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**Re: Comments of Renewable Northwest regarding issues related to electricity markets and compliance with the Clean Energy Transformation Act, Docket UE-210183**

**I. INTRODUCTION**

Renewable Northwest thanks the Washington Utilities and Transportation Commission (“the Commission”) and the Department of Commerce (“the Department”) (collectively, “the Agencies”) for this opportunity to comment in response to the Agencies’ October 12, 2021, Notice of Opportunity to File Written Comments on Draft Rules. Renewable Northwest has followed the evolution of stakeholders’ interpretations of “use” in RCW 19405.040(1), and we are optimistic that the Agencies’ approach with the compliance framework outlined in the draft rules has the potential to bring most stakeholders to a place of comfort. These comments are our responses to the questions posed in the Notice, offering recommendations to improve the rules’ clarity and to ensure adequate guardrails are in place to uphold the integrity of the standards mandated by the Clean Energy Transformation Act (“CETA”). We appreciate the Agencies’ careful attention to this issue and the opportunity to provide comments as the Agencies work to implement Washington’s nation-leading clean energy standard.

## II. COMMENTS

1. *Draft WAC 480-100-650(1): The Commission intends for this language to describe a planning and acquisition standard that requires utilities to acquire resources that are well-suited to directly meet projected retail electric load without precluding the use of those resources for balancing, exchanges, or other purposes.*

*a. Is this intent sufficiently captured and the requirement clearly established through this draft rule language?*

The intent is apparent in draft WAC 480-100-650(1) for utilities to be required to acquire a compliant resource mix to meet load while also having real-time load balancing capabilities. We appreciate the efforts the Agencies have taken to maintain the integrity of CETA's greenhouse gas-neutrality standard while also recognizing utilities' need for distinct operational direction. While we agree with this general approach, we recommend the the following revisions for clarity and to bolster the guardrails around the Agencies' proposed compliance structure:

### A. Clarification of the required granularity of the compliance demonstration

Given the operational flexibility provided by draft WAC 480-100-650(1)(b), the requirements in draft (1)(a) must be detailed enough to ensure utilities are making a serious effort to transition their resource mixes to be greenhouse gas neutral by 2030, with a plan to reach 100% clean by 2045.

For this reason, we recommend that the temporal requirement for draft WAC 480-100-650(1)(a), addressing acquisition of resources, be defined to match the hourly reporting requirements detailed in draft WAC 480-100-650(5). Utilities are required by WAC 480-100-620(11)(b) to perform portfolio modeling to serve its load, "based on hourly data, with the output of the utility's owned resources, market purchases, and power purchase agreements, net of any off-system sales of such resource...",<sup>1</sup> so to marry the draft rule for resource acquisition to the requirements for integrated resource planning, we recommend (1)(a) be revised to read,

Using electricity for compliance under RCW 19.405.040(1) ~~and RCW 19.405.050(1)~~ means that a utility:

- (a) has acquired renewable and nonemitting resources to meet its retail electric load, based on hourly data as defined in WAC 480-100-620(11)(b), ....

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<sup>1</sup> WAC 480-100-620(11)(b).

B. Clarification of the resource planning process supporting draft WAC 480-100-650(1)(a)

The first round of utility Clean Energy Implementation Plans (“CEIPs”) have been made public, at least in draft form. Because most of the data informing those documents was pulled from utilities’ integrated resource plans (“IRPs”), and because it is currently unclear whether the Agencies require utilities to correct any outdated or otherwise flawed data from the IRP to inform utilities’ CEIPs, we recommend that draft WAC 480-100-650(1)(a) include which resource planning process must inform utilities’ compliance demonstration.

Renewable Northwest sees value in a utility rerunning its portfolio modeling tool with updated or more accurate inputs relative to the IRP, based on feedback to and updates since the IRP. We have seen examples in the 2021 utility resource planning cycle of inaccurate modeling inputs or assumptions severely skewing IRP outputs, ultimately limiting the validity of the following CEIP. As a result, we recommend the Agencies explicitly note in rule that the CEIP, informed by information revised from the IRP, must be the planning process informing the compliance demonstration in draft (1)(a). To build upon our earlier language suggestion, we offer the following revision to draft WAC 480-100-650(1)(a):

Using electricity for compliance under RCW 19.405.040(1) ~~and RCW 19.405.050(1)~~ means that a utility:

- (a) has acquired renewable and nonemitting resources to meet its retail electric load, as informed by the utility’s Clean Energy Implementation Plan based on the most recent available inputs and hourly data as defined in WAC 480-100-620(11)(b), ....

