BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of	)	DOCKET UE-191023
	)	
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION,	)	COMMENTS OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS
	)	ON PROPOSED CLEAN ENERGY
Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act.	)	IMPLEMENTATION PLAN RULES

I. INTRODUCTION

1 Pursuant to the Washington Utilities and Transportation Commission's ("Commission") November 5, 2020 Notice of Opportunity to File Written Comments in the above-referenced docket, the Alliance of Western Energy Consumers ("AWEC") submits these comments on the appropriate interpretation of "use" in the Clean Energy Transformation Act ("CETA").

2 AWEC supports the interpretation of "use" provided by the Joint Utilities in Attachment A to the Notice,[1/] as this interpretation is consistent with the statutory language, will not unnecessarily increase costs for customers, and will further the development of organized markets in the West (which will also incentivize further development of renewable resources). AWEC defers responses to the technical questions in the Notice to the Joint Utilities. AWEC's comments below focus on the statutory language and the legislative intent behind CETA which,

[1/] The "Joint Utilities" are Puget Sound Energy, Avista Corp., PacifiCorp, and the Public Generating Pool.

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ultimately, is what both compels and constrains the Commission's rules promulgated pursuant to this law.

II. COMMENTS

A. CETA's clean energy requirements apply to the resources in customer rates, not physical delivery.

3 AWEC begins its comments where the Commission must also begin when crafting its rules: with the statutory language. Both RCW 19.405.040 and .050 require that "an electric utility must demonstrate its compliance with [the applicable] standard using a combination of nonemitting electric generation and electricity from renewable resources."[2/] RCW 19.405.040(1)(a)(ii) further provides that "[t]o achieve compliance with this standard, an electric utility must … use electricity from renewable resources and nonemitting electric generation …." The primary question for the Commission, then, is what standard the utilities must "use" renewable and nonemitting resources to meet. Beginning in 2030, the standard is "that all *retail sales* of electricity to Washington retail electric customers be greenhouse gas neutral."[3/] Beginning in 2045, the standard is "that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all *sales* of electricity to Washington retail electric customers."[4/]

4 The standards in CETA, in other words, are not physical delivery standards; they are economic standards (which befits the Commission as an economic regulator of utilities). Investor-owned utilities make "sales" of electricity to their retail customers by means of the rates

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2/ RCW 19.405.040(1)(a); 19.405.050(1) (emphasis added).
3/ RCW 19.405.040(1) (emphasis added).
4/ RCW 19.405.050(1) (emphasis added).

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regulated by the Commission. When customers pay those rates, they do not purchase a specific kWh, nor do they obtain any right to receive any specific kWh. Rather, they are paying for the *net* cost of the resources in the utilities' portfolio – that is, the total cost of those resources minus the market value of their energy and capacity. While elementary, it is an important point in this context: resources are not dispatched to meet load; they are dispatched based on the prevailing market price. KWhs are fungible, just as shares of the same class of stock are. When shareholders buy and sell shares of stock, they are not in the market to buy any particular share of stock, they are in the market to buy a portion of a company. Similarly, customers do not purchase kWhs, they purchase resources.

5 The implications of this are important to the "use" discussion for two reasons. First, the statutory language dictates that the resources eligible for CETA compliance are those (or portions of those) that form a component the rates Washington retail customers pay, regardless of whether the energy from those resources is physically delivered to the utilities' loads in the state. Second, any deviation from these principles in favor of a physical delivery demonstration will inhibit Washington utilities' ability to participate in Western electricity markets and the continued development of these markets because they will need to treat their purchases and sales of energy used to meet Washington load differently from all other purchases and sales. The continued development of these markets, including the development of a centralized market run by an ISO or RTO, will reduce costs to customers and incentivize greater development of new renewable resources by giving all utilities access to a broader resource footprint. Any rules or other decisions that hinder the development of such markets, or that work to isolate Washington State from a broader regional market, would contradict the clean energy

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goals of CETA and, given the Legislature's creation of a workgroup to examine the "[e]fficient and consistent integration of [CETA] and transactions with carbon and electricity markets outside the state," contradict to the Legislature's intent. The Joint Utilities' proposed rules are faithful to the statutory language and the legislative intent to integrate CETA into existing and future Western markets and should be adopted.

B. Compliance with CETA's clean energy requirements pre-2045 is measured over a four-year period.

6 Certain of the Commission's questions in its Notice suggest a preference for matching real-time delivery of renewable and nonemitting generation with the utilities' loads at all times. This includes Question 2, regarding whether a utility can "over-comply" with CETA in certain periods in order to enable "under-complying" in others, Question 4.a, regarding whether the proposed rules in Attachments A and B allow for compliance with the 2030 goal that diverges from the 2045 goal, and Question 4.b, regarding resource planning in a manner that matches renewable electricity production with utility loads. AWEC does not take a position on whether either variant of the proposed rules has the effects suggested in the Notice Questions, because whether they do or not is irrelevant.

7 The "greenhouse gas neutral" standard that applies beginning in 2030 is a standard that must be met over "four-year compliance period[s]."[5/] Consequently, there is no annual compliance obligation with the greenhouse gas neutral standard – it is a cumulative obligation over a four-year period. Moreover, RCW 19.405.040(1)(b) further specifies that "an electric utility may satisfy up to twenty percent of its *compliance obligation* under (a) of this

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5/ RCW 19.405.040(1)(a).

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subsection with an alternative compliance option …" (emphasis added). Again, that "compliance obligation" is the requirement to meet 80% of retail sales with conservation, renewable, and non-emitting generation over a cumulative four-year period. RCW 19.405.040(6)(a)(i) further specifies that utilities "must, to the maximum extent feasible: Achieve targets at the lowest reasonable cost, considering risk." During the carbon neutral compliance period, therefore, CETA not only allows utilities to produce excess renewable and nonemitting generation at certain times in order to enable under-production at other times during a four-year compliance period, it obligates utilities to do this if doing so is the lowest reasonable cost pathway, considering risk. Nothing in RCW 19.405.040 suggests that utilities must meet the "greenhouse gas neutral" standard on a real-time or annual basis.

8 For this reason, it may be the case that the Joint Utilities' proposed rules "allow compliance with the 2030 goal in a manner that diverges from the 2045 goal," but that is both allowable and necessary. These goals are different, not only in the amount of renewable and nonemitting resources they require as a portion of total retail sales, but also in their compliance periods. The 2045 standard applies beginning on "January 1, 2045, and each year thereafter" – it is an annual compliance period, unlike the four-year greenhouse gas neutral compliance period.[6/] The "compliance goal" in 2030 must be different from that in 2045 to appropriately recognize their different requirements.

9 The Joint Utilities' proposed rules apply only to the greenhouse gas neutral compliance requirement, and do not attempt to define compliance with the 2045 standard. This

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6/ RCW 19.405.050(1).

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is reasonable, as it is far too early to determine how utilities should demonstrate compliance with this standard. Even if the Commission were to adopt rules governing 2045 compliance, they will almost certainly require revision in the future to accommodate changes in laws, circumstances, markets, and technologies that will occur over the next 25 years.

III. CONCLUSION

10 AWEC recommends the Commission adopt the Joint Utilities' proposed rules as they relate to the "use" of renewable and non-emitting electricity to meet CETA's requirements.

Dated this 3rd day of December, 2020.

Respectfully submitted,

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