

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Clean Energy  
Implementation Plans and Compliance  
with the Clean Energy Transformation Act

DOCKET UE-191023

INITIAL COMMENTS OF THE  
ENERGY PROJECT

**I. INTRODUCTION**

1           The Energy Project (TEP) files these comments in response to the Commission’s Notice of Opportunity To File Written Comments (Notice), issued January 15, 2020. As with the CETA Integrated Resource Plan (IRP) rulemaking docket,<sup>1</sup> TEP appreciates the Commission’s focus in this docket on issues related to the equitable transition to clean energy. This rulemaking is an opportunity to build on the discussion of equitable distribution of benefits in that rulemaking, and on the February 5, 2020, Joint Commerce/UTC workshop.

2           As TEP noted in its IRP comments, the National Consumer Law Center has identified three foundational components that are key to success in establishing an equitable transition to clean energy:

DATA: Collection and distribution of comprehensive residential customer data, broken out for low- and moderate-income and vulnerable ratepayers.

PROCESS: An inclusive regulatory process that formally links identification of equity impacts with consideration and adoption of measures to address them.

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<sup>1</sup> *In the Matter of Amending, Adopting and Repealing WAC 480-109-238 Relating to Integrated Resource Planning*, Docket UE-190698 (IRP Rulemaking).

EDUCATION: Broad familiarity with the full range of programs and best practice protections to address economic inequities for low-income customers.<sup>2</sup>

All of these elements will be important considerations in this rulemaking as well.

## II. INITIAL COMMENTS OF THE ENERGY PROJECT

### A. Responses to Notice Questions Regarding Equitable Distribution of Benefits

3 The Energy Project filed written comments addressing equitable distribution of benefits in the Commission's IRP rulemaking.<sup>3</sup> As a general matter, TEP incorporates those comments by reference here, with specific citations where pertinent.

#### **Question 17(a): Costs And Benefits The Commission Should Consider In Determining Compliance.**

4 The Energy Project interprets "determining compliance" in this context as addressing both the Commission's review of the filed utility Clean Energy Implementation Plans (CEIP) and the later review of compliance with the targets and other aspects of the plan. A starting point in responding to this question is the statute itself, which provides a list of the key types of benefits that the Commission should consider in determining utility compliance. The statute specifies that the way for utilities to show that all customers are benefiting from the transition to

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<sup>2</sup> *Reversing Energy System Inequity: Urgency and Opportunity During the Clean Energy Transition*, National Consumer Law Center, John Howat, John Colgan, Wendy Gerlitz, Melanie Santiago-Mosier and Karl Rabago, March 5, 2019, p. 10.

[https://www.nclc.org/images/pdf/special\\_projects/climate\\_change/report-reversing-energy-system-inequity.pdf](https://www.nclc.org/images/pdf/special_projects/climate_change/report-reversing-energy-system-inequity.pdf).

<sup>3</sup> *IRP Rulemaking*, Docket UE-190698, Initial Comments of The Energy Project, December 20, 2019 (IRP Comments).

clean energy is through the following elements, set out here in list format:

- Equitable distribution of energy benefits
- Equitable distribution of non-energy benefits
- Reduction of burdens to vulnerable populations
- Reduction of burdens to highly impacted communities
- Long-term and short-term public health benefits
- Long-term and short-term environmental benefits
- Reduction of costs and risks
- Energy security
- Resiliency

5           Within each of these categories more detail can be developed. For example:

6           *Energy benefits.* Energy efficiency is an important type of energy benefit. The Commission would examine equitable distribution by reviewing how the CEIP addresses the types of energy efficiency programs offered by the utility to low-income customers, participation levels, funding, outreach, and other relevant factors. Comparative data with the general residential customer class would allow the Commission to assess equitable distribution across the class. Trend data with pre-CETA baselines would show the degree of progress since enactment.

7           *Non-energy benefits.* The Energy Project's comments in the IRP rulemaking discuss equitable distribution of non-energy benefits (NEB) of clean energy. The comments provide multiple examples of NEBs that could be examined to evaluate how vulnerable low-income

customer are being affected, such as reduced payment arrearages, lower collection costs, public health and welfare, and others.<sup>4</sup>

8           *Reduction of burdens.* In evaluating whether the utility has reduced burdens for vulnerable low-income populations or for highly impacted populations, the Commission can review information which demonstrates the utility's progress towards making programs and funding available for energy assistance to vulnerable low-income households, including weatherization, energy efficiency, monetary assistance and direct customer ownership of distributed energy resources (DER).

9           The Energy Project recommends that the rules establish minimum basic compliance components in these areas, with programs that address specific areas, in particular: affordability, renewables, energy efficiency, and demand response. To the extent possible the rules should prescribe basic characteristics that programs must meet,

**Question 17(b): Information Regarding Geographic Areas, Populations, And Customer Demographics The Commission Should Consider In Determining Compliance.**

10           Substantial information is available to utilities, the Commission, and stakeholders that will assist in determining compliance with respect to specific populations. The Department of Health process will, of course, generate a list of highly impacted communities that will be available by the end of his year.<sup>5</sup> Highly impacted communities that are located in census tracts that are fully or partly in Indian country can also be identified.<sup>6</sup> Other sources of information

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<sup>4</sup> TEP IRP Comments, ¶¶ 15-16.

<sup>5</sup> RCW 19.405.140, RCW 19.405.020(23).

