



February 28, 2020

Re: Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023

Mark Johnson, Executive Director/Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. S.W., P.O. Box 47250
Olympia, Washington 98504-7250

Dear Mark L. Johnson,

Front and Centered’s below comments on the CEIP docket questions are intended to assist the Commission in rulemaking that prioritizes CETA’s core purpose, which is to facilitate a transition to a clean energy economy whose benefits are broadly and equitably shared throughout the state. Equity principles are embedded in every aspect of the proper implementation of CETA’s mandate that electric utilities reduce and eliminate reliance on fossil fuels in their operations. A just and equitable clean energy transition under CETA goes beyond the general provision of electricity from non-emitting sources to utility customers. It concerns the impacts of sourcing, siting, rate-setting, hiring, contracting, securitizing, learning, leadership, planning, and all strategy and operational decisions – each of which have benefits and costs – on people, over and above their status as consumers.

Utilities have several opportunities to ensure that the equitable distribution of benefits and reduction of burdens is a core feature of their transitions. Their IRPs include an assessment energy equity in their service areas informed by CIAs, and Purchase of Electricity decisions to meet and exceed compliance targets implicate considerations of long-term system reliability and opportunities to support local economic development and self-reliance. As discussed further here, the interim targets and specific actions included in a CEIP are where equitable distribution of clean energy transition benefits and reduction of transition burdens must be articulated through the concrete goals and equity-informed steps utilities set to achieve compliance. The Commission rules are an opportunity to align the public and provider interests so that equity principles are embedded in the procedural and operational responsibilities of electric utilities. Utilities allow WA residents to harness energy to meet basic necessities and can, in their capacity as near-public near-institutions, build value outside of investor returns by centering energy justice in their missions and aiming for greater access to clean and affordable energy, transparent and inclusive planning processes, improved outcomes for communities most impacted by climate change, and

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engagement in and ownership of economic development opportunities by historically underserved populations.

Front and Centered recommends that the Commission craft all CETA rulemakings to guide IOUs in prioritizing equity-promoting actions in their transition plans and institutional mandates, and to show it at the earliest stages in how they set goals and describe how they will achieve them and with what means. The goals should align the GHG neutrality purpose and a process that produces measurable equity outcomes in the areas described in the law: equitable distribution of energy and non-energy benefits, reduction of burdens on highly-impacted communities and vulnerable populations, long and short term public health and environmental benefits and reduction of costs and risks, and energy security and resiliency. Utilities should accompany their action proposals with a description of the means to achieve them, including by assigning resources to be allocated to them in a budget line-item estimate with their plan proposals. The Commission should also encourage and enable utilities to set equity targets and track progress through metrics reported in their CEIPs to comply with 4(8), rather than have a separate process for measuring equity progress, for the sake of efficiency and consistency.

I. CEIP

1. CETA stresses the need to maintain system reliability and resource adequacy. RCW 19.405.060(1)((a)(iii) requires that the specific actions taken in a CEIP be consistent with the utility's resource adequacy requirements. What information should utilities include about their system reliability and resource adequacy in the CEIP? For example, should the utilities include detailed information about the resource mix it plans to use to meet system reliability and resource adequacy and how each resource type contributes?

The Commission should require that in their CEIPs IOUs delineate specific actions for achieving a clean energy transition that maintain resource adequacy while actively enhancing the objective of ensuring equitable distribution of benefits and reduction of burdens on HICs and VPs. A reliable and diverse resource mix is a component of adequacy, as is anticipating changes in circumstance that may require an alternative approach to the primary plan for utilities to meet the energy needs of customers. Utilities should include in their CEIPs multiple measures to strengthen system reliability and resource adequacy on the supply and demand side (i.e., distributed energy sourced from local community enterprises such as community solar projects, demand response and EE/conservation/weatherization programs).

II. CEIP targets

2. RCW 19.405.060(1) requires that by January 1, 2022, and every four years thereafter, each electric investor-owned utility must develop and submit to the Commission a four-year CEIP for the standards established under RCW 19.405.040(1) and 19.405.050(1). The plan must propose specific targets for energy efficiency, demand response, and renewable energy. The plan must also propose interim targets for meeting the standard in RCW 19.405.040(1) prior to 2030 and between 2030 and 2045.

2(a). Should the rules provide that specific targets must be defined cumulatively for each four year period, or identified annually, within the four year compliance period?

The Commission should require that specific targets be defined annually within the four year compliance period to allow utilities to demonstrate consistent progress.

2(b). Should the Commission require utilities to identify interim targets by resource type or some other metric(s), such as percentage of sales to customers from non-emitting generation and renewable resources?

The metrics used for interim targets should include those that consider equity. These should include a set of standard quantitative metrics that will both better allow utilities to meet interim targets and the Commission to track utilities' progress. Further, the Commission should consider qualitative metrics, which provide a greater context in key areas, such as highly impacted communities and vulnerable populations.

2(c). Should the Commission require that interim targets be defined cumulatively or annually for the years prior to 2030? For the years between 2030 and 2045?

The Commission should require that interim targets be defined annually for the years prior to 2030. This allows utilities to demonstrate progress earlier in this initial phase.

3. RCW 19.405.060(1)(c) requires the Commission to approve, reject, or approve with conditions the CEIP and associated targets after a hearing. With conditional approval, the Commission may recommend or require more stringent targets. Are there circumstances in which the Commission can and should recommend, rather than require, more stringent targets? If so, when should the Commission recommend more stringent targets and on what basis could and should the Commission not require more stringent targets?

For targets impacting equity, there are not circumstances in which the Commission should recommend, rather than require, more stringent targets. RCW 19.405.040(8) codifies CETA Section 4(8) and states: "It is the policy of the state that all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030." In implementing this policy, utilities ***must*** "ensure that all customers are benefiting from the transition to clean energy: 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.***"¹

This language imposes a mandatory, affirmative duty on utilities; reading the section otherwise would render important language superfluous and would be contrary to the legislature's intent. Because the requirements of .040(8) impose legal duties to ensure equitable benefits from the transition to clean energy, the Commission should require more stringent targets for those impacting equity.

¹RCW 19.405.040(8), emphasis added.

