecified power?
 7. Rules in Attachment B, part (2)(b), state that a utility must make a demonstration that the electricity used for compliance was generated by the utility or acquired by the utility with the nonpower attributes and not resold.
 - a. How would a utility make such a demonstration?
 - b. How would power generated and purchased by the utility be identified as sold, which documents would be used, and what process would be followed to reconcile purchases and sales?
 - c. How would Commission staff conduct audits under this proposal?
 8. Please explain how double counting is prevented under the suggested rules in Attachment A and B?

WRITTEN COMMENTS

The Commission gives notice of the opportunity to submit written comments no later than **5 p.m., Thursday, December 3, 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. 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 or by mailing 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 numbers of these proceedings (Docket UE-190698 and 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 website is located at <http://www.utc.wa.gov/191023> and <http://www.utc.wa.gov/190698>.

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

If you have questions regarding this rulemaking, you may contact the staff lead Steve Johnson at (360) 481-1573, or by email at steven.johnson@utc.wa.gov.

MARK L. JOHNSON
Executive Director and Secretary