



NW Energy Coalition

October 5, 2021

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 Executive Director and Secretary
 Washington Utilities and Transportation Commission
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Re: Supplemental comments on the Commission’s investigation to consider the need for guidance on utility funding for organizations to participate in Commission proceedings (Docket U-210595)

The NW Energy Coalition (“NWECC” or “Coalition”) appreciates the opportunity to provide supplemental comments in response to some of the issues discussed at the Sept. 28, 2021 workshop in this docket. The Coalition is an alliance of more than 100 organizations united around energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia basin, low-income and consumer protections, and informed public involvement in building a clean and affordable energy future. We offer these supplemental comments in addition to our comments submitted on September 10th, 2021 in response to the Commission’s Notice of Opportunity to Comment in this docket.

1. Scope, Process and Timeline:

We appreciate the Commission’s expansive approach to this inquiry, and its consideration of stakeholder priorities for intervenor funding. In our view, a few principles rise to the top for the Commission’s consideration in terms of the scope, process, and timeline for this docket:

- a. *The Commission should have strong role in determining: (a) who is eligible for funding, and (b) the amount of funding available; as well as administering the program.* We encourage the Commission to consider stakeholder comments on issues of eligibility and funding amounts, but would recommend avoiding a process designed to come to a stakeholder consensus on these two issues. The Legislature specifically left these policy-level determinations to the Commission’s discretion. Our previous comments filed on Sept. 10th provide some ideas concerning the funding amounts, eligibility, and the issue of determining “need”. In addition, in response to the discussion at the Sept. 28th workshop on what constitutes a “material impact on rates,” we would point the Commission to its own internal criteria used for determining whether an issue appears on the Open Meeting No Action or Consent Agendas as a potential indicator of whether an impact on rates is material.

- b. *We recommend that the Commission commit to a two-track implementation plan for its initial intervenor funding program, with the goal of approving a near-term interim agreement that can support intervention in the 2022 general rate case filings, and a longer-term concerted effort to prioritize groups representing vulnerable populations and highly impacted communities:*
- i. *Track 1: direct staff to convene a workgroup to develop a template intervenor funding agreement for the Commission's consideration.* The statute clearly envisioned that intervenor funding be authorized for groups to intervene in multi-year rate plan filings. Some stakeholders planning to intervene in the 2022 general rate case dockets are motivated to get the program up and running so that funding is available in January 2022. As authorized in the statute, the Commission can consider a recommendation at an Open Meeting and approve/reject or modify the agreement. The Commission can also approve a pilot or interim template agreement for this specific purpose. If the Commission approves an agreement for this specific purpose, it should ensure that funding remains available to groups who do not plan to intervene in the general rate case dockets. This is addressed later in our comments.
 - ii. *Track 2: conduct targeted outreach to groups representing vulnerable populations and highly impacted communities.* The goal of this part of the process would be to recommend amendments to the template agreement to either modify it or develop a second form of agreement to meet the needs of these specific groups, consistent with the requirement to prioritize vulnerable populations and highly impacted communities. We offer suggestions for how the UTC can prioritize these groups later in our comments.
- c. *The Commission should not extend the Clean Energy Implementation Plan (CEIP) process for the purpose of accessing intervenor funding.* While funding may be made available in January 2022, we would caution the Commission against any expectation that the funding will support public participation or intervention in the first round of CEIP dockets. At this stage of the process, many people have contributed uncompensated time to participation in advisory groups, and provided substantial feedback to utilities and UTC staff on the development of the CEIPs. That feedback was provided with the expectation that it is considered and included in the record. We do not anticipate that intervenor funding – if it becomes available in January 2022 - is likely to bring new participants into the process who wouldn't otherwise participate at this stage of the CEIP process. Instead of delaying the CEIP process for this purpose, we suggest that the Commission consider the following opportunities for public involvement:
- i. *Hold public hearings on the remaining Draft CEIPs in Fall 2021.* This would provide an opportunity for the Commission to hear from the public ahead of the Final CEIPs being submitted.
 - ii. *Clarify the Commission's plans for public involvement once the Final CEIPs are filed, including in cases where the CEIP dockets are suspended.* The Commission should provide some clarity to stakeholders about what their opportunities to comment will be, and seek stakeholder feedback on its schedule and the agency's own public involvement plans.