4. RCW 19.405.060(1)(c) allows the Commission to periodically adjust or expedite timelines when considering a utility’s CEIP or interim targets. A common Commission practice is to respond to a motion to adjust timelines from any party with standing in a proceeding at any time or after hearing a compliance item at an open meeting.

4(a). What criteria should the Commission take into account in making changes to timelines?

In complying with RCW 19.405.060(1)(c)(iii), the Commission should take into account the impact on vulnerable populations and highly impacted communities. The language of 6(1)(c)(iii) includes identical language to the requirement for the equitable distribution of benefits in the transition to clean energy found in RCW 19.405.040(8). As discussed previously, that portion of the statute establishes affirmative legal duties on utilities. Because this language has been used previously in the statute to establish those duties, this language being reiterated in this section demonstrates an intention on the part of the legislature for this requirement for the equitable distribution of benefits to apply throughout the CEIP process.

The legislature has chosen to reiterate the legal duties of 4(8) in 6(1)(c)(iii), requiring equity considerations be part of the CEIP process. Therefore the decision to make changes to timelines should also include equity metrics and considerations. Including equity among these criteria would prevent timeline adjustments from prioritizing plans in some areas while neglecting highly impacted communities and vulnerable populations. Considering the impact of timelines on the ability for all customers to benefit from the transition to clean energy, equity should be included as part of the criteria impacting changes to such timelines.

4(b). When should the Commission consider adjusting or expediting the timeline? How should the Commission interpret the term “periodically?”

RCW 19.405.060(1)(c)(iii) requires that adjusted timelines continue to ensure the equitable transition to clean energy, and the Commission should interpret the term “periodically” in light of equity considerations. This section of the statute requires that timelines are only adjusted if doing so continues to ensure the equitable transition to clean energy for all customers.² This equity requirement details that energy and non-energy benefits, along with a variety of other equity factors that impact how the transition to clean energy can particularly affect vulnerable populations and highly impacted communities, must be equitably distributed. Because of this comprehensive mandate to ensure equity, not only should adjusting timelines be considered for their impact on equity individually, but also in the aggregate, in order to include in that consideration the effects of the frequency of adjusting timelines. For example, repeatedly adjusting timelines for plans that could benefit highly impacted communities or vulnerable populations, while perhaps not doing so for plans in other areas, would disproportionately affect those communities' ability to equally benefit to the transition toward clean energy.

²See, RCW 19.405.060(1)(c)(iii).

In complying with .060(1)(c)(iii)'s requirement for equity considerations in adjusting timelines, "periodically" should not be interpreted as a rigid timeframe. Defining "periodically" as a set interval of time could negatively affect highly impacted communities and vulnerable populations by restricting them from being able to benefit from expedited timelines on projects within a period of time. Interpreting "periodically" as such would keep beneficial plans from those who would be most impacted, while other communities would not be as impacted by a plan's inability to be expedited due to such a rigid interpretation.

4(c). Who bears the burden of demonstrating that adjusting or expediting the timeline can or cannot be achieved in a manner consistent with RCW 19.405.060(1)(c)(i)-(iv)?

Whichever party proposes the change to the timeline bears the burden of demonstrating that the adjusted timeline can be achieved consistent with RCW 19.405.060(1)(c)(i)-(iv).

7. What guidance (content and form) should the Commission provide to ensure utilities employ robust, equitable, and inclusive public involvement in drafting CEIPs?

The Commission should take four steps to ensure the kind of public involvement contemplated by CETA:

1. The Commission should hire at least one permanent CETA equity compliance and outreach staff member.
2. The Commission should require by rule that CEIPs undergo a public comment process of draft CEIP, comment period, and final CEIP that describes how the final CEIP is responsive to public comments.
3. The Commission should publish guidance for utilities on ensuring robust, equitable, and inclusive public involvement in the CEIP process.
4. The Commission should specifically recommend in CEIP guidance that utilities employ an outside third-party neutral to broker public engagement with communities on CETA matters.

Creating a Commission staff position in equity compliance and outreach

Like any other professional skill, equity compliance and outreach requires training and specialization. This skill set is not embedded in most professional training; nor is the expertise required a simple product of unstructured, accumulated life experience. Equity outreach and compliance of the sophisticated depth contemplated by CETA will demand a high level of professional commitment, focus, and continuing education. Utilities are likely to struggle with the firm equity and fair transition duties of CETA without recognizing this and adjusting to the full-time, professional skill required. It is a logical inclination to simply add equity compliance and outreach to an existing employee's workload. In most instances, this will not do. The fair and equitable transition sought in CETA directly engages long-standing, culturally fraught, and complicated social dynamics. To succeed, utilities should hire new staff, or commit to significant new education and training of designated existing staff, in equity compliance and outreach.

The Commission should lead the way by hiring its own full-time equity compliance and outreach professional staff. This person or persons would model the kind of new expert that will be required,

provide a equitable-transition resource to investor owned utilities, and serve as the Commission’s in-house keeper and updater of equity handbooks, guidance, and proposed rule amendments.

A useful guide to understanding the kind of person, team, and professionalization required can be found in literature on Racial Equity Core Teams, such as [those](#)³ published by the Local and Regional Government Alliance on Race & Equity. Though CETA imposes its own unique set of duties, the key lesson of the “core team” concept applies to the CETA mandates: working toward an equitable transition requires a committed, permanent, and trained professional staff.

Requiring by rule a CEIP public comment process

At a minimum, the Commission should adopt a rule that requires utilities to publish a draft CEIP, accept public comment for at least 30 days, and then submit a final CEIP to the Commission that documents consideration and revision in response to public comments. This general process is well established for both state environmental review under SEPA and agency rulemaking under the Washington APA, as well as under the federal equivalents. The same logic of access applies to the CEIPs as it does in those settings.⁴ A public comment process allows for planned, organized, deliberate, and potentially widespread involvement by persons who need not attend any particular meeting at any time, may only have odd hours to consider public proposals, and who can best participate through careful written comments. The more robust the public comment process – the more detailed the draft CEIP, the better the quality and number of public comments, the more thorough the responses and revisions in the final CEIP – the better the final product for the Commission’s consideration. Utilities should embrace a public comment process as a way to ensure that the Commission issues any CEIP order on the basis of substantial evidence in the record.

