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RE: Comments of Renewable Northwest, Dockets UE-191023 and -190698

Utilities and Transportation Commission’s November 5, 2020, Notice of Opportunity to File Written Comments 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.

I. INTRODUCTION

Renewable Northwest thanks the Washington Utilities and Transportation Commission (“the Commission” or “WUTC”) and the Department of Commerce (“the Department”) for their concerted effort to define the term “use” as it is applied in RCW 19.405.040(1)(a)(ii), and thereby determine how best for investor-owned utilities and public utilities (as shorthand below, just “utilities”) to demonstrate compliance with the greenhouse-gas neutral standard of the Clean Energy Transformation Act (“CETA”).

Renewable Northwest has been to some extent involved in the construction of both language proposals: that which was jointly submitted by Public Generating Pool, Puget Sound Energy, Pacific Power, and Avista Corporation (“Proposal A” or “the utilities’ proposal”), and that which was more recently submitted jointly by Climate Solutions and Northwest Energy Coalition (“NWEC”) (“Proposal B”).

In August the utilities submitted the first iteration of their language proposal,¹ which we thought would benefit from improved clarity, so we worked with the Public Generating Pool to make various revisions. However, by the time those redlines were resolved, Renewable Northwest was invited by Commissioner Ann Rendahl and Commission Staff to address within the utilities’

¹ August 4, 2020 Joint Recommendations of Public Generating Pool, Puget Sound Energy, Pacific Power and Avista Corporation (“Joint Recommendations”) (UE-101023).

proposal the potential for resource shuffling -- a concept which we consider in the comments below.

With this explicit ask in mind, we deferred to the utilities to finalize and submit what is now Proposal A, and we initiated discussions with Climate Solutions and NWECA to contemplate limitations to resource shuffling. When a common solution within Proposal A could not be reached, Climate Solutions and NWECA put to paper the concepts which to date they had only described narratively -- this has evolved to become what is now Proposal B, a financial accounting method.

Renewable Northwest remains determined that the kinks and potential loopholes, real or perceived, within the utilities' proposal can be resolved. In these comments, we address the questions posed in the Commission's November 5 Notice, emphasizing the path forward to resolve potential weaknesses in Proposal A and exploring the difficulties of implementing Proposal B. While we understand that the state agencies will likely revisit this issue in 2021 to propose draft rules, we also sense that any guidance issued with the adoption orders in consolidated dockets UE-191023 and -190698 or in the parallel rulemaking at the Department, will steer the issue toward an approach. Thus, we provide as an attachment to these comments redline edits to Proposal A, edits which we hope will demonstrate that middle ground may be reached in this polarizing discussion.

Renewable Northwest will continue to engage in discussions related to this issue with the goal of determining a strong framework for accomplishing greenhouse gas neutrality in Washington by 2030.

II. COMMENTS

A. General Comments

Renewable Northwest appreciates the state agencies' refraining from issuing draft rules or making an official statutory interpretation of RCW 19.405.040(1)(a) until an aligned approach could be determined for consumer-owned and investor-owned utilities. This polarizing issue has become conflated with many goals that stakeholders have for Washington which are frankly beyond the scope of this rulemaking and the parallel rulemaking at the Department. We are hopeful that this round of stakeholder engagement will allow the agencies to decipher the real from perceived roadblocks to issuing guidance on this issue, as the language proposals addressed in the Notice differ less in underlying statutory interpretation than in consideration of real-world, regionally cooperative electricity generation and distribution.

B. Suggested Revisions to Proposal A

Renewable Northwest supports the continued development of Proposal A, a set of rules built upon Oregon's Renewable Portfolio Standard rules and extensively vetted by multi-state stakeholders and industry experts. Considering the amplification of opinions on this proposal since its submission, we offer in Exhibit A to these comments redlines to address stakeholders' primary concerns. The revisions are contained in draft subsections (4) and (5) of our proposed rules.

Draft subsection (4) in our proposal demonstrates how a utility could account for market transactions both in the near term and once the current or a future market construct evolves to track all-resource generation. Draft paragraph (4)(a) would benefit from further stakeholder consideration, as we acknowledge e-tags do not *currently* contain adequate information for these compliance purposes; we look forward to continued engagement with the state agencies, utilities, and industry experts to more explicitly outline the "other accounting methodology" referenced in the draft rule. See our response to question 5 in the Notice for one potential approach.

