BEFORE THE

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION, Rulemaking Relating to Electricity Markets and Compliance with the Clean Energy Transformation Act.	)	DOCKET UE-210183 COMMENTS OF THE ALLIANCE OF WESTERN ENERGY CONSUMERS

I. INTRODUCTION

1. Pursuant to the Washington Utilities and Transportation Commission's ("Commission") October 12, 2021 Notice of Opportunity to File Written Comments on Draft Rules in the above-referenced docket, the Alliance of Western Energy Consumers ("AWEC") files these comments. AWEC supports the Draft Rules' interpretation of the "use" of renewable and non-emitting electricity for compliance with the Clean Energy Transformation Act ("CETA") as consistent with both the language and intent of this law.

II. COMMENTS

2. As AWEC interprets the Draft Rules, they require utilities to demonstrate compliance by showing that they have acquired – through ownership, control, or contracted agreement – sufficient renewable and non-emitting energy to meet CETA's clean energy requirements, and that utilities may demonstrate "primary" compliance through the retirement of renewable energy credits ("RECs") they have retained and are associated with unspecified market sales. The Draft Rules, therefore, appropriately tie the "use" of resources, and

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compliance with CETA, to the utilities' financial obligations associated with those resources.

3. RCW 19.405.040(1)(a) requires that "an electric utility must demonstrate its compliance with *this standard* using a combination of nonemitting electric generation and electricity from renewable resources …" (emphasis added). The applicable standard is that "all retail sales of electricity to Washington retail electric customers be greenhouse gas neutral by January 1, 2030."[1/] Retail sales of electricity occur through customer rates. With respect to the production (fixed and variable) component of retail rates, these rates are set based on the embedded cost of resources minus their market value. Consequently, it is irrelevant for purposes of CETA (and virtually all other areas of utility law and regulation) whether a particular MWh from a utility-owned or controlled resource is used to serve load or sold unspecified on the market; the utility's "retail sales" of electricity include the cost of these resources, and these resources are therefore "used" for CETA compliance. Put more simply, if customers pay for it, then it counts.

4. Compliance with CETA's clean energy requirements in the Draft Rules also is demonstrated over a four-year period. This is clearly consistent with the plain language of the statute, which establishes "four-year compliance period[s]" and states in no uncertain terms that a utility "must achieve compliance with this standard for the following compliance periods: January 1, 2030, through December 31, 2033; January 1, 2034, through December 31, 2037…." Any requirement other than to demonstrate compliance over these four-year periods would violate CETA.

[1/] RCW 19.405.040(1).

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5. Other than the legal arguments AWEC provides above in support of the Draft Rules, AWEC generally does not have specific responses to the Commission's questions in its Notice, and believes the utilities are in the best position to respond. The one exception is in response to Question 4. This question notes that Draft WAC 480-100-650 includes requirements for hourly reporting, "as the penalties described in CETA are established based on 'each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation."[2/] This suggests that the hourly reporting requirements in the Draft Rules, which would be a component of the utilities' Annual Clean Energy Progress Reports, would serve as the basis for applying any penalties under CETA for failing to meet the clean energy requirements. If that is the case, then the Draft Rules do not clearly tie this hourly data to penalty assessments, and this issue should be clarified.

6. AWEC does not oppose the Draft Rules' requirement for hourly data, but notes that it does not necessarily follow that just because CETA imposes penalties on each MWh of emitting generation, the collection of hourly data from this generation is necessary to determine a penalty. An alternative would be to assess a penalty based on the utility's overall resource mix. Thus, if in the 2030-2033 compliance period, a utility met only 70% of its load with renewable and non-emitting generation, and 50% of its emitting generation portfolio is comprised of gas-fired combined-cycle plants, then 5% of the 10% under-compliance would be assessed the 0.6 multiplier penalty for these generation resources (translated into MWhs). Indeed, it is not clear that acquiring hourly generation data will necessarily make assessing a penalty easier or more accurate. The Commission will still need to determine which MWhs were responsible for

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[2/] Notice at 4.

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noncompliance. AWEC also notes that CETA does not apply any specific penalty to emissions imputed to market purchases.[3/] This may be an area in which the Commission should provide further guidance.

III. CONCLUSION

7. AWEC appreciates the opportunity to provide comments on the Draft Rules. AWEC supports the Draft Rules overall, and commends the Commission and Staff for their work in crafting these and in balancing competing interests of various stakeholders while remaining faithful to the law as written.

Dated this 12th day of November, 2021.

Respectfully submitted,

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[3/] RCW 19.405.090(1)(a).