



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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November 10, 2021

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS ON DRAFT RULES
(By 5 p.m., Monday, December 6, 2021)**

and

**NOTICE OF JOINT WORKSHOPS
(Set for December 6, 2021, starting at 1 p.m.
and December 14, 2021, starting at 1 p.m.)**

Re: Relating to Electricity Markets and Compliance with the Clean Energy Transformation Act, Docket UE-210183

TO ALL INTERESTED PERSONS:

On April 5, 2021, the Washington Utilities and Transportation Commission (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 The Commission filed the CR-101 in Docket UE-210183.

BACKGROUND

CETA requires investor-owned electric utilities (1) to eliminate coal-fired generation from their portfolios by the end of 2025; (2) to ensure that all retail sales of electricity to their retail customers will be greenhouse gas neutral by the end of 2030; and (3) to source all of their power from renewable and non-emitting resources by the end of 2045. Furthermore, CETA requires utilities to ensure that all customers are benefiting from the transition to clean energy through the equitable distribution of energy and nonenergy benefits and reduced burdens to vulnerable and highly impacted communities.

¹ Chapter 19.405 RCW.

In 2020, the Commission adopted three sets of rules to begin implementing CETA's requirements.² This Docket initiates the second phase of rulemakings to implement the statute.

RCW 19.405.130(3) requires that the Department of Commerce (Commerce) and the Commission adopt rules by June 30, 2022, defining the requirements for complying with RCW 19.405.030 through 19.405.050 with electric market purchases from carbon and electricity markets outside of the state, and to address the prohibition of double counting of nonpower attributes under RCW 19.405.040. This rulemaking also addresses two related issues that arose during the development of the CETA implementation rules in Docket UE-191023 – the interpretation of the requirement to “use” electricity for compliance with RCW 19.405.040(1)(a), and the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050. On October 12, 2021, the Commission issued draft rules interpreting and implementing “use” in RCW 19.405.040(1)(a).

With the draft rules issued with this notice, the Commission and Commerce (Joint Agencies) aim to address the prohibition of double counting of nonpower attributes under RCW 19.405.040, as well as the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050.

Commerce's version of this notice and draft rules are posted on its rulemaking webpage: <https://www.commerce.wa.gov/growing-the-economy/energy/ceta-rulemaking/>

ISSUE DISCUSSION

RCW 19.405.040 provides, in part, that an electric utility may use unbundled renewable energy credits, “provided there is no double counting of any nonpower attributes associated with renewable energy credits within Washington or programs in other jurisdictions[.]” Issued with this notice, the Joint Agencies offer a first draft of rules interpreting and implementing this language.

The draft rule language is structured as new sections of Chapter 480-100 WAC for the Commission and new sections of Chapter 194-40 WAC for Commerce. The Joint Agencies offer these draft rules for stakeholder comment. In future versions of the draft rules, each agency will integrate this rule language into its current rule structure. The Commission intends to integrate the draft rules into WAC 480-100-600 through -670.

Broadly, the draft rules include the following changes:

² Integrated Resource Planning and Clean Energy Implementation Plans rulemaking in Dockets UE-190698 and UE-191023, Purchase of Resources rulemaking in Docket U-190837, and the Energy Independence Act rulemaking in Docket UE-190652.

- WAC 194-40-XXX / WAC 480-100-XXX: Establishes requirements that utilities must acquire unbundled renewable energy credits (RECs) from renewable generating facilities that follow business practices designed to prevent double counting.
- WAC 194-40-YYY / WAC 480-100-YYY: Clarifies that the eligibility of renewable and nonemitting electricity for CETA compliance is not affected by the use of storage resources.
- WAC 194-40-ZZZ / WAC 480-100-ZZZ: Applies business practice standards related to double counting to retained RECs.

QUESTIONS FOR CONSIDERATION

The Joint Agencies seek comments on the draft rules, specifically whether they are clear, feasible to implement, and consistent with CETA. In addition, the Joint Agencies seek responses to the following questions:

- 1. Requirements for obtaining unbundled RECs:** The draft rule would require that utilities obtain unbundled RECs only from renewable generating facilities that comply with certain business practices in all transactions, regardless of whether the transaction involves a Washington utility.
 - a. Is it feasible to require renewable generation facilities to register and certify with the state of Washington that all of their transactions comply with the draft rules' business practices?
 - b. Should the Joint Agencies consider alternatives to requiring that renewable generation facilities adhere to specific business practices in order to prevent double counting?
 - c. Should the Joint Agencies consider an alternative in which the business practices identified in subsection (2)(a) through (c) are required only for transactions that result in the transfer of an unbundled REC to a Washington utility?
 - d. Is a transaction-based approach feasible? If feasible, is it necessary to ensure no double counting of non-energy attributes?
 - e. Would a transaction-based approach be more or less effective and enforceable than the draft rules in preventing double counting?
- 2. Business practices for transactions involving electricity delivered or claimed under greenhouse gas cap programs:**