Published guidance for robust, equitable, and inclusive public involvement in CEIPs

A textbook public comment process is a necessary but not sufficient condition to reaching the audiences contemplated by CETA, and to meeting CETA’s directives to include traditionally underrepresented groups in the transition to a clean energy future.

In addition to a rule requiring CEIP public comment, the Commission should develop guidance for a broad-spectrum effort at meaningful involvement of the public in CEIPs. “Meaningful involvement” has been long used as a term of art by the US EPA in the context of environmental justice. As used by the EPA, meaningful involvement means:

1. potentially affected community members have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health;

³ <https://www.racialequityalliance.org/resources/racial-equity-core-teams-the-engines-of-institutional-change/>

⁴ A useful overall statement on the value of public comment can be found in Elizabeth D. Mullin, *The Art of Commenting: How to Influence Decisionmaking with Effective Comments* (2013, Environmental Law Institute), pp. 6-7 (explaining that comments improve the multi-disciplinary viewpoints in reviewed documents, as well as increase regulatory coordination and potentially reduce the likelihood of future litigation).

2. the public’s contribution can influence the regulatory agency’s decision;
3. the concerns of all participants involved will be considered in the decision-making process; and
4. the decision makers seek out and facilitate the involvement of those potentially affected.⁵

The Commission should conduct additional scoping, publish proposed draft guidance, solicit and respond to feedback, and then publish a final guidance on robust, equitable, and inclusive public involvement under CETA generally, with whatever specific focus on CEIPs is merited.

Among the resources and approaches the Commission should consider in developing its guidance are:

- those described by the 2016 federal Environmental Justice Interagency Working Group *Framework for Collaboration*⁶ (all pages) and *Promising Practices* document⁷ (preface, Sections I-II);
- those described by the California Environmental Justice Alliance in their SB1000 toolkit⁸ (section 3 on “Identifying Disadvantaged Communities,” section 4 on “Community Engagement”);
- those described by the Local and Regional Government Alliance on Race & Equity in their document *Racial Equity Action Plans: A How-to Manual*⁹ (pp. 12-13 on “Community Engagement”);
- those described by the Greenlining Institute in their August 2019 report *Making Equity Real in Climate Adaptation and Community Resilience Policies and Programs: A Guidebook*¹⁰ (section III on “How to develop an equitable process,” and section IV on “How to center equity in policy and program implementation”); and
- those described in the standing published inclusive public engagement guides of the City of Seattle¹¹ (entire document) and Oregon Metro¹² (entire document).

⁵ <https://www.epa.gov/sites/production/files/2015-02/documents/plan-ej-overview.pdf>; see also <https://www.epa.gov/sites/production/files/2015-02/documents/ips-final-report.pdf> for one specific variation of meaningful involvement in tribal relations.

⁶

https://www.epa.gov/sites/production/files/2016-04/documents/ej_iwg_framework_for_collaboration_fy2016-2018_0.pdf

⁷ https://www.fws.gov/environmental-justice/pdfs/nepa_promising_practices_document_2016.pdf

⁸ https://caleja.org/wp-content/uploads/2017/09/SB1000_Toolkit_Final_rev_2018July_web.pdf

⁹ <https://www.racialequityalliance.org/wp-content/uploads/2016/11/GARE-Racial-Equity-Action-Plans.pdf>

¹⁰

<https://greenlining.org/wp-content/uploads/2019/08/Making-Equity-Real-in-Climate-Adaption-and-Community-Resilience-Policies-and-Programs-A-Guidebook-1.pdf>

¹¹

https://www.seattle.gov/Documents/Departments/ParksAndRecreation/Business/RFPs/Attachment5%20_InclusiveOutreachandPublicEngagement.pdf

¹²

https://www.oregonmetro.gov/sites/default/files/2014/05/02/11122013_public_engagement_guide_final_adoption_draft.pdf

To assist in the gathering, analyzing, and usefully applying this and other material, the Commission should engage the members of the Community Engagement Subcommittee of the EJ Task Force of the Governor’s Interagency Council on Health Disparities.¹³

Recommendation for third-party neutral brokers for community engagement

Investor owned utilities are not monolithic in their structure, public engagement, or corporate character. In many cases, investor owned utilities can succeed in outreach to community organizations, contribute significantly as anchor institutions and employers, and align with the advocacy positions of community and other organizations. Despite this, there very often remains a significant amount of daylight between the positions of investor owned utilities and the community, social justice, and environmental organizations in their service territories.

In many communities, especially traditionally underrepresented communities, the underlying motivations of the utility and the community are seen – whether accurately or not – as in constant tension. Investor owned utilities by design need to serve shareholders and seek a fixed rate of return on capital investment; communities by their nature serve their residents and their place, and seek improvement of their quality of life, their safety, and the healthfulness of their surroundings. The most innovative components of CETA stand for the proposition that these two sets of goals can be better reconciled than they have been historically. CETA mandates¹⁴ that utilities *ensure* all customers are benefiting from the clean energy transition – a significant expansion of the duties of utilities, and one that necessarily widens the utilities’ field of view beyond traditional shareholders to service-area community stakeholders. And this new task may be made harder when the investor owned utilities try to engage skeptical, and historically disadvantaged, communities.

To reduce barriers to participation, to increase engagement and acceptance of utility outreach, and to assist utilities in meeting CETA’s new mandates, the Commission should develop specific guidance to investor owned utilities for engaging third-party, neutral brokers who will help navigate the difficult terrain of meaningful engagement in among vulnerable populations.

The Commission should look to federal agency procedures to facilitate meaningful and inclusive public involvement in drafting CEIPs.