C. Limitation of the primary compliance consideration of retained RECs in draft WAC 480-100-650(2)(e) to non-bilateral transactions

Our understanding of draft WAC 480-100-650(1)(b) stems from a late-October conversation with Commission staff in which this provision was intended to become relevant beyond 2030 -- though that is not explicitly reflected in the draft rule -- after a utility has ensured its resource mix 1) meets load with CETA-compliant resources and 2) meets the deliverability requirements outlined in the draft rules. Further, Commission staff explained draft (1)(b) as a proactive direction given to utilities relevant to the ongoing process to realize an extended day-ahead market (“EDAM”) scenario in the region. We support Washington utilities’ participation in markets, especially a future

EDAM or regional transmission organization (“RTO”), as the least-cost decarbonization potential has been well documented.<sup>2</sup>

Still, to ensure the operational flexibility granted by draft (1)(b) is limited to true real-time transactions required to balance a utility’s resource mix -- *not* shuffle resources such that fossil-based generation is knowingly purchased for primary compliance -- we recommend that a utility’s use of retained RECs for primary compliance, as defined in draft WAC 480-100-650(2)(e), be restricted to non-bilateral market transactions. In a bilateral transaction, a utility has greater opportunity to understand the fuel mix associated with that transaction. We agree utilities may need to go beyond the flexibility provided by alternative compliance with RCW 19.405.040(1), if Washington market participation expands.<sup>3</sup> Thus, draft (1)(b) should more explicitly target that expanded market future. One way to do that is to limit the relevance of retained RECs in draft (2)(e) to non-bilateral transactions. The result would be that bilateral transactions that are not CETA compliant will fall within a utility’s alternative compliance demonstration; and *bundled* bilateral transactions made for the purpose of serving a utility’s load, may count toward primary compliance with the retirement of the associated nonpower attributes.

D. Prohibition of utilities’ reliance on or consideration of retained RECs during resource planning

In conversations with Commission staff about the intent behind draft WAC 480-100-650(2)(e), which allows utilities to use retained RECs for primary compliance, we have heard that a utility is not permitted to consider in resource planning the potential application of retained RECs to its compliance demonstration at year’s end. We agree that utilities should not be able to consider retained RECs while developing portfolio models to inform resource acquisition strategies. Otherwise, utilities could delay clean energy investments dramatically, potentially putting Washington on a path that is inadequate for achieving 100% clean electricity by 2045. We recommend that draft WAC 480-100-650 be revised to explicitly prohibit the reliance on or consideration of retained RECs during utility resource planning. As currently written, this is unclear in the draft rules.

*b. Is it appropriate to include a reference RCW 19.405.050(1) in this requirement?*

Renewable Northwest continues to see the compliance framework for RCW 19.405.040(1) as unique to the statutory language defining that standard and therefore different from that relevant to the implementation of RCW 19.405.050(1). To elaborate on our position that these standards

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<sup>2</sup> See, for example, The State-Led Market Study (July 2021), in which gross benefits of a west-wide RTO are estimated at \$2 billion annually, with the capture of a larger geographic footprint to enhance resource diversity. Available at <https://www.energystrat.com/s/Final-Roadmap-Technical-Report-210730.pdf>.

<sup>3</sup> We also appreciate that the need for this flexibility is not certain, and we appreciate the Agencies’ inclusion of a September 2024 rule review and possible revision at draft WAC 480-100-650(6).

require separate considerations, we call back to the analysis provided in our comments filed with the Commission on August 10, 2020:

... RCW 19.405.050 contains meaningful distinctions from RCW 19.405.040. First, just as the language and policy of the greenhouse gas-neutrality standard in RCW 19.405.040 must inform the meaning of the word “use” in that section, so must the language and policy of the 100% clean standard in RCW 19.405.050 inform the meaning of “use” in that section: “It is the policy of the state that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity to Washington retail electric customers by January 1, 2045.” Achieving 100% clean electricity -- “supply[ing] one hundred percent” clean energy to customers -- is a significantly more stringent requirement than achieving greenhouse gas neutrality. Moreover, RCW 19.405.050 does not contain the language of RCW 19.405.040(1)(a)(ii) -- “electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility’s retail electric loads over each multiyear compliance period.” ... [T]he greenhouse-gas neutrality standard is a stepping stone to a more stringent 100% clean requirement, so it makes sense not only as a matter of statutory language but also as a matter of policy that the “use” necessary to demonstrate compliance with the neutrality standard will be different than the “use” necessary to demonstrate compliance with the ultimate 100% clean standard. We strongly encourage the Commission and the Department to bear in mind these key distinctions.<sup>4</sup>

To conclude, we do not think a reference to RCW 19.405.050(1) is appropriate in this requirement. We look forward to future discussions focused on a suitable compliance framework for the 100% clean standard.