Draft paragraph (4)(b) in practice could take multiple forms, one being a system of all-generation tracking within the Western Interconnection via methods similar to those used in the Pennsylvania-New Jersey-Maryland Interconnection (PJM). Though creation of this functionality is outside the scope of this rulemaking, offering in rule this avenue for market transaction accounting would incentivize market participants with the leverage to call for this functionality -- utilities -- to do so. And in the interim, the "history of market transactions" could take the form of contracts demonstrating that a utility procured energy with a REC during the appropriate time frame. Because this approach would be more burdensome for the utility and the auditor (thus highlighting a material issue with Proposal B), utilities would likely feel more pressed to demand market mechanisms for all-generation tracking.

The second revision we recommend to Proposal A, represented by draft subsection (5) in Exhibit A attached, simply eliminates redundancy regarding double counting; our revisions to draft subsection (4) implicitly safeguard against double counting while also guiding market-based compliance demonstrations.

C. Responses to Questions in the Notice

1. Do the rules provided in Attachment A or B allow CETA to be enforced as an offset program? (i.e. resource shuffling)

While the concept of resource shuffling may have multiple interpretations, it is not synonymous with carbon offsetting. A traditional offset program allows an entity to balance its carbon footprint by investing in clean projects elsewhere via, for example, the purchase of renewable energy credits (“RECs”). Neither language proposal allows a utility to purchase RECs for compliance with the 80% clean requirement of the greenhouse gas neutral standard; rather, both proposals rightly allow these externally acquired RECs to fulfill the 20% compliance obligation outlined in RCW 19.405.040(1)(b). Both proposals require that RECs retired for compliance with the 80% target must be generated by resources procured by a utility during a specific timeframe or geographic location, information which can be tracked by the Western Renewable Energy Generation Information System (WREGIS).

2. Do the rules in Attachment A or B allow a utility to produce renewable electricity in excess of the amount required to serve its load and use the RECs from that excess renewable electricity, sold off system, to cover periods of load in which more than 20 percent of its load is served by GHG emitting resources as a means of complying with RCW 19.405.040(1)(b)(ii)? For example, can a utility comply with the 80 percent requirement through buying 1000 MWh of hydroelectricity in excess of its load service needs in every hour of the day during the spring runoff and resell that power while retaining the nonpower attributes for compliance?

The hypothetical presented in this question reflects our understanding of the concept of “resource shuffling,” as it was explained to us by those concerned for its potential within Proposal A. Furthermore, while this question presents the concept as a prospective strategy which utilities may employ to plan for annual or perhaps multiyear compliance, we maintain that the reality of this activity would be minimal and attributed to the complexities of supply and demand in resource management. Renewable Northwest has been an active stakeholder in many cycles of utility integrated resource planning, and we continue to question how it would be economically favorable for a utility to plan for long-term CETA compliance by investing in resources which will overproduce when conditions are favorable (e.g. at night in the spring), only to sell the energy from those zero-marginal cost resources and shuffle them with market purchases to serve load.

The concept of resource shuffling, economically impractical though it may be, has overwhelmed stakeholders’ deliberations regarding “use,” so we acknowledge that Proposal A could be revised to limit the activity. Attached to these comments as Exhibit A, we propose two material changes to Proposal A which would, in essence, separate the compliance determination for market transactions from the compliance determination for owned or contracted generation. The result would be improved transparency of utilities’ market activities and more robust barriers to the practice of resource shuffling.

Still, Renewable Northwest maintains that while Proposal A may leave open the theoretical opportunity for resource shuffling, the feasibility of that practice exists primarily in system sales -- an unavoidable utility practice which would be nearly impossible under implementation of Proposal B. While we hope our language proposal is helpful in addressing the hypothetical presented in this question, we would support Proposal A in its current form to the extent resource shuffling is concerned.

3. Attachment A states in (2)(C)(ii)(4) that the delivery of resources used for compliance may occur at “another point of delivery designated by an electric utility for the purpose of subsequent delivery to the utility [emphasis added].”

a. Does the term “purpose of subsequent delivery” mean that the electricity must be delivered to the utility, or only that it was intended to be delivered?

b. What constitutes “delivery to the utility”?