¹³ A proviso in the 2019-2021 biennial operating budget ([ESHB 1109](#), section 221, subsection 48) directed the Governor’s Interagency Council on Health Disparities to convene and staff an Environmental Justice Task Force, which in turn designated a subcommittee to study precisely these issues. For more information, see <https://healthequity.wa.gov/TheCouncilsWork/EnvironmentalJusticeTaskForceInformation>

¹⁴ RCW 19.405.040(8)

Investor-owned utilities are required to develop a Clean Energy Implementation Plan (“CEIP”).¹⁵ This plan must ensure that all customers are benefiting from the transition to clean energy.¹⁶ Meaningful public involvement in drafting CEIP’s will help promulgate statutory compliance. The Commission should look to a federal agency’s informal rulemaking procedures to provide guidance to investor-owned utilities. For example, when the EPA creates a regulation, it follows three broad steps¹⁷:

1. The regulation is proposed and listed in the *Federal Register* so that members of the public can consider it and send in their comments;
2. The comments are considered, addressed, and necessary revisions are made; and
3. The regulation is printed as a final rule and codified.

Similarly, the Commission could require investor-owned utilities:

1. Publish draft CEIP’s in a targeted manner to ensure meaningful public engagement;
2. Consider and respond to all significant comments and make necessary revisions; and
3. Submit a final CEIP to the Commission for consideration.

To ensure the public involvement is “robust, equitable, and inclusive,” the Commission may specify additional requirements under Step One, such as:

- **Enhancing community outreach and increasing public access to data, mapping, and assessment tools.**¹⁸ This should involve direct outreach to community organizations in Environmental Justice communities, as well as to diverse populations, particularly minority, low-income, and disabled populations and tribal communities, to increase awareness within those communities and the public generally about specific programs and opportunities. In some cases a third party may facilitate relationship-building between and IOU and a community of concern, and utilities should direct resources to pursuing partnerships and creating opportunities for dialogue, learning, capacity-building, and local empowerment.
- **Public meetings.** The Commission may require utilities to hold a specific number of public meetings to consider public comments before finalizing the guidelines.
- **Transparency.**¹⁹ The Commission may require investor-owned utilities provide, via their website, information including notices of future meetings, links to materials and comments from past meetings, and a sign-up for email notifications.
- **Diversity.**²⁰ Expanding the use of multilingual and culturally appropriate materials in public communications and educational strategies, including through social media strategies, as appropriate, that target diverse populations.

¹⁵ RCW 19.405.060.

¹⁶ Id., RCW 19.405.040(8), RCW 19.280.030(1)(k).

¹⁷ <https://www.epa.gov/laws-regulations/basics-regulatory-process>

¹⁸ https://www.epa.gov/sites/production/files/2016-04/documents/ej_iwg_framework_for_collaboration_fy2016-2018_0.pdf

¹⁹ https://www.nclc.org/images/pdf/special_projects/climate_change/comments-ceip-2016.pdf

²⁰ <https://greenlining.org/wp-content/uploads/2019/08/Making-Equity-Real-in-Climate-Adaption-and-Community-Resilience-Policies-and-Programs-A-Guidebook-1.pdf>

8. Given the need for utilities to integrate their integrated resource plan (IRP), clean energy action plan (CEAP), and CEIP, what procedural outline should utilities' public involvement follow and what components (e.g., advisory groups, workshops, comment periods, etc.) should be included? How should a CEIP public engagement and public involvement process emulate or differ from the proposed rules in the IRP rulemaking (See Integrated Resource Plan Rulemaking, Docket UE-190698, Staff Discussion Draft Rules at 17 (Nov. 20, 2019)) or the conservation planning process in WAC 480-109-110 and WAC 480-109-120? Please describe in detail.

Front and Centered advises that the Commission guide and work with IOUs to design parallel processes for facilitating public involvement in planning and embedding continuous feedback loops for consideration of public comments in the development of final CEIPs. The IRP design process may feed into the CEIP process, which should adopt for measurement and operational purposes the IRP baseline assessment and subsequent data standards. These standards must inform the CEIP metrics, targets, and resource allocation.

In significant measure, the main answer to the question is provided in the answer to Q7 above: the Commission should publish formal guidance for utilities' use in engaging the public, specifically recommending the engagement of third-party neutrals to navigate between investor owned utilities and historically underrepresented portions of the utility's service territory.

More specifically, the Commission should:

- consider the proposed rules (Docket UE-190698, Staff Discussion Draft Rules at 17, Nov. 20, 2019) as a bare binding regulatory minimum but insufficient to affirmatively engage the new participants CETA envisions; and,
- open comment on potential rulemaking for the establishing a companion system of CEIP "equity advisory groups" for each investor owned utility.

IRP discussion draft rules as a regulatory minimum

The discussion draft rules published in Docket UE-190698 at 17 represent the minimum information that parties outside of a utility would need to participate in a planning process. They represent a sound binding, regulatory minimum and should not be further reduced or diminished in the IRP rulemaking.

Whether by guidance or rule in the IRP rulemaking process, or separately (see discussion of equity advisory groups below) in the CEIP rulemaking process, the Commission should move beyond this minimum. The discussion draft rules provide a model of passive notice; they are not the same as active engagement. Why is more active engagement needed?

Because CETA imposes a duty on utilities to ensure: that the energy and nonenergy benefits are equitably distributed, that burdens are reduced to vulnerable populations and highly impacted communities, that long-term and short-term public health and environmental benefits are equitably distributed, that there is an equitable reduction in costs and risks, and that there is an equitable distribution of energy security and

resiliency. CETA mandates this first as a free-standing duty in RCW 19.405.040(8) and then incorporates it by reference and repetition for CEIPs in RCW 19.405.060(1). As stated in the response to Q7, this mandate is a significant expansion of the field of view and obligations of utilities to new participants – specifically, vulnerable populations and highly impacted communities – that the utilities have little previous experience planning with and for. Simply put, utilities have a range of new duties to new constituencies; it is nearly impossible to imagine that passive notices of available information will actually activate those necessary new constituencies. The barriers to participation for historically underrepresented communities, as discussed in the resources cited in the response to Q7, are well known, significant. They include lack of time, the necessity of child care, a history of distrust, and the need to work additional jobs or odd hours. These kinds of barriers are unlikely to be overcome with passive notice.

Utilities, to ensure their equitable obligations to vulnerable populations and highly impacted communities under CETA, will need access to more information, more on-the-ground insight, and more fresh input than passive notice alone will facilitate. The Commission, in order to certify CEIP orders, will need to have sufficient evidence that the utility is meeting the just transition mandate through the CEIP. The key to both is the same: active, engaged, authentic input from the named communities themselves.