- iii. *Aim to make intervenor funding available for groups participating in 2022 General Rate Cases, and ongoing implementation of CEIPs.* Per our previous comments, the Commission should ultimately make intervenor funding available to a broad set of proceedings. This may require a staged approach to implementing the program.

2. Prioritization of Organizations Representing Vulnerable Populations and Highly Impacted Communities

“Prioritization” can mean many things. We encourage the Commission to think about prioritization not just in terms of the timing of funding becoming available, but also in terms of the process for developing the program, and the requirements of any intervenor funding agreements. We suggest that the Commission prioritize funding for groups representing vulnerable populations and highly impacts communities as follows:

- a. *The Commission should exempt organizations representing vulnerable populations and highly impacted communities from any funding cap, especially in the early stages of the program.* It is likely to take more time for the Commission to fully inform and engage these groups, and for them to decide they want to access the funds. It may take several months or years for groups who have not participated in the Commission’s processes to decide that they want to do so. Therefore, it is important that funds be available, and not exhausted by other groups.
- b. *The UTC should conduct targeted outreach to community-based organizations to get their input on the form of intervenor funding agreements that would apply to them.* As discussed at the September 28th workshop, community-based organizations do not have the time or resources to participate in full-day UTC workshops. We recommend that the UTC consult with other state agencies, such as the Department of Commerce and the Equity Office, to develop a plan to engage these organizations directly. In addition, agencies covered by RCW 70A.02, the Healthy Environment for All Act (HEAL Act), are required to create and adopt a community engagement plan by July 1, 2022, that describes how those agencies will engage with overburdened communities and vulnerable populations in existing activities and programs. These plans must describe how the agencies plan to facilitate equitable participation and support meaningful and direct involvement of those communities. While the UTC is not a covered agency under RCW 70A.02, it can opt in, or adopt any provisions of the Act or the recommendations from the Washington State Environmental Justice Task Force. We note that other agencies have used sole source contracting for listening sessions with community groups, and this option is available to the UTC.¹

¹ Recommendation #26 of the Washington State Environmental Task Force report includes guidance to agencies on how to use contracting and procurement authority to proactively engage and contract with local organizations who bring valuable expertise and lived experience knowledge.
[https://healthequity.wa.gov/Portals/9/Doc/Publications/Reports/EJTF%20Report_FINAL\(1\).pdf](https://healthequity.wa.gov/Portals/9/Doc/Publications/Reports/EJTF%20Report_FINAL(1).pdf)

3. Next Steps

As discussed at the September 28th workshop, the Commission expressed interest in issuing a policy statement. While we think some guidance from the Commission would be useful, we are concerned that a policy statement will take time to issue, will be nonbinding, and will remain open to interpretation by stakeholders and UTC staff. If the Commission decides to issue a policy statement, we would recommend that it allow sufficient time between the issuance of the policy statement and the timing of 2022 multi-year rate case filings. In addition to the process recommendations above, we also recommend that the Commission consider what else it can do, in addition to authorizing intervenor funding, to make information and processes more available and accessible to the public. Some ideas for the Commission to consider include:

- a. *Conduct a review of information available on the UTC's website, identify gaps, and prioritize making information available and accessible to the public.* While the Commission has made many improvements to its website over the years, there remains room for improvement. For example, the Commission stopped publishing annual statistics and historical rate information for each of the energy companies on its website. This information was very useful to customers, stakeholders, and policymakers. We recommend that the Commission resume posting this information on a regular basis.
- b. *Conduct a review of the Commission's Docket Notification system for interested persons.* It is not easy for members of the public to track docket activity. The Commission should review its docket notification format and process and seek to make the language more accessible and understandable to the general public.
- c. *Conduct a review of the Commission's public involvement materials to ensure that they are relevant and useful for community-based organizations that want to engage in the Commission's processes.* The Commission could conduct direct engagement with these groups, concurrently with the Track 2 work described above. Efforts to explore should include updating the Commission's public involvement process and educational materials, and developing a community engagement plan consistent with RCW 70A.02.
- d. *Create a Director-level Diversity, Equity, and Inclusion position.* A dedicated person tasked with executing the agency's DEI strategy can help ensure a comprehensive approach.

Thank you for the opportunity to provide supplemental comments.

Sincerely,

/s/ Lauren McCloy
Policy Director,
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