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State Of WASH.
UTIL. AND TRANSP.
COMMISSION



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

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

November 12, 2020

Dear Mark L. Johnson:

Thank you for the opportunity to weigh in on the Commission's rulemaking on Clean Energy Transformation Act (CETA) Dockets UE-191023 and 190698.

Front and Centered is a statewide coalition of organizations and groups rooted in communities of color and people with lower incomes. Our mission is to advocate for and represent these communities in connection with economic and environmental change, because communities of color and people with lower incomes are the first hit by extraction, pollution, and climate change, which exacerbates existing health and economic disparities. Frontline communities are often left out of or are the last to be included in the transition to a healthy, resilient, and sustainable future. We are committed to an equitable transition to a clean energy future based on principles of restorative, procedural, and distributive/structural justice.

In carrying out our mission and in response to the Commission's questions, we comment here to (1) express our appreciation of the measures advancing CETA's equitable distribution mandate that have been affirmed in the most recent rules draft, (2) recommend ways to strengthen them, and (3) present an equity metrics development tool and accompanying brief for learning and application in the context of CETA compliance. In addition to the comments below, we

expressly reiterate and incorporate by reference our previous comments to these dockets in the earlier phases of this rulemaking process.

For the first time, CETA established an explicit and robust equity mandate (RCW 19.405.040(8)) in the provision of electricity in the state. As we have maintained throughout this rulemaking, and as clearly stated by the statute, the legislature requires all utilities to meet multiple substantive standards in the transition to clean energy, ensuring that all customers benefit through: the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency. This mandate is direct and carries the full authority of the legislature.

The proposed rules make significant progress in implementing the equity mandate. We appreciate the many meaningful steps the Commission's rules propose, among them:

- the establishment of equity advisory groups (e.g., proposed WAC 480-100-655);
- the requirements for meaningful involvement and responses to the public (e.g., proposed WAC 480-100-640(8), -650(1)(j), -655);
- the requirement for developing a minimum suite of equity performance indicators and the robust reporting of progress toward meaningful equity outcomes (proposed WAC 480-100-605, -640(4)(c), -640(5)(c), -650(1)(d)-(e), -655(2)(a)(i)-(ii));
- the requirement for a maximum customer benefit scenario (proposed WAC 480-100-620(10)(c));
- and the express restatement of the Commission's substantial enforcement powers applicable to all elements of CETA compliance, including compliance with the equity mandate (proposed WAC 480-100-665).

We commend the Commission for developing these regulatory measures and request that the provisions be upheld at a minimum. We recommend that the rules be further strengthened to support clear and consistent processes for ensuring compliance with the equity mandate – such that restorative justice, meaningful participation, adequate reporting and accountability mechanisms are present at every stage of learning, planning and implementing 100% clean energy.

Request for a minor modification of proposed WAC 480-100-640(4)(c)

We respectfully request that the Commission consider adding “reduction of risk” to the list of minimum required indicators in the CEIP provision at proposed WAC 480-100-640(4)(c). While we recognize that the list in this section is not intended to be exhaustive, we take the position that each enumerated (or named) element of the legislature's equity mandate deserves a minimum of one reported indicator. The Commission has done exactly that with every element of the mandate except for reduction in risk. We believe our proposed addition is a straightforward extension of both the legislature's intent and the draft rule's logical structure.

We note here also the draft rules published by the Department of Commerce. Commerce, for its portion of CETA rulemaking responsibility (published October 21, 2020, at WSR 20-21-108), includes an express acknowledgement of the risk-reduction requirement in CETA in their proposed WAC 194-40-200(4)(d): *“Describe how the utility intends to reduce risks to highly impacted communities and vulnerable populations associated with the transition to clean energy.”*

We respectfully request that the Commission revise the language of WAC 480-100-640(4) in the final rule as follows:

(c) Include proposed or updated indicators and associated weighting factors related to WAC 480-100-610 (4)(c) including, at a minimum, one or more indicators associated with energy benefits, nonenergy benefits, reduction of burdens, public health, environment, reduction in cost, **reduction of risks**, energy security, and resiliency. Indicators and weighting factors must be developed consistent with the advisory group process and public participation plan described in WAC 480-100-655. The utility should describe and explain any changes in indicators or weighting factors from its most recently approved CEIP.