Opening a comment process on CEIP equity advisory groups

The model of the conservation advisory group is more robust than the passive notice requirements of the IRP discussion draft rules. With some adjustment for the barriers encountered by vulnerable and highly impacted communities, the existing conservation advisory groups should find a new counterpart in the creation of equity advisory groups.

A simple starting point for such a discussion would be to:

1. begin with the existing language of WAC 480-109-110 and WAC 480-109-120;
2. throughout those WACs substitute the word “equity” for the word “conservation”;
3. swap the requirements of RCW 19.405.040(8) for the elements under “scope” in WAC 480-109-110(1);
4. change the reporting and timing elements of WAC 480-109-120 to harmonize with the CEIP timelines described in RCW 19.405.060(1); and,
5. post that composite as discussion-draft rules for public comment.

This draft would not have covered all possibilities or concerns. Further development would be needed on how, more exactly, to assure that the advisory groups are suitably inclusive and designed to activate a larger degree of community interest and knowledge. But such a draft proposal would provide a strong basis for a needed and meaningful discussion.

9. Would a requirement for a utility to file a draft CEIP for public input be useful or problematic if the plan were to be litigated. Please explain why or why not.

The draft CEIP and the public input provided will bolster the record the court reviews in the event of litigation. This is undoubtedly useful for the court; whether or not it is problematic depends, among other factors, on the issues being litigated and the contents of the record. Ultimately, public comments will help shed light on the Commission's decision-making process. They will also facilitate transparency and communication, which, in turn, promote CETA's equity provisions. Therefore, the benefits of public input outweigh any potential downsides.

1. Public input will provide the court with insight into the Commission's decision-making process in the event of litigation.

Public input may help justify the Commission's reasoning for approving or denying a CEIP in the event of litigation. In the event of litigation, the Commission's approval of a CEIP is subject to judicial review. Pursuant to RCW 19.405.060(c), the Commission approves CEIP's through adjudicatory orders. Adjudicatory orders are subject to judicial review under RCW 34.05.570(3). RCW 34.05.570(3) provides that in the event of litigation, a court may set aside an agency order if:

- (a) The order, or the statute or rule on which the order is based, is in violation of constitutional provisions on its face or as applied;
- (b) The order is outside the statutory authority or jurisdiction of the agency conferred by any provision of law;
- (c) The agency has engaged in unlawful procedure or decision-making process, or has failed to follow a prescribed procedure;
- (d) The agency has erroneously interpreted or applied the law;
- (e) The order is not supported by evidence that is substantial when viewed in light of the whole record before the court, which includes the agency record for judicial review, supplemented by any additional evidence received by the court under this chapter;
- (f) The agency has not decided all issues requiring resolution by the agency;
- (g) A motion for disqualification under RCW [34.05.425](#) or [34.12.050](#) was made and was improperly denied or, if no motion was made, facts are shown to support the grant of such a motion that were not known and were not reasonably discoverable by the challenging party at the appropriate time for making such a motion;
- (h) The order is inconsistent with a rule of the agency unless the agency explains the inconsistency by stating facts and reasons to demonstrate a rational basis for inconsistency; or
- (i) The order is arbitrary or capricious.

Public input on a draft CEIP will form part of the judicially-reviewable record. By addressing the public comments, the Commission will have an opportunity to justify its approval or denial of a CEIP. Among other things, this will give the Commission the ability to:

- Articulate the statutory authority in which its decision is grounded.
- Explain its interpretation of the law;
- Offer evidence supporting its approval or denial of a CEIP, in spite of or because of information brought forth during public comments;
- Justify why approval or denial is appropriate, thus protecting itself from claims of arbitrary and capricious decision-making.

All of this information will help to strengthen the record by providing substantial evidence upon which the court may base its decision. This is useful for the court, and may help the Commission justify its approval or denial of a CEIP in the face of litigation.

Front and Centered takes this opportunity to emphasize that public input is of fundamental importance to achieving CETA's equity goals. The opportunity to comment fundamentally important to advancing environmental justice. A consumer owned utility plan is required to submit a CEIP which "ensure[s] that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities[.]"²¹ The meaningful opportunity to comment is essential to promulgating this requirement. Allowing public input on draft CEIP's will:

- Allow the Commission to identify issues by drawing on the public's diverse opinions and expertise. Citizens with varied backgrounds and experiences can contribute useful information and new perspectives to the decision-making process.²²
- Flag disagreements in a timely manner. Obtaining multi-disciplinary internal comments before the Commission issues a final order will "help[] minimize the chance that documents, actions, or projects will be torpedoed late in the process."²³ Further, "when people are involved early in the [decision-making] process, they are exposed to many, and often conflicting factors involved in the decision. Even if they do not agree with a final decision, they may be less inclined to litigate or otherwise fight a decision if they have been part of the process and feel that their views were heard and accommodated."²⁴
- Identify disproportionately high and adverse impacts upon minority and low-income populations.²⁵

Public input will allow the Commission to make a more informed decision regarding its final orders. This may ultimately prevent litigation. Further, it will help promote CTA's equity provisions by providing the Commission with more information regarding which populations are particularly impacted. Therefore, public input on a draft CEIS should be encouraged.

III. Demonstration of compliance with RCW 19.405.030, 040, and 050

10. The Commission uses a planning and reporting cycle for conservation under the Energy Independence Act described in WAC 480-109-120. Should Commission rules similarly describe the level and frequency of reporting for demonstrating compliance with RCW 19.405.030, 040, and 050?

²¹ RCW19.405.060(1)(i); RCW 19.405.040(8).

²²https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/G-DOE-Public_Participation.pdf

²³ *The Art of Commenting*, Elizabeth D. Mullin.

²⁴ *Id.*

²⁵<https://www.epa.gov/sites/production/files/2015-02/documents/recommendations-model-guide-pp-2013.pdf>

Frequent reporting helps utilities meet their interim targets and the Commission track utilities' progress. Included among the legal duties imposed by RCW 14.405.040(8) is the equitable reduction of burdens in particular.²⁶ The reduction of environmental burdens is impacted by the timelines of retiring polluting resources, as described throughout the rest of .040, which must comply with .040(8). Frequent reporting that includes equity metrics ensures that all customers benefit from the transition to clean energy.