- a. Sec. -XXX(2)(c) applies to transactions involving GHG cap programs outside Washington. Is it reasonable to distinguish between GHG cap programs outside Washington and Washington’s own GHG cap program, the Climate Commitment Act (CCA)? Is it relevant in making this decision that the electricity and the unbundled REC are used in the same jurisdiction?
 - b. Sec. -XXX(2)(c) uses the term “GHG cap program,” and the workshop discussion focused primarily on California’s cap and trade program. How should the term “GHG cap program” be defined? Should the rule identify specific programs? If so, please provide an alternative term and definition.
- 3. Identification of RECs associated with specified source electricity sales:** Sec. -XXX(2)(a) requires the inclusion of RECs in sales of specified source electricity and requires that the RECs be from the same generating facility and have the same month/year vintage. Is this matching of RECs with electricity reasonable or is a more precise matching of RECs with electricity necessary and feasible for compliance?
- 4. Double counting safeguards for retained RECs:** The statutory prohibition on double counting applies to unbundled RECs retired for alternative compliance obligations. The draft rules on “use” allow retained RECs to be used in addition to electricity from renewable generation resources for primary compliance.³ Should the business practices preventing double counting be applied to retained RECs?⁴ If so, does draft section -ZZZ do this effectively?

WRITTEN COMMENTS

Interested persons may submit written comments no later than **5 p.m., Monday, December 6, 2021.**

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.

Comment submissions should include:

- The docket numbers of these proceedings (Docket UE-210183).
- The commenting party’s name.
- The title and date of the comment or comments.

³ The Commisison issued draft “use” rules on October 12, 2021, in this Docket.

⁴ For purposes of answering the questions in this paragraph, assume the same rule on “use” is adopted for consumer owned utilities.

The Commission will post on its web site all comments that are provided in electronic format. The website is located at <https://www.utc.wa.gov/casedocket/2021/210183>.

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

WORKSHOPS

The Commission and Commerce have scheduled two joint workshops to discuss issues in this rulemaking. Agendas for these workshops will be issued in this docket before the workshops take place.

On December 6, 2021, starting at 1 p.m., the Commission and Commerce will host a virtual, joint workshop on the draft rules issued by the Commission on October 12, 2021, regarding the draft rules interpreting and implementing “use” in RCW 19.405.040(1)(a). The meeting will be held virtually on Zoom.

Join by Zoom:

<https://wastatecommerce.zoom.us/j/82267259966?pwd=azlocUNWbmVwbFBpVkd4dVpZSnNmZ09>

Meeting ID: 822 6725 9966

Passcode: CETA

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 213 338 8477 US (Los Angeles)

+1 971 247 1195 US (Portland)

Meeting ID: 822 6725 9966

Passcode: 878631

Find your local number: <https://wastatecommerce.zoom.us/j/82267259966>

On December 14, 2021, starting at 1 p.m., the Commission and Commerce will host a virtual joint workshop on a subjects of the draft rules issued with this Notice regarding double counting and energy storage. The meeting will be held virtually on Zoom.

Join by Zoom meeting:

<https://wastatecommerce.zoom.us/j/83114914037?pwd=L3g2b0NPaDBlanJwMWY4czRCSTc2dz09>

Meeting ID: 831 1491 4037

Passcode: CETA

Dial by your location

+1 253 215 8782 US (Tacoma)

+1 971 247 1195 US (Portland)

+1 213 338 8477 US (Los Angeles)

Meeting ID: 831 1491 4037

Passcode: 549120

Find your local number: <https://wastatecommerce.zoom.us/j/83114914037>

The Commission is committed to providing reasonable accommodations to workshop participants with disabilities. If you need a reasonable accommodation for this workshop, please contact the Commission at least one business day prior to the workshop by calling 1-360-664-1132 or by sending an email to human_resources@utc.wa.gov. For TTY service, please call the Washington Relay Service at 7-1-1 or 1-800-833-6384.

If you have questions regarding the workshop or this rulemaking, you may contact Commission Senior Policy Advisor Steve Johnson by email at steven.johnson@utc.wa.gov or by phone at (360) 481-1573, or Commerce Energy Policy Manager Glenn Blackmon by email at glenn.blackmon@commerce.wa.gov or by phone at (360) 339-5619.

AMANDA MAXWELL

Executive Director and Secretary