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November 12, 2021

Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, Washington 98504-7250

(Submitted via email to records@utc.wa.gov)

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

To the Washington Utilities and Transportation Commission:

On behalf of Columbia Riverkeeper and our members and supporters in Washington, we offer the following comments on the Washington Utility and Transportation Commission's (UTC) draft rules for the implementation of the Washington Clean Energy Transformation Act (CETA). We are concerned that, as drafted, the UTC's rules undermine the fundamental goals of CETA.

CETA requires utilities to transition to 100% clean energy. This transformative requirement is necessary to help prevent the worst impacts of climate change and the harm fossil fuel pollution inflicts on surrounding communities. Columbia Riverkeeper, our staff, members, and supporters, have a strong interest in avoiding the worst impacts of climate change, equitably curbing climate-changing pollution impacts in our local communities, and ensuring that state policies effectively support those goals.

The UTC must implement the letter and spirit of CETA's clean energy standards by requiring utilities to use clean energy to serve their Washington customers. As others have also stated, including the NW Energy Coalition and the Washington Environmental Council, the UTC's [draft rule implementing CETA](#) fails to require the clean energy that CETA mandates. **Instead, the UTC's proposal would allow utilities to use fossil fuel resources to serve**

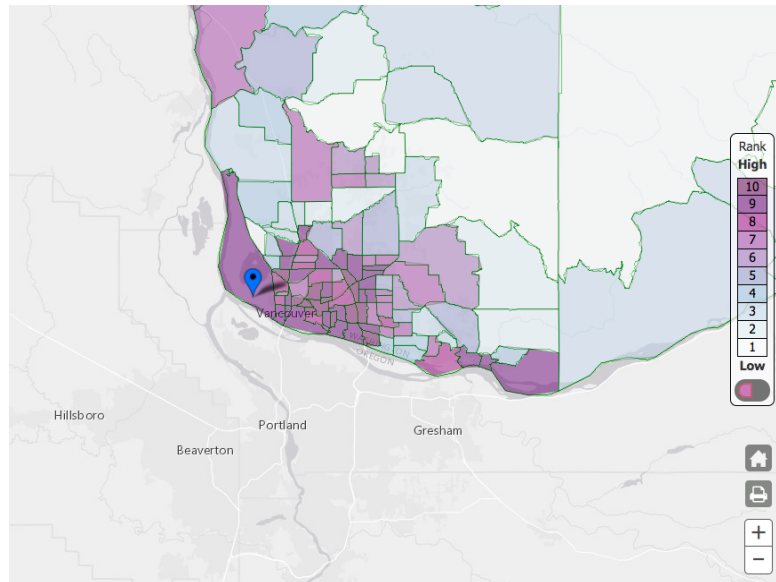
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Washington customers indefinitely. This draft rule is plainly inconsistent with CETA, and the UTC must revise it to comply with the statute.

I. The UTC’s Draft Rules Allow Continued Expansion of Fossil Fuel Infrastructure in Direct Conflict with CETA.

At a time when utilities should be rapidly moving away from fossil fuels and towards renewable energy, we are seeing continued investment in new fossil fuel infrastructure within the state. For example, the Clark PUD is planning an expansion of its River Road Generating Plant (RRGP)—a great risk to the environmental justice communities it is sited near in Vancouver. The UTC’s draft rules need to clearly disincentivize these investments in new fossil fuel infrastructure by clearly requiring utilities to use clean energy by the timelines provided in CETA. The Clark PUD’s plans for RRGP provide a specific example of how the UTC’s current and proposed rules could lead to the expansion of fracked gas power in the region, in dichotomy with the letter and intent of CETA.

Adopting weak rules will compound environmental injustices and disparate energy burdens, particularly in SW Washington. The relationship between CETA and the disparate environmental health impacts frontline communities face was discussed by the legislature at the time the legislation was passed. For these and other reasons, CETA does not support additional fracked gas power infrastructure in Washington. Further, the consequences of allowing weak rules that foster fracked gas use are readily apparent in the current data available from the Washington Department of Health’s Environmental Health Disparities Map.



Above: [Washington Environmental Health Disparities Map](#) for Vancouver, WA. Blue pin marks location of proposed River Road Generating Plant expansion. November 8, 2021.

The consequences of continued or expanded operation of fracked gas plants are also evident in the pollution allowances already allotted to these facilities. For example, the RRGP in

Vancouver emits significant quantities of criteria and toxic pollutants, based on the permit issued by the SW Clean Air Agency. This pollution lands disproportionately on low-income, BIPOC, and other environmental justice communities in Vancouver and Portland.