The term “for the purpose of subsequent delivery to the electric utility” means that those electrons are needed to serve load and that the utility can demonstrate it owns the rights to a transmission path of sufficient capacity to deliver those resources to load.² The precise wording acknowledges that electrons cannot be traced to the utility’s customers, which is a burdensome compliance concept all stakeholders have seemingly rejected.

However, the compliance reporting outlined in Proposal B essentially requires a utility to match its electricity ownership at the time of use with REC retirement for that specific generation, which does not recognize the nonlinear nature of a utility’s transactions. Utilities must buy and sell to balance their system. So if a utility must demonstrate end-use ownership of a resource’s output via contract, there is no way to decipher from that contract what electrons may have been moved from the system as it was balanced. Hence, the most rational and pragmatic end point for a compliance demonstration is at the points of delivery outlined in draft (2)(c)(ii) of Proposal A, and for auditing purposes, proof that the utility owns adequate transmission capacity to distribute resources to its customers.

4. How will the suggested rules in Attachment A and B affect long-term portfolio planning and acquisition?

² Draft (2)(c)(ii)(4), Proposal A (i.e. Attachment A).

a. CETA requires that all of a utility's load be served by renewables or nonemitting resources by 2045. Do the rules in Attachment A or B support this objective? Do they allow compliance with the 2030 goal in a manner that diverges from the 2045 goal?

b. Do the suggested rules in Attachment A or B support a long-term resource portfolio plan that matches the production of renewable electricity with the utility's load and has sufficient transmission service between the point of injection of its planned source of renewable electricity and the utility's load to enable the renewable electricity to serve that load?

The rules in both proposals support the objectives of the statute. So perhaps the more important consideration here is the net gain of each proposal. Proposal B seems to consider Washington in a vacuum, structuring compliance as a strict accounting of clean energy serving in-state customers, with little consideration for activities beyond state boundaries. There are many downsides to this limited perspective, some of which we outlined in our previous comments on this issue.³ We will focus here on two regionally-influential drawbacks.

First, one facet of the draft 2021 Washington State Energy Strategy focuses on how the state can best support the establishment of a day-ahead market (DAM), which is currently in development at the California Independent System Operator (CAISO).⁴ The rules in Proposal B lack a realistic, flexible methodological approach, requiring transactional documentation for all purchases and sales. Thus, not only because a utility's market purchases may exceed the 20% threshold for compliance with the greenhouse gas neutral standard, but also because of the burdensome documentation required by Proposal B, the utility could be dissuaded from joining that market. As demonstrated by the conclusions of the recent Western Interstate Electricity Board Flexible Grid study, which determined that a more flexible grid than exists is needed to meet states' clean energy mandates, neither Washington nor any of its neighbors would benefit from a rigid compliance structure unsupportive of regional diversity by way of robust market participation.⁵

Second, in an effort to influence the expedited cancellation of Puget Sound Energy's attempt to sell their stake in Colstrip unit 4 to NorthWestern Energy, Washington House Representatives recently declared in a letter to the Commissioners, "Our goal in passing CETA was to reduce greenhouse gas emissions wherever Washington's energy use is exacerbating them." The letter

³ Comments of Renewable Northwest re: the Interpretation of "Use" (Aug. 10, 2020) (UE-191023), at 5.

⁴ Draft 2021 Washington State Energy Strategy, Section F, 1.3 (Nov. 2020), at 120-122.

⁵ Western Flexibility Assessment: Investigating the West's Changing Resource Mix and Implications for System Flexibility (Dec. 2019), available at <https://westernenergyboard.org/wp-content/uploads/2019/12/12-10-19-ES-WIEB-Western-Flexibility-Assessment-Final-Report.pdf>.

also cites the recent passage of HB 2311, which states that Washington’s greenhouse gas emission “limits need to be achieved in a way that ‘...avoids leakage of emissions to other jurisdictions.’”⁶ The Legislature’s reminder that Washington’s policies are intentionally shaped to consider net greenhouse gas emissions is a clear indication that Proposal B’s state-limited approach to policy implementation contrasts with the statute’s intent. Implementation of Proposal B, which could limit utilities’ ability to participate in markets or make system sales, may shape Washington’s law such that net emissions are not actually reduced; other states may simply brown their loads, exporting green energy to Washington to accommodate Washington’s strict compliance structure and serving increasing amounts of their own load with brown power.