Elevate Consideration for Public Comment in Planning

Meaningful participation of the public in planning is critical to an equitable transition. While the rules provide for significant opportunities for advisory group input into these processes, there should be more explicit opportunity and protection for public comment consideration, particularly when comments are provided outside of advisory group meetings.

Future development of equity performance indicators

We look forward to the opportunity to participate with our community partners in the many advisory and commenting processes that arise from the proposed rules – especially the opportunity to help shape and inform the development of equity performance indicators. We acknowledge the challenge of developing appropriate equity measures or metrics to implement CETA. The Commission opts in these rules to charge the utilities themselves with developing appropriate metrics in partnership with the public and, more expressly, an equity advisory group. We understand the logic of this more open-ended, process-based approach as an initial matter. We are eager to work with the utilities to assemble the best possible suite of efficient and accurate metrics – ones that can effectively indicate whether actual progress is being made and greater equity is being achieved.

Nonetheless, we reiterate that the legislature’s unequivocal commitment is to actual, ensured progress toward equitable outcomes. Indicators are a means, equitable outcomes are the intended ends. To the extent that indicators serve their intended ends, time spent on developing robust indicators will be well spent. And to the extent there is wisdom in letting each utility and

their advisory committees offer a variety of potential indicators, the Commission may benefit from obtaining a wide range of service-area-specific and creative ideas.

To that end, we are including with this comment letter *Tools for Measuring Equity in 100% Renewable Energy Deployment: Literature Review*, a compilation of different resources related to equity metric development by the Initiative for Energy Justice. Also attached is *Metrics for Equitable Benefits: Recommendations for Washington State*, the accompanying policy brief we developed with IEJ to highlight learning from the literature review in the context of WA's clean energy transition. These and other resources should inform a dynamic process for centering equity in the clean energy transition.

In a year or more, with the benefit of early and diligent work by utilities, their advisory groups, and the public, the Commission will be in a better position to revisit the open-ended aspect of indicators in the proposed rules. We ask the Commission to commit to revisiting indicators frequently in the coming years to consider:

- analysis or evaluation of the variety of indicators across utilities, in an attempt to determine whether any best practices emerge;
- providing early guidance documents to utilities on early models, resources available, and literature that may apply;
- retrospectively reviewing the proposed rule to determine whether the proposed open-ended process is expeditiously moving utilities toward the legislature's equity mandate; and,
- revisiting the rulemaking process to update the indicator requirements as needed to require best practices, to facilitate more effective or uniform reporting, and to satisfy the legislature's command that utilities be ensuring progress along equity vectors.

The important role of enforcement

Though these initial rules provide a strong opening roadmap, they do not on their own assure utility compliance with the equity mandate. CETA's statutory mandate is not self-executing; the proposed rules, even acknowledging their many merits, also do not render the mandate self-executing. Utilities will need to work steadily and actively to meet the mandate.

The proposed rules, being largely procedural, can facilitate but do not guarantee that utilities will in fact meet their duty to ensure progress along the enumerated equity vectors. The Commission will need to maintain a strong oversight and analysis role. We appreciate that the Commission has balanced out its permissive and open-ended rules with an explicit reassertion (WAC 480-100-665) of its significant enforcement powers should those be necessary.

Ultimately, the significant work of delivering on the legislature's equity mandate remains binding on the utilities. We anticipate that the UTC will invest significant monitoring utility compliance at various reporting checkpoints and in other related hearings. We appreciate in advance the effort and critical analysis that compliance monitoring will take. We look forward

to doing our part to support progress where it is demonstrated, and to highlight our disagreement where we believe equity compliance is absent or lagging. Our confidence in the strength of these proposed rules is substantially due to the Commission's assurance of a robust oversight role alongside, if needed, the justifiable enforcement of equity provisions.

Front and Centered thanks the Commission for this opportunity to comment, and for the Commission's efforts to make the initial CETA rulemaking process both efficient and inclusive. We especially appreciate the challenges of meeting CETA's statutory rulemaking deadline (RCW 19.405.100(9)) during the coronavirus pandemic. We look forward to continuing active participation in the advisory, comment, and other public processes established in this rulemaking, as well as any future rulemakings that may be appropriate.

Please contact us if you have any questions or would like to discuss any of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'MF' with a stylized flourish extending to the right.

Mariel Fernandez Thuraingham
Clean Energy Policy Lead
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