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

November 12, 2020

SENT VIA WEB PORTAL

Mark Johnson, Executive Director/Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE, Lacey, WA 98503
P.O. Box 47250
Olympia, Washington 98504-7250

Dear Mr. Johnson:

The NW Energy Coalition ("NWEC" or "Coalition") submits the following comments pursuant to the Notice of Opportunity to File Written Comments dated October 14th, 2020 in UE-191023 and UE-190698. The Coalition has previously filed comments on these now combined dockets on December 20th, 2019; June 2, 2020; June 15th, 2020 and on September 11, 2020.

The Coalition is an alliance of approximately 100 organizations united around energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia basin, low-income and consumer protections, and informed public involvement in building a clean and affordable energy future.

General Observations

NWEC would like to both thank the Commission for the opportunity to comment and express our appreciation for the Commission's and staff's efforts to thoughtfully complete this stage of rulemaking during a pandemic. The Coalition generally supports the draft final rules; our comments below focus on changes introduced in the draft final rules that were not in the previous version of the rules or clarifications and suggestions on a few continuing concerns. As Chairman Danner has noted before, this iteration of rules implementing CETA will not be the last word as the rules will evolve over time; we look forward to continuing our participation in the implementation of these rules and possible future rule refinements.

Our comments are not grouped by topic, but by sections. We also provide a redline version of the draft final rules.

WAC 480-100-605 Definitions:
"Equitable Distribution": The comment matrix noted that the adoption order is anticipated to clarify that current conditions include legacy and cumulative. The Coalition welcomes that clarification.

"Indicator": We suggest a small edit - the word "burdens" should be added to "benefits" to reflect RCW 19.405.040(8) (see suggested redline).

"Integrated Resource Plan or IRP": The Coalition has requested previously that this definition make clear the IRP is an analysis describing a mix of *demand and supply-side* resources to ensure that *all* available resources are fully considered, individually and in combination, in IRP analyses. This could be accomplished with a simple edit of the definition (see redline) or through the adoption order.

WAC 480-100-620 Content of an Integrated Resource Plan
(1) Purpose: The Coalition has suggested previously that the "appropriate planning horizon" be specified as "a planning horizon of at least 20 years". We do not dispute staff's response that appropriate planning periods might vary from 20 years. Our concern is that planning horizons were meant to capture long term trends in load, costs, risks and evolving technologies; we would not want "planning horizons" to shrink to time periods of, for example, four years that might miss longer-term cost-savings projections. We respectfully request that sufficiently long "appropriate planning horizons" be addressed in the adoption order.

(8) Resource Adequacy: Current Resource Adequacy (RA) metrics are generally based on limited analytical assumptions about peak need and planning margins. These narrow metrics tend to lead to the overbuilding of conventional thermal generation, while setting aside more flexible, resilient and less costly clean energy resources. The Coalition's concern has been to ensure that, going forward, demand side resources and storage, as well as generation, are evaluated both individually and in combinations to determine the contributions that can be made not just to peak energy needs, but to a broader range of *system* needs, such as annual coincident peaks, seasonal peaks, daily ramps and long-duration stress events.

We respectfully request that the draft final rules or the adoption order address the expectations that RA metrics be comprehensive (see the suggested redline).

(10)(b) Scenarios and sensitivities: While this subsection is improved, it is still not clear to us why the rule still requires only "at least one scenario" reflect future climate change. We have recommended that *all* scenarios reflect future climate impacts, as there is no future we can envision that will not experience such impacts. If utility planning fails to reflect future climate impacts, then what are the scenarios evaluating – current climate conditions twenty years from now? It seems reasonable to adjust this subsection slightly to require that all scenarios reflect the best science available about how our climate is changing through inputs to planning and

modeling. This is the approach that is taken in the 2021 Plan by the NW Power and Conservation Council. We suggest a simple edit in the redlines.