*2. Draft WAC 480-100-605: The draft rules include definitions that draw a distinction between a “retained” REC and the CETA definition of unbundled REC.*

*a. Is this distinction understandable?*

Yes, we agree that a retained REC is different from an unbundled REC and that there are benefits to the rule making this distinction.

However, draft WAC 480-100-650(2)(d) says utilities must demonstrate “the acquisition of the electricity [generated by compliant resources] through *ownership, control, or contracted agreement*... (emphasis added),” and to ensure the rule is consistent throughout, we recommend revising the language in the definition of retained REC in draft WAC 480-100-605 to read

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<sup>4</sup> Comments of Renewable Northwest re: the Interpretation of “Use” (Aug. 10, 2020) (UE-191023), at 4.

“Retained REC” means the nonpower attributes of renewable and nonemitting electricity owned, controlled, or contracted by a utility where the associated electricity is sold in a wholesale sale as unspecified electricity.

Further, for the purposes of differentiating a retained REC from an unbundled REC, we recommend the definition of retained REC be revised to consider the resource generating the REC rather than the underlying electricity attributed to the REC:

“Retained REC” means the nonpower attributes of renewable and nonemitting electricity generated by resources owned, controlled, or contracted by a utility where the associated electricity is sold in a wholesale sale as unspecified electricity.

*b. Are there other nuances to the distinction between retained RECs and unbundled RECs that should be addressed in the rule?*

Yes. It is currently unclear whether a utility could procure a bundled REC, sell the underlying electricity as unspecified, and subsequently sell the retained REC to another Washington utility for that utility’s demonstration of primary compliance with CETA. We do not think this activity would be appropriate, as it does not fit with the Agencies’ intent to allow for real-time flexibility without compromising the efforts utilities must make to meet CETA’s clean energy standards. We worry that creation of an in-state market for retained RECs would inevitably trickle into utilities’ resource planning strategies and would ultimately limit the state’s rate of decarbonization. As such, we recommend that draft WAC 480-100-650 be revised to include the following provision:

(x) If a utility resells a REC that would otherwise meet the definition of “retained REC,” upon resale the REC becomes an unbundled REC and is no longer a retained REC.

*c. In order to make use of this distinction between retained RECs and unbundled RECs, utilities will have to track and differentiate these RECs.*

*i. Is it practicable to track retained RECs separately from unbundled RECs?*

A retained REC is one created by a CETA-compliant resource generating beyond what the utility needs to meet its load, and because a REC created under the Western Renewable Energy Generation Information System (“WREGIS”) will be assigned to a particular generating unit, the documentation required to differentiate a retained REC from an unbundled REC should be a simple revision to the way utilities already document RECs for renewable portfolio standard (“RPS”) compliance. For example, in Puget Sound Energy’s (“PSE”) 2019 RPS compliance filing, the company submitted a Western Electricity Coordinating Council (“WECC”) supported

summary of the RECs retired from the company's relevant sub-account for 2019 RPS compliance. The spreadsheet documents many characteristics of each REC, including the REC retirement type, the WREGIS generating unit ID, the generator plant and unit name, the fuel type, the REC serial number, the quantity, and the e-tag information.

Therefore, it can be determined via current REC-classification practices that 1) the utility owns or has a contract for the output of the resources generating CETA-compliant electricity to meet the utility's load, and 2) the utility generated clean electricity in excess of its load requirements and thus the associated RECs can be classified as "retained RECs."

However, because bundled RECs are the missing piece in this compliance framework, and because bundled RECs should be associated with the CETA-compliant electricity that meets a utility's load, we recommend also defining this type of REC in rule. This would improve the transparency of a utility's efforts to meet draft (1)(a) before reliance on draft (1)(b). Importantly, this would also help to prevent resource shuffling as described in great detail over the course of the "use" discussions.

This REC classification would result in: 1) bundled RECs being associated with utility-owned, controlled or contracted CETA-compliant generation used to meet load, 2) unbundled RECs being associated with the nonpower attributes procured to meet the alternative compliance requirement outlined in RCW 19.405.040(1), and 3) retained RECs being associated with utility-owned, controlled or contracted CETA-compliant generation beyond that required to meet load, in which the underlying electricity was sold to a non-California purchaser in order to avoid double counting concerns.