Conversely, Proposal A values market participation, geographic and resource diversity, and regional cooperation as key elements of a utility’s ability to, with the lowest rate impact to customers and with the greatest influence to regional decarbonization, meet Washington’s clean energy standards.

5. Could the Energy Imbalance Market (EIM) provide a prorated share of the attributes of the resources that provided energy in a market interval to the loads that received energy in that market interval?

As indicated by the lack of specificity in one of our suggested revisions to Proposal A (see draft paragraph (4)(a) in Exhibit A, attached), more stakeholder discussion is needed to determine a workable accounting methodology to track market-based compliance with the greenhouse gas neutral standard. We have spoken with multi-state advocates and industry experts to brainstorm various concepts, one of which is a non-attribute-based accounting mechanism tracking compliance on the basis of the grid’s fuel mix assessment. In other words, a utility would prorate its market transactions as a function of, for example, the Environmental Protection Agency’s e-GRID rate which is updated biannually to reflect the average fossil rate on the system.⁷

Should the Commission consider our suggested redlines to Proposal A, which structurally separate the demonstration of market-based compliance, prorated market purchases reflecting grid mix may be a viable accounting method to add specificity to the draft rules. In this case, utilities would -- at a high level -- report two values: 1) the quantity of retired RECs associated with owned or contracted generation serving load, and 2) the percentage of market purchases considered clean by way of the fuel mix assessment. Both values can be translated into MWh values, which would then be measured against the utility’s load for the compliance period to determine whether the 80% clean threshold was met. Of course, this concept may have other

⁶ Washington State Legislature’s letter to the Utilities and Transportation Commission (Oct. 7, 2020).

⁷ Emissions and Generation Resource Integrated Database (e-GRID), Environmental Protection Agency, *available at* <https://www.epa.gov/egrid>

complexities to work through, but if the state agencies agree that this level of transparency is necessary at the market level, this idea could have great potential.

6. Energy serving load in a day-ahead market (DAM) is unspecified. If the DAM bid awards were mostly surplus hydro, would the loads receiving energy from the DAM only receive unspecified energy under the rules in Attachments A and B? Does this mean that a utility that was a net buyer from the DAM at a time of excess hydroelectric generation would only receive unspecified power?

Unless the market evolves to track all generation by a method similar to that of PJM, the construction of the DAM, as depicted in the question, would itself imply that net buyers from the DAM would receive only unspecified power, regardless of the rules in Proposal A or B. However, Proposal A does leave open the opportunity for a utility selling renewable or nonemitting resources into the DAM to use unspecified power purchased from the DAM to comply with the greenhouse gas neutral standard. The scenario illustrated in this question is one rulemakers must consider in determining the approach for compliance reporting which best supports Washington -- a net exporter of electricity in large part due to its bountiful clean hydro resource.

7. Rules in Attachment B, part (2)(b), state that a utility must make a demonstration that the electricity used for compliance was generated by the utility or acquired by the utility with the nonpower attributes and not resold.

a. How would a utility make such a demonstration?

b. How would power generated and purchased by the utility be identified as sold, which documents would be used, and what process would be followed to reconcile purchases and sales?

c. How would Commission staff conduct audits under this proposal?

We respect the intention of Proposal B to improve transparency in reporting and, in doing so, limit the potential for resource shuffling. However, this question points to the main limitation of this proposal's financial accounting method: each MWh in a utility's system is not labeled. To say that this level of tracking would add administrative burden to utilities is putting it lightly -- the considerable time and resources which would be required to specify activities to this extent would make it very difficult for utilities to balance their systems, consider least-cost or least-risk solutions in real time, or participate meaningfully in a wholesale electricity market.

We anticipate that the challenge of resolving sub questions *a - c* will be reflected in the limited guidance proponents of this methodology will be able to provide the Commission. We have been contemplating this proposal since September, discussing it with utility and nonutility stakeholders, and we remain confident that these unanswered questions, combined with the proposal's other limitations outlined throughout these comments, reveal that the state agencies would be best suited to issue guidance in support of Proposal A's approach. Proposal A fits best with current industry operations, maintains sufficient flexibility to foster future market constructs, reflects the Washington Legislature's broader efforts to reduce the state's net emissions, and perhaps most importantly builds upon scrutinized, practiced principles, allowing Washington to immediately set its energy transformation in motion.