Technical Support Document
Clark Public Utilities – River Road Generating Plant

ADP Application CL-1634
ADP 95-1800R5

<u>Pollutant</u>	<u>Maximum Concentration</u>	<u>Maximum Emission Rate</u>	<u>Source</u>	<u>Potential Emissions</u>
NO _x	4.0 ppmvd @ 15% O ₂ (24 hr) 3.3 ppmvd @ 15% O ₂ (annual)	40.0 lbs/hr	Manufacturer	93.47 tpy
CO	6.0 ppmvd @ 15% O ₂ (1 hr)	20.8 lbs/hr	Manufacturer	84.09 tpy
VOC	N/A	6.6 lbs/hr	Manufacturer	28.91 tpy
PM _{2.5} (filterable)	N/A	9.0 lbs/hr	Manufacturer	39.42 tpy
PM _{2.5} (condensable)	N/A	9.0 lbs/hr	Manufacturer	39.42 tpy
SO ₂	N/A	51.1 lbs/hr	Material Balance	41.87 tpy
NH ₃	10 ppmvd @ 15% O ₂ (1 hr)	22.9 lbs/hr	Manufacturer	92.77 tpy

Toxic/Hazardous Air Pollutants

Emission factors for TAPs/HAPs are taken from EPA AP-42, Section 3.1 "Stationary Gas Turbines" (4/00). Compounds with an emission factor rating of "D" or less were not included due to the unreliability of the emissions data. Emissions data contained in the original permit application attributed trace metal emissions to the combustion of distillate oil only. This is consistent with information in the current version of EPA AP-42, Section 3.1. Consequently, trace metal emissions from natural gas combustion in the turbine are considered to be insignificant.

<u>Pollutant</u>	<u>Emission Factor</u>	<u>Potential Emissions</u>
Acetaldehyde	4.0 x 10 ⁻⁵ lb/MMBtu	596 lbs/yr
Acrolein	6.4 x 10 ⁻⁶ lb/MMBtu	95.3 lbs/yr
Benzene	1.2 x 10 ⁻⁵ lb/MMBtu	179 lbs/yr
Ethylbenzene	3.2 x 10 ⁻⁵ lb/MMBtu	476.5 lbs/yr
Formaldehyde	7.1 x 10 ⁻⁴ lb/MMBtu	10,573 lbs/yr
Naphthalene	1.3 x 10 ⁻⁶ lb/MMBtu	19.4 lbs/yr
PAH	2.2 x 10 ⁻⁶ lb/MMBtu	32.8 lbs/yr
Toluene	1.3 x 10 ⁻⁴ lb/MMBtu	1,936 lbs/yr
Xylenes	6.4 x 10 ⁻⁵ lb/MMBtu	953 lbs/yr

Above: Figure from technical support document for air pollution permit for the River Road Generating Plant. Sets pollution levels for the River Road Generating Plant, Vancouver, WA. Issued by SW Clean Air Agency.¹

Accordingly, the UTC must recognize that its implementation of weak or misguided rules will result in an exacerbation of current pollution problems experienced by BIPOC, lower-income, and additional people who are otherwise marginalized, resulting in a direct conflict with the intent of CETA. The situation in Vancouver with the RRGP provides a compelling example for why the UTC must amend rules to follow the letter and spirit of CETA, which requires utilities to provide their customers with clean energy and cleaner air as a result of less fracked gas power plant pollution.

¹ These pollution levels do not accurately reflect pollution emitted during startup and shutdowns, which would add significantly to the totals above for VOCs. Plans to increase startup/shutdown events could increase VOC pollution, as well and are not adequately addressed in current permit conditions. The U.S. EPA flagged major problems in the SW Clean Air Agency's Title V permit program, including questions on why certain facilities are excluded from Title V permits. <https://www.epa.gov/sites/default/files/2019-11/documents/title-v-program-review-swcaa-2019.pdf>

II. The UTC's Rules Must Give Effect to CETA's Clean Energy Requirements.

Additionally, we support the comments offered by the NW Energy Coalition. As argued by the NW Energy Coalition and others:

“...from catastrophic wildfires to extreme heat to intense storms, the impacts of climate change are already harming Washington. And the harm that fossil fuel pollution causes surrounding communities has long been well documented (see example above from Washington's Environmental Health Disparities Map for Vancouver, WA). CETA's clean energy requirement is essential to mitigating these harms.”