(11) Portfolio Analysis and Preferred Portfolio and (12) Clean Energy Action Plan (11)(j) and (12(i) Incorporating the SCGHG: The issue of how to account in planning for the external costs created by the combustion of fossil fuels has generated extensive comments and a great deal of discussion, yet the language remains unchanged between the draft final and the previous draft. Without specific guidance as to how the SCGHG should be applied, we continue to be concerned that the SCGHG will be incorrectly and inappropriately applied to only a portion of all emissions resulting from fossil fueled electricity generation, which would not meet the intent of the law at 19.405.010.

CETA makes up for a market failure and a modeling failure to capture a real cost that exists, the externalized cost of emissions. That cost occurs when the emission is created, not in one lump sum at the beginning or end of a generating plant's life. CETA specifies when the SCGHG cost adder should be used in resource planning at RCW 19.280.030(3). The monetary value of the SCGHG is established at RCW 80.28.405, which references the Technical Update[1]. The Update is clear that "The SCGHG is the monetized damages associated with an incremental increase in carbon emission in a given year." Therefore, the SCGHG should be applied as a variable cost.

Additionally, several stakeholders have urged that all, not just some, emissions resulting from the generation of electricity, including emissions from extraction, production and transportation, be subject to the SCGHG. The "generation of emissions" should be broadly understood to include all emissions resulting from generation, since the intent of the law at 19.405.010 mandates the transition from fossil fuels to renewable and non-emitting resources. Excluding some or all of the emissions associated with a resource does not prevent those emissions and associated harms, it simply ignores them. To most accurately assess least cost resources, the SCGHG should be applied to emissions from the extraction, production and transportation of emitting fuels, as well as generation.

Staff has expressed concern that to require all emissions be included in the SCGHG calculation might conflict with the recent Washington State Supreme Court ruling in Association of Washington Business v. Department of Ecology, 195 Wn. 2d 1, (2020). We respectfully disagree and offer our understanding of the applicability of that decision (see the attached memo "Legal Interpretation of the Clean Energy Transformation Act Requirement to use the social cost of greenhouse gas emissions").

The goal of the rules should be to ensure consistent application of the SCGHG that upholds the

[1] Table 2 of the technical support document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016.

legislative intent of CETA. How the SCGHG is actually applied in the IRP, CEAP and the impact it has on resource choices is important and will continue to be a point of discussion. We offer suggested small edits in the attached redline.

(13) Avoided cost and non-energy impacts: While we appreciate the addition of "greenhouse gas emissions costs" to what must be considered in avoided cost calculations, this does not indicate that the SCGHG should be part of the emissions cost. It should be clear that emissions costs are more than the cost of adding a scrubber to an existing generator. We suggest a small edit in this section that clarifies the SCGHG should be part of the emissions costs.

Overall, while the language is much improved, we are disappointed in one change that appeared in this version for the first time. We prefer the previous description that properly required that the avoided cost analysis for *each supply and demand-side resource*. The draft final rule now requires an *average* avoided cost across the utility, rather than an estimate by resource. Relying on a utility-wide average may well gloss over the differences between resource choices; for example, the avoided cost impacts of siting a PV + battery system in an isolated community at the end of a service line probably differ from the avoided cost of acquiring renewable power for the system via a power purchase agreement. The suggested small clarifications are in the redline.

(14) Data disclosures: The Coalition's comments on data disclosures are pertinent to several subsections in the rules. The intent to maximize transparency RCW19.280.030(10)(a) allows the Commission to require utility data input files be made available in a native format. It not clear is why some subsections require data disclosure in "native format" as at 480-100-620(14) and 480-100-640(3)(b); yet at other points, require data "in native format and in an easily accessible format", such as 480-100-630(3); 480-100-650(1)(k) and 480-100-650(1)(g). It is not clear if these are distinctions without a difference, or were meant to be the same.