*ii. Is it practicable to track retained RECs associated with unspecified electricity sales?*

Yes, though our recommendation above to also define "bundled RECs" may help to differentiate retained RECs.

*3. Draft WAC 480-100-605: The draft rules include a definition of "primary compliance" to differentiate the portion of the greenhouse gas neutral standard that may not be met using unbundled RECs or other alternative compliance options. Is this definition clear?*

Yes, this definition is clear in that it establishes a common phrase for the greenhouse gas neutral requirement that takes place in 2030, which until now has had many names. We do not interpret this definition as the creation of compliance optionality (i.e., secondary compliance), but rather a simple definition proposed to easily identify what is not alternative compliance.

*4. Draft WAC 480-100-650: The draft rules include robust requirements for hourly energy management data and information on a utility's wholesale transaction activities, 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," necessitating a high level of granularity in reporting. With these increased reporting requirements, the Commission aims to increase visibility into a utility's operations and to augment the data available to review a utility's performance in complying with the requirements of RCW 19.405.040 and .050 outlined in these draft rules.*

*a. Are the items in the draft rule sufficiently described?*

Yes, we think the detail provided in the rule is sufficient and well within the data management capabilities of a utility.

*b. Are any of the reporting requirements unnecessary to achieve the Commission's goal?*

No. Renewable Northwest supports efforts to improve the transparency of utility resource planning, and our understanding matches that expressed by Commission staff, that current utility resource modeling practices already require data management at this level of detail. More importantly, the outdated generalizations and assumptions made by utilities that are not informed at a more granular level, often skew outcomes and require additional narration management by utilities.

Seeing as a utility is required by WAC 480-100-620(11)(b) to perform portfolio modeling to serve its load, "based on hourly data, with the output of the utility's owned resources, market purchases, and power purchase agreements, net of any off-system sales of such resource..."<sup>5</sup> the filing of this data for compliance with the greenhouse gas-neutrality standard should not add much in terms of process, and it would result in a net positive, as the public availability of this data improves transparency and, likely, accuracy.

While we understood utilities' resistance to hourly matching of generation to load, as was a previously discussed interpretation of "use," and we understood when utilities thought system sales would overcomplicate a financial accounting approach to demonstrating compliance, we hope utilities will not push back on this hourly data reporting requirement -- a requirement we see as necessary to demonstrate reasonable steps were taken to achieve greenhouse gas neutrality.

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<sup>5</sup> WAC 480-100-620(11)(b).



*c. Conversely, are there additional items that the Commission should include in the expanded reporting requirements?*

Yes, Renewable Northwest recommends that the draft rules be amended to include language ensuring that the expanded reporting requirements include stakeholder access to the “analysis and underlying data” referenced in draft WAC 480-100-650(4). Substantively, the analysis and data spelled out in the draft rules appear to be helpful and appropriate as we move toward more granular accounting of how utilities will meet load with clean resources. As a matter of process, however, the current draft rules establish a filing requirement for a “clean energy progress report based on an analysis ... and underlying data” but do *not* directly require utilities to file the analysis and underlying data that are detailed later in the rule. Renewable Northwest recommends that the draft rule include language requiring utilities to file the analysis and underlying data with the Commission as well as the progress report as the most straightforward means of ensuring that stakeholders can access that valuable information.

By way of a brief example to demonstrate how important open access to data can be, stakeholders recently closely examined the inputs to Puget Sound Energy’s Integrated Resource Plan and discovered that the utility had used variable transmission costs of \$9.53 -- a value that seemed unreasonably high. Puget Sound Energy agreed to revisit the variable transmission cost input and determined that the correct value was \$0.27. Puget then re-ran its model with the corrected input, and, while we understand that the results obtained to date are still preliminary, we also understand that Puget’s preferred portfolio resource mix will likely change considerably as a result of this correction.

*d. Please identify any requested data or information that are already provided to the Commission in other filings, such as general rate cases. Please identify any data or information that are likely to be challenging to identify or submit, and describe why these items would be difficult to compile.*

Renewable Northwest has no comment at this time.

### III. CONCLUSION

Renewable Northwest again thanks the Agencies for their responsiveness on the issue of “use” and compliance with RCW 19.405.040(1)(a). We look forward to continued engagement in the Agencies’ CETA-implementation processes.

Sincerely,

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