Not only are equity considerations required to comply with 4, but the reduction of burdens requirement is implicated by the retiring of polluting resources illustrated in 3 and 5 as well. Because of the effect of 3 and 3 on highly impacted communities and vulnerable populations, rules describing frequent reporting that include equity metrics would ensure all customers are benefiting in the transition to clean energy. Further, these equity metrics should come from the interim metrics determined in each utilities' respective IRP assessments.

IV. Equitable Distribution of Benefits

17. RCW 19.405.040(8) states:

In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.140, ensure that all customers are benefiting from the transition to clean energy: 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.

a. Please provide a list of costs and benefits (e.g., public health, pollution) that the Commission should consider when determining a utility's compliance with RCW 19.405.040(8).

Costs and benefits that the UTC should consider when determining a utility's compliance can be drawn directly and read into the interests described in (4)(8). They include:

| Impact Areas and -What IOUs Do | Costs and Benefits |
|---|--|
| Health and Safety -Energy sourcing, processing, and delivery; Siting and demobilizing; Maintenance and home assessments | Asthma, influenza and other illness exacerbated by respiratory strain from emissions-related air pollutants Poor circulation, insulation and mold in older homes Access to clean water more limited and costly due to emissions Stress and discomfort associated in part with high energy costs, low system reliability, electrical hazards, and noise Siting of polluting facilities and operations Weatherization and related home energy safety programming and assistance |

²⁶See, RCW 19.405.040(8).

| | |
|--|--|
| <p>Economic</p> <p>- Procurement and acquisition; Purchase of electricity; Hiring; Service agreements and contracting with vendors; Real estate interests</p> | <p>Local participation and community ownership in energy sector Asset ownership/profit/returns Property values and leasing revenues Displacement Community economic development (asset ownership, real estate) Job creation/preservation Workforce development/access/training Contracting opportunities Electricity tax revenue In-state spending</p> |
| <p>Resiliency</p> <p>-Energy sourcing, grid layout and management, development and integration; infrastructure and facility changes</p> | <p>Distributed generation with battery backup Participation in renewable energy programs Displacement due to lack of community integration</p> |
| <p>Energy Security</p> <p>-Rate-setting, penalties, assistance programs</p> | <p>Energy sufficiency Shutoffs Access to energy assistance</p> |
| <p>Environmental</p> <p>-Siting, sourcing, impact tracking, community service</p> | <p>Land use and ecological health Air quality Water quality Wildlife</p> |
| <p>Democracy</p> <p>- Public relations, customer service, leadership structure, codes of ethics/social responsibility</p> | <p>Process participation Empowered community engagement Self determination Appropriate user-centered design</p> |

b. Please provide a list of which geographic areas, populations, customer demographics, or other factors the Commission should consider when determining a utility's compliance with RCW 19.405.040(8).

We recommend that the Commission consider how benefits provision and burden reduction are ensured by utilities in highly-impacted communities identified through census tracts + 0.25 miles²⁷ which rank in the CIA as the areas worst-affected by climate change. Demographic characteristics of affected vulnerable populations to whom benefits should flow and burdens be reduced include low income populations, communities of color, people with lower literacy and English language proficiency rates, those with precarious immigration status, seasonal laborers, and disabled persons. Utilities must use the CIA to assess the disparities in impacts experienced in communities in their service territories together with vulnerable population demographic data to design take appropriate action to achieve the best reasonable outcomes. For example, IOUs might customize a weatherization program for elderly, lower income renters in highly impacted communities, drawing from data about their higher disability rates and vulnerability to death and injury from residential fires.

18. In the Commission’s IRP rulemaking in Docket UE-190698, many stakeholders commented that the Commission should determine compliance with RCW 19.405.040(8) as part of the CEIP process. If the Commission were to do so, what types of guidance on RCW 19.405.040(8) compliance should the Commission provide in its CEIP rules? If the Commission were to provide guidance on RCW 19.405.040(8) compliance in a form other than rules (e.g., an interpretive and policy statement), what type of guidance should the Commission provide ? Please be as specific as possible in your responses.

As discussed above, the compliance language in RCW 19.405.040(8) establishes legal duties. Further illustrating this intent, this same equity language is repeated in RCW 19.405.060(1)(c)(iii), requiring such equity considerations when determining whether to expedite or adjust timelines. Not only does this further illustrate the legislature’s intent for these equity considerations to be considered legal obligations, but that such considerations should be part of the CEIP process. Because of this, CEIP rules must include equity metrics to ensure compliance with RCW 19.405.040(8)’s legal mandates.

Guidance regarding compliance with RCW 19.405.040(8) as part of the CEIP process should include equity metrics that ensure that all customers benefit from access to energy and non-energy benefits. For example, setting interim targets for renewable energy procured from highly impacted community generated sources, or the percentage of sales to highly impacted communities.

Other suggested metrics include the quantity of comments and participation in public process, change in rates, rate of enrollement in assistance programs for eligible households, frequency and geographic concentration of blackouts and shutoffs, number of transactions with local clean energy and minority owned businesses, percentage employment of minorities at different pay grades by the utility, change in electricity tax revenue due to greater in-state spending, change in quantity of air and water pollutants from emissions, and changes in CIA rankings and emissions-related ailments to measure health impacts.

19. Should a utility’s demonstration of compliance with the requirements in RCW 19.405.040(8) include qualitative data, quantitative data, or both? Please explain your response. If you recommend

²⁷ California Equity Tracker tags on 0.25 miles to the census tract borders to more accurately capture affected areas that spillover tract lines.

qualitative data, which of the following approaches for approximating hard-to-quantify impacts are most appropriate: (a) service territory-specific studies; (b) studies from other service territories; (c) proxies; (d) alternative thresholds; or (e) or another approach? Does your response depend on a particular factual scenario? If so, please describe the scenario and explain why the approach you recommend is best suited for that scenario.

An IOUs compliance progress should be measured by quantitative metrics and some qualitative, subjective metrics to meet the legal requirement of ensuring that all customers benefit from the clean energy transition.