8. Please explain how double counting is prevented under the suggested rules in Attachment A and B?

Both proposals safeguard against double counting. Proposal B, in its requirement that utilities demonstrate final ownership of and REC retirement for resources serving load, makes it impossible to double count clean energy attributes. Proposal A restricts any specified sales from being counted toward compliance with the greenhouse gas neutral standard, thereby preventing the same generation from being used for compliance across multiple jurisdictions.

III. CONCLUSION

Renewable Northwest again thanks the Commission and the Department for their work to maintain the integrity of the Clean Energy Transformation Act while also considering practicality in defining the regulatory requirements for utilities' compliance with the clean energy standards. We look forward to continued engagement in this issue and the remainder of the Clean Energy Transformation Act implementation process.

Respectfully submitted this 3rd day of December, 2020,

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EXHIBIT A

PROPOSED RULE LANGUAGE

WAC 480-100-XXX / WAC 194-40-320

Use of Renewable Resources and Nonemitting Electric Generation

- (1) When demonstrating compliance with RCW 19.405.040(1)(a)(ii), the utility must:
- a. identify the renewable resources and nonemitting electric generation being used for compliance, and;
 - b. report the associated amounts of electricity acquired by the electric utility over the multiyear compliance period.
- (2) The electric utility's compliance with RCW 19.405.040(1)(a)(ii) must be supported by:
- a. For renewable resources and nonemitting electric generation that generates renewable energy credits, a WREGIS retirement report of renewable energy credits generated by resources for which the utility also is able to show acquisition of the renewable resource electricity or nonemitting electric generation through ownership, control, or contract;
 - b. For nonemitting electric generation that does not generate renewable energy credits, FERC Form 1 annual generation data for non-emitting electric generation or Bonneville Power Administration's fuel mix from the appropriate compliance period;
 - c. For all resources used for compliance with this section, a demonstration of the acquisition of the electricity through ownership, control, or contract that documents one of the following:
 - i. The resource is either located within the utility's service area or balancing authority area; or
 - ii. The point of delivery for each megawatt-hour of electricity associated with the renewable energy certificate is:
 - 1. The transmission or distribution system of an electric utility; or
 - 2. The transmission system of the Bonneville Power Administration; or
 - 3. The transmission system of any entity that is a participant in an organized market located in the Western Interconnection in which the electric utility is a participant; or
 - 4. Another point of delivery designated by an electric utility for the purpose of subsequent delivery to the electric utility; and
 - d. For all resources used for compliance with this section, any additional documentation specified by the Commission or Auditor.

(3) To comply with RCW 19.405.040(1)(a)(ii), the electric utility must acquire both the renewable resource or nonemitting generation and the renewable energy credit issued for such electricity through:

- a. ownership or control of the generating resource that generated such electricity and renewable energy credit; or
- b. by acquisition of such electricity and renewable energy credit from the generating resource that generated such electricity pursuant to a contract.

(4) A utility may use for compliance with RCW 19.405.040(1)(a)(ii) the nonpower attributes associated with transactions in a wholesale electricity market with the demonstration of one of the following:

- a. e-tags or some other accounting methodology to verify the nonpower attributes are associated with a renewable resource or nonemitting generation as provided in subsection (1); or
- b. a history of market transactions identifying that the source of the electricity serving the utility's retail customers is a renewable resource or nonemitting generation as provided in subsection (1).

(5) Nonpower attributes used to satisfy compliance with RCW 19.405.040(1)(a)(ii) may not be double counted. ~~If a utility claiming a renewable resource or nonemitting generation as provided in subsection (1) sells or transfers ownership of the electricity in a transaction that contractually specifies the generation source, it may not use the nonpower attributes associated with that specified source sale of electricity for compliance with RCW 19.405.040(1)(a)(ii).~~

(6) The Commission or Auditor may periodically conduct reviews of any documentation submitted under subsections (2), (3) or (4) of this rule for purposes of verifying compliance with RCW 19.405.040(1)(a)(ii).

(7) The [commission/department] shall commence a review of these rules no later than June 1, 2024 and, if determined to be necessary, recommend revisions to achieve the policy objectives set forth in chapter 19.405 RCW.