We agree, and the UTC must revise its draft rules to give effect to CETA's clean energy requirements. Specifically, the UTC must eliminate the use of “retained Renewable Energy Credits (RECs)” – a term found nowhere in the statute nor in common usage. The UTC also must eliminate all other provisions of the draft rule that would allow a utility to rely on electricity that it has sold to meet its obligation to serve customers in Washington with clean energy. **CETA means what it says: utilities must use clean energy to serve their Washington customers.** CETA should result in a rapid, planned transition away from fracked gas for Washington customers. The draft rules are entirely inconsistent with the legislature's stated intent to transform Washington's energy supply to one hundred percent clean energy.

We further support these comments from the NW Energy Coalition:

- The intent of CETA was to transform the electric system in Washington: this means not simply offsetting fossil and other polluting generated electricity, but actually replacing dirty electricity with clean, renewable and non-emitting generated electricity. The CETA law is repeatedly clear that utilities must transition rapidly to 100% clean electricity.
- CETA is specific that Washington shall “transform[] its energy supply” and “transition the state's electricity supply” to one hundred percent clean energy. [RCW 19.405.010\(1\)-\(2\)](#). That language underscores that the legislature intended to require change in the **generating resources that actually serve Washington customers**. Requiring electricity from renewable resources to supply Washington customers is consistent with this explicit goal.
- The term “use” in the statute is unambiguously clear. The statute calls for “using electricity from renewable resources”. This terminology is distinct from a renewable portfolio standard, or other procurement-based standard.
- The proposed draft rule does not prevent a utility from relying on fossil fuel-fired power generation to supply some or all of their customers' electricity, before or

after 2045, so long as the utility retains a sufficient quantity of RECs from resources that may never serve Washington.

- The proposed draft rule directly conflicts with the statute by creating a new category of Renewable Energy Credits (RECs), called *retained RECs*. The term Retained RECs does not appear in Washington law. A retained REC is a REC separated from its associated power, making it simply an “unbundled REC”, which is defined at RCW [19.405.020](#)(38) as a renewable energy credit that is sold, delivered, or purchased separately from electricity.
- The UTC’s proposed draft allows retained RECs to be used to meet the 2030 and 2045 standards, which is entirely inconsistent with the legislature’s stated intent to transform Washington’s energy supply to one hundred percent clean energy. We recommend that this be remedied in the final rule by limiting the use of any unbundled RECs to eligible alternative compliance options only, as explicitly described in RCW 19.405.040(1)(b).
- Allowing utilities to use retained RECS to comply with CETA’s clean energy mandate fundamentally changes the goal of CETA. In a true 100% clean system, utilities must use a comprehensive suite of clean power which creates new demands for diverse renewables, demand response, storage, conservation and less frequently deployed renewables like geothermal. Allowing utilities to assign attributes from power generated at one time of the year (such as from midday solar during the summer) to other times of the year perpetuates the use of fossil fueled electricity instead of driving the development of energy solutions that are currently not being deployed at sufficient scale.
- While the proposed draft rule requires utilities to plan for, invest in, or acquire enough generators or electricity that complies with the 2030 and 2045 standards in time to theoretically comply with those standards, it does not require utilities to use that electricity to serve the utility’s retail load. The rule provides no recourse in the situation that utility acquisition or investments end up failing to meet the standards established in law.
- The penalties in CETA apply “for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or non-emitting generation.” The proposed draft rule undercuts the statute by allowing electricity from fossil resources to be used for compliance, if that dirty electricity is offset with RECs, without penalty.
- The proposal creates a new category of compliance with the CETA standards called “primary compliance.” The term “primary compliance” does not appear in the statute, nor does the statute support any other differing level of compliance.

Either a utility is in compliance with the statutory standards or it is not. Creating a “primary compliance” is unnecessary and implies there is a secondary, perhaps less important or less enforceable, level of compliance.

- We support the proposed draft rule’s requirement that utilities must submit hourly data on retail sales; generation from federal facilities; sales for voluntary renewable programs, generation, and delivery from each owned facility and points of delivery for each power purchase; sale or exchange agreement; details on all sales, purchases and exchange agreements; and all purchases, sales, and exchanges conducted in organized markets in the annual clean energy progress report. This information should be required no matter how the rest of the proposed draft rule is changed. The hourly data must be provided in an easily readable format. We recommend that the UTC annually conduct an assessment of the data and publish the assessment as well as the raw data on its website.

Thank you for your consideration of these comments. Please feel free to contact me with any questions about these comments. I can be reached by email at dan@columbiariverkeeper.org.

Sincerely,

Dan Serres
Conservation Director
Columbia Riverkeeper