A standard set of required quantitative metrics will facilitate utilities meeting numeric targets (adjusted for relative capacity) and allow the Commission to better track progress. The Commission may offer flexible rules or guidance on which equity metrics should be adopted, with consideration to differences in utility capacity and service area characteristics including demographics. In the variety of approaches that may be undertaken to quantify the equity impacts of actions adopted to achieve GHG neutrality, there is an opportunity to capture and measure qualitative information that aligns with qualitative data collection. For example, a census or survey can reach a broad and representative sampling of stakeholders to learn about participant experience, opinions and expectations. The data collected will be quantified and analyzed through the compilation and disaggregation of results for how a large pool of participants select from a limited set of answers in response to the same questions posed to everyone. Survey and census tools also, often, supplement that data with additional information including participant comments and descriptions of why they selected the response that they did.

While the quantitative targets in energy transitioning may offer a clear mandate and measurable results, the value of qualitative data in this area will be to provide greater context and understanding around key indicators overall. This context will reinforce the importance of the areas of interest – as well highlight when it may be preferable to revise targets, or metrics altogether, to better provide meaningful equitable outcomes.

Interviews, focus groups, and media analyses (e.g. social, news) are a helpful source of qualitative information, as are the relationships utilities build with community-based organizations and CACs which may inform service territory-specific studies conducted by utilities. Studies from other service territories enable assessments of utility performance against comparable territories in demographics, usage, and rating, and they provide an opportunity for the qualitative undertaking of researching why there is a difference, which can inform how to improve performance. Looking at proxies²⁸ may also inform how utilities review and perceive the impact of their actions and adjust their planning and operations to do better.

20. Please provide any existing data sources or methodologies of which you are aware for quantifying non-energy costs and benefits, and other equity-related impacts.

The Bonneville Power Administration describes non-energy impacts (NEI) as a term used in the energy efficiency sector to describe impacts that accrue to people or businesses that install energy efficiency

²⁸ Consider notable applications in the areas of health, housing, and education.

measures for which there are impacts beyond energy and cost savings alone. Non-energy costs and benefits take many forms shaped by short- and long-term impacts, direct and indirect influences, and diverse perspectives.

Front and Centered recommends that the Commission work with the Department to clearly define non-energy costs and benefits and to include in that definition the economic, health, environmental, and democracy impacts of the clean energy transition as well as the impacts on energy security and resiliency. These latter two directly relate to equity concerns beyond the objective access to energy. Concerns include affordability and the aggravation of vulnerability in other areas of life experienced by low-income households. LI HHs make significant sacrifices not only in their consumption of energy (e.g. heat) but in doing without other basic necessities when dealing with higher energy costs. Recent research undertaken by Puget Sound Sage confirms that burdensome energy access, cost and unreliability have a detrimental impact on physical and mental health, security, and comfort, and can lead to displacement and other threats to community cohesion.²⁹

By providing for the equitable distribution of benefits and reduction of burdens, CETA affirms the importance of equity values particular to the clean energy transition. CETA confirms that a core responsibility for addressing equity concerns lies with electric utilities uniquely positioned and capable of impacting these particular equity areas.³⁰ Quantifying equity impacts involves identifying indicators and selecting measurable factors to track changes in those indicators.

Quantification Styles

- Scoring
 - [Energy Justice Scorecard](#), Institute of Energy Justice
 - [Energy Democracy Scorecard](#), Emerald Cities Collaborative
 - The Institute for Local Self-Reliance [Community Power Scorecard](#) scores states by how much state policy enables local authority over energy. Washington currently scores 11 out of 38 points, assigned for Community Choice Aggregation, Net Metering, State Renewable Portfolio Standard Carve-Outs, Property Assessed Clean Energy (PACE), Residential Energy Building Codes, and State (Feed-in) Tariffs.
- Surveys
 - Bonneville Power Administration, Research Strategy for Valuation of Comfort, Health, Noise Reduction, & Safety Non-Energy Impacts. Monetizing NEIs using survey data → research into comfort, noise reduction, safety, and health NEI can be quantified using proven survey methods to elicit dollar values, to reduce the bias towards costs and make the total resource cost (TRC) a balanced measure of cost effectiveness.
 - Puget Sound Sage 2019 energy justice research including survey of communities of color
- Equity Mapping

²⁹ Results of a Puget Sound Sage energy justice survey of over 350 individuals with a focus on brown, black and indigenous low income communities (publication expected in spring 2020) indicate that nearly a third of participants would, if their HH electricity costs went up by \$50 a month, reduce heat consumption and/or cut other necessities like rent/mortgage payments, childcare/eldercare, food, medicines.

³⁰ CETA equity areas, explicitly listed and read into the underlying meaning of non-energy benefits include energy security, resiliency, public health, environment, economic opportunity and democratic positioning.

- Washington Environmental Health Disparities Map and forthcoming CETA cumulative Impacts Analysis
- CalEnviroscreen (CA)
- ILSR Community Power Map shows on a color gradient how states rank relative to each other based on their scores for how well state policy facilitates local energy self-reliance.
- Metrics Table
 - The Energy Trust of Oregon Diversity, Equity and Inclusion Data and Baseline Analysis of RE access and energy sector opportunity for marginalized communities in Oregon and SW WA.
 - CEC Equity Table
 - LADWP Equity Metrics
- Action Planning (Checklist valuation - e.g. ratio of action items accomplished to original goals)
 - [Green and Healthy Homes Initiative](#) list of actions: residential fire prevention assistance, smoke detector installation and checks, assess and reduce electrical hazards.³¹

| Areas | Costs and Benefits | Quantification Example | Equity Assessment Example |
|-------------------|--|---|--|
| Health and Safety | <p>Poor circulation, insulation and mold in older homes and buildings</p> <p>Stress and discomfort associated in part with high energy costs, low system reliability, electrical hazards, and noise</p> <p>Siting of facilities and operations that include issues like transmission line fires, shade of gardens/agriculture, emissions from service vehicles, visual blight or use of property/substations as community assets</p> <p>Weatherization and related home energy safety programming and assistance</p> | <p>Reported comfort increase from reduced heat loss (from weatherization)</p> <p>Residential electrical fires</p> <p>Hospitalization due to smoke attributable to fires</p> | <p>Rates of displacement of VPs due to nuisance, discomfort, and hazardous conditions related to power systems</p> <p>Fire hazards in residences of HICs and VPs</p> <p>Population and geographic distribution of health impacts on HICs and VPs</p> |
| Economic | Purchase of electricity (who benefits) | % of contracts | % of energy contracts in HICs and/or where |