(17) Summary of Public Comments: It seems it would be useful for the Commission to know how many people or entities submitted similar comments that are consolidated into one comment. If the Commission agrees, it could be done by a simple edit (see redline) or in the adoption order. This also applies to 480-100-640(8) CEIP Public participation

<u>WAC 480-100-625 Integrated Resource Plan Development and Timing</u>

(3) Draft IRP: this subsection details what information must be in a Draft IRP "*the preferred portfolio, the CEAP and, to the extent practicable, all scenarios, sensitivities, appendices and attachments*". It is not clear why the alternative lowest reasonable cost and reasonably available portfolio would not also be specified in that short list, especially as it will probably be the subject of a great deal of scrutiny by stakeholders and should be available for review and public comment during the comment period described in(3)(a). We suggest a very small edit to this subsection in the redline.

WAC 480-100-650 Reporting and compliance

650(1)(c) Clean Energy compliance report: We suggest that the adoption order make explicit that the demonstration of how the specific actions the utility took should be addressed *individually,* based on the list of planned specific actions contained in 480-100-640(5), (6) (and possibly (11), if there were changes or additions during the period). As it currently reads, it is not clear if this demonstration could be fulfilled by looking at a "total" set of actions. The cost of compliance required at (1)(f) should also address the costs of each specific action, which will inform both 660(5)(b) Reported actual incremental costs and 660(6) Determination of incremental cost of compliance option, if that is the compliance a utility relies on.

650(1)(d)(i) providing "updated indicator values: the draft final now strikes the requirement that the utility "describe any changes to the indicators from those included in the utility's CEIP and how the changes are consistent with WAC 480-100-610(4)(c)." We would recommend the reinstatement of the stricken language as being more informative than simply providing updated indicator values without context or history.

650(3)(a) Annual Progress Reports: previously, the **attestations** that a utility did not use any coal-fired resources to serve electric load of Washington customers required "an appropriate company executive" make the attestation. That requirement has been eliminated in the draft final rules. We prefer that language be added back and indicate so in the redline comments.

650(3)(f) Annual Progress Reports, Verification and documentation of REC retirement: The new version of this section now exempts Bonneville Power Authority from providing RECs until If the exemption remains, then we request that the adoption order provide an explanation of how "the nonpower attribute of the renewable energy are tracked through contract language". What does "tracked" entail? Which entity is responsible for tracking and reporting which documents? When and to whom is the tracking reported?

650(l) Annual Progress Reports: We have previously suggested that the annual clean energy progress report require a description of progress on indicators, which is not in the draft final. Given that an update on indicators is not required in the biennial report (unless there are significant changes), and information on equitable distribution in the four-year compliance report will be available months *after* the next cycle of CEIP must be filed, we are concerned there will be very little information available from the preceding CEIP to inform the next CEIP. Therefore, including a description of progress on indicators in the annual report is the minimum needed to provide some data for analysis (see redline).

WAC 480-100-660 Incremental cost of compliance

(1)(b) Incremental cost methodology: The Coalition was and is very supportive of the original incremental cost methodology proposed in the prior set of rules at WAC 480-100-660(1). This methodology provides a consistent, clear and understandable approach to calculating the incremental costs necessary to comply with CETA.

However, the draft final includes a new subsection that allows a utility to propose an alternative calculation of incremental costs. It is not clear why an alternative calculation is needed or how the outcomes of an alternative calculation might impact incremental costs that might support the alternative compliance option. It is particularly unclear if avoided costs are substituted for actual costs what the impacts might be, given the changes in the draft final rules that are new regarding avoided costs. Further, it is preferable to have a consistent approach used by all three utilities, than to have differing results from various approaches that cannot be compared utility to utility on an apples-to-apples basis. If an alternative methodology produces the same results as the original methodology, it begs the question why the alternative is even needed. If it produces a different result, it raises questions about the validity of the results.

We would caution against allowing an alternative calculation until possible alternatives are better understood. For at least the first IRP, a utility proposing to use an alternative calculation should conduct the incremental cost calculation two ways, using both the original methodology and the proposed methodology, providing all the assumptions, data and calculations used in both approaches, so that the impacts and differences can be considered in a side-by-side comparison.

We appreciate the opportunity to provide our comments and thank you in advance for your consideration of the issues we raise. We look forward to contining to work with all stakeholders on the successful implementation of CETA.

Cordially,

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