³¹African American males and American Indian males have the highest fire death rates per million population, and people ages 85 or older have the highest fire death rate across the country. In WA, 10.5 deaths and 26.7 injuries per 1,000 residential fires is above the national average of 6.1 death and 24.5 injuries.

| | | | |
|-----------------|--|--|--|
| | <p>Other Procurement</p> <p>Recruitment, training and hiring</p> <p>Electricity tax revenue</p> <p>In-state spending</p> | <p>Hiring data</p> | <p>revenue flows to VPs (to public / community owned generation)</p> <p>Diversity in recruitment and hiring of employees</p> |
| Energy Security | <p>Energy sufficiency</p> <p>Shutoffs</p> <p>Access to energy assistance</p> | <p>Community empowerment index</p> <p>% income diverted away from other necessities to pay for energy</p> | <p>Multi-lingual outreach materials</p> <p>Non discriminatory customer service</p> |
| Resiliency | <p>Displacement</p> | <p>Residents relocated due to generation build or transmission line</p> | <p>Population and geographic distribution of relocations in HICs and VPs</p> |
| Environmental | <p>Land/ecology impacts</p> <p>Air impacts</p> <p>Water impacts</p> <p>Wildlife</p> | <p>Pollutants emitted on land, ecologically significant land disturbed</p> | <p>Pollutant/land on HIC's</p> |
| Democracy | <p>Self determination</p> <p>Appropriate/user centered design</p> <p>Anchoring energy institution in community</p> | <p>Collect, track, analyze and report demographic information related to program participation, program delivery</p> <p>Relationships built and formal partnerships with CBOs</p> <p>Knowledge of community-based participatory program design</p> | <p>Organizational cultural responsiveness</p> <p>Develop/publish diversity, equity and inclusion operations plan and progress towards its goals</p> <p>Market awareness and understanding of underserved populations</p> |

21. How should the Commission interpret RCW 19.405.060(1)(c)(iii)? How are the requirements in that statute different than the requirements in RCW 19.405.040(8)?

RCW 19.405.060(1)(c)(iii) contains the same equity language as RCW 19.405.040(8), which we read to establish legal duties on utilities to integrate equity considerations into their clean energy transition compliance [4(8)] and detail how that will look in their CEIPs (6).

CEIP targets are concrete and require approval, and in the reporting thereof have oversight and accountability. Functionally, an approved CEIP must promote equity, and any departure from an approved CEIP must also promote equity. The language in 6(1) ensures that the timelines of otherwise compliant CEIPs are not adjusted in ways that disproportionately affect highly impacted communities or vulnerable populations. With this language, utilities cannot only expedite plans in some areas or only delay timelines in areas with highly impacted communities or vulnerable populations. Because this language exists within RCW 19.405.060(1)(c) in particular, utilities cannot plan to act in ways that are otherwise beneficial for these communities, and then undercut the benefits through timeline adjustments. For example, if a CEIP included some energy transformation projects that provided benefits to highly impacted communities and others that did not, accelerating the timeline for the projects that only benefit more affluent communities while leaving the timeline untouched (or lengthening it) for projects that benefit HICs would not comply with the language in RCW 19.405.060(1)(c)(iii), even if the plan as a whole complied with RCW 19.405.040(8) when passed.

V. Cost Information Within the CEIP

26. How should the utility address investment planning and cost recovery in its CEIP?

Any significant investments that do not further the utility's compliance with a CEIP and CEAP should presumptively be unrecoverable; the utility should bear a heavy burden to justify such investments and should be required to meet that burden prospectively (before the investment is made). Investments needed to comply with the CEIP should presumptively be in the public interest.

A utility in the CEIP should include the investments it plans to make to further the equity requirements of CETA. The CEIP should include the specific steps the utility will take to further equity, and the metrics that will be used (qualitative or quantitative) to demonstrate progress. For each specific step, the utility should include a budget of expenditures, similar to the requirement for conservation plans (WAC 480-109-120). A utility's reporting should include actual expenditures on these items, and cost recovery should be adjusted to reflect actual expenditures.

27. How could a utility's CEIP be used to set rates prospectively? Would using a CEIP to set rates prospectively be in the public interest? Please explain your answer.

It is in the public interest to require or at least encourage utilities to adopt performance-based rate plans. Performance-based plans, which CETA explicitly authorizes, would align a utility's financial incentive with socially beneficial behavior.

Adopting a full performance based rate plan would be difficult in the context of a CEIP, but a CEIP could establish important components of a performance based rate plan. Specifically, any performance based rate plan should draw on the CEIP for the performance goals. These goals must include equity as well as energy performance goals. It would be inappropriate and contrary to CETA to allow a performance-based plan unless it requires a utility to meet specific equity goals as part of the performance standard.

If the Commission were to authorize performance based rates (or at least the performance goals that would be incorporated into a performance-based rate plan) as part of a CEIP, the Commission would need to ensure that the performance goals were robust and aggressive, with additional incentives to exceed the performance goals. For the equity component of the performance goals, exceeding the goals could mean exceeding a quantitative metric (for example, a percentage of contracts awarded to minority-owned businesses that is higher than the target) or collecting additional qualitative data.

The Commission should issue guidance on performance based rate plans before addressing such a plan in the context of a specific utility's proposal. Guidance from the Commission should include examples of equity metrics that could be included in a utility's performance plan, as well as guidance on energy and non-energy benefits that a utility could or must include in the plan. This guidance should also specify that these equity (and energy) performance goals should be included in the CEIP and that a utility's proposal for a performance-based plan must draw from those goals.

Sincerely,

Deric Gruen
Program and Policy Director

Mariel Fernandez Thuraisingham
Policy Assistant