<sup>6</sup> RCW 19.405.020(23).

include:

- Census information (including American Community Survey (ACS), Quick Facts, and Small Area Income and Poverty Estimates (SAIPE))
- County- level energy burden information<sup>7</sup>
- Home Energy Affordability Gap studies, Fisher Sheehan & Colton<sup>8</sup>
- Washington State Self-Sufficiency Standard<sup>9</sup>
- ALICE (Asset Limited, Income Constrained, Employed) reports<sup>10</sup>
- Targeted demographic information, such as the Commission on Hispanic Affairs “Washington State Demographics” report<sup>11</sup>
- An Unfair Share: Exploring the Disproportionate Risks From Climate Change Facing Washington State Communities<sup>12</sup>

**Question 18: Type of Guidance.**

11 The Energy Project recommends that the Commission provide guidance to the utilities regarding equitable distribution as part of the CEIP rules. Guidance via rulemaking is preferable because policy and interpretive statements are advisory only in nature and do not provide binding or enforceable requirements. Adoption of rules will have the effect of placing appropriate

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<sup>7</sup> *High Utility Costs Force Hard Decisions For The Poor, Inside Energy*, May 8, 2016 <http://insideenergy.org/2016/05/08/high-utility-costs-force-hard-decisions-for-the-poor/>.

<sup>8</sup> [http://www.homeenergyaffordabilitygap.com/01\\_whatIsHEAG2.html](http://www.homeenergyaffordabilitygap.com/01_whatIsHEAG2.html).

<sup>9</sup> The Self Sufficiency Standard for Washington State (2017), [http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/WA2017\\_SSS.pdf](http://selfsufficiencystandard.org/sites/default/files/selfsuff/docs/WA2017_SSS.pdf).

<sup>10</sup> <https://www.unitedforalice.org/washington>.

<sup>11</sup> <https://www.cha.wa.gov/demographics-washington-state>.

<sup>12</sup> [https://cig.uw.edu/wp-content/uploads/sites/2/2018/08/AnUnfairShare\\_WashingtonState\\_August2018.pdf](https://cig.uw.edu/wp-content/uploads/sites/2/2018/08/AnUnfairShare_WashingtonState_August2018.pdf).

emphasis on equitable distribution as part of the CEIP process, in concert with the other important aspects of the planning process.

12           The statute itself provides support for this approach. RCW 19.405.090(9) states that “the Commission must determine compliance with the requirements of this chapter [CETA].” RCW 19.405.100(2) authorizes the Commission to adopt rules for investor-own utilities (IOUs) “to ensure the proper implementation and enforcement” of CETA. Given the statutory obligation to determine compliance, and the central role of the CEIP in implementation of CETA, adoption of rules for the CEIP process, including for equitable distribution, would be a reasonable exercise of the rulemaking authority. Finally, RCW 19.405.100(9) requires that “rules needed for the implementation of [CETA] must be adopted by January 1, 2021, unless specified otherwise [.]” Although the “rules may be revised as needed” after that date, the statutory deadline would seem to create an imperative for the adoption of at least a basic framework addressing equitable distribution.

13           The four-year time frame of the CEIP provides a further reason to adopt rules rather than simply advisory guidance. Once approved, the first CEIPs will be in place from 2022 through 2026. If only advisory guidance is in place, a plan could be operating in a grey area for several years. With no definitive binding requirements, the advisory guidance may or not be closely followed by the utility. Affording this degree of discretion to utilities would create too much uncertainty for all parties involved in the process. Parties may arrive at 2026 without a clear understanding of what constitutes compliance.

14 At the same time, TEP recognizes that this is a new process for utilities, the Commission and stakeholders. It may be unrealistic and premature to try to develop overly detailed and prescriptive requirements at the outset of CETA implementation. The evolution of I-937 Energy Independence Act (EIA) implementation is a useful model. Administrative rules adopted early on were more bare bones in nature but as the Commission and stakeholders gained experience through cycles of compliance filings, more refinements were added to the rules. Conditions applied on a case-by-case basis to Biennial Conservation Plans evolved to become rule requirements.<sup>13</sup> A similar process makes sense here. Initial equitable distribution rules can provide a template for CEIP filings. As utility CEIPs are reviewed on a case-by-case basis, the Commission may “approve with conditions,” and these conditions may provide a basis to adjust and revise the rules going forward. In addition, the Commission could provide some advisory guidance in the rulemaking adoption order, or in a concurrent policy and interpretive statement, as a companion to the rules.

**Question 19: Qualitative and Quantitative Data.**

15 The Energy Project is comfortable with the use of both types of data to show compliance, with the caveat that a utility should not rely solely on qualitative data to show compliance. Utilities should lead with the quantitative data that clearly demonstrates progress toward targets.

16 Data should be provided on a utility service territory basis. Under CETA, each utility has its own statutory compliance obligations with respect to its own customers. The relevant information, therefore, is information showing that equitable distribution of benefits has occurred

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<sup>13</sup> *In the Matter of Amending, Adopting, and Repealing Rules in WAC 480-109 Relating to the Energy Independence Act*, UE-131723, General Order R-578. See, e.g., Synopsis and ¶¶ 11, 23.

with respect to the customers receiving service within the utility's service territory.

Development of such service territory-tailored information has precedent. PSE's Annual Report on the HELP program contains county-level analysis.<sup>14</sup> Two companies, Avista and Cascade Natural Gas, have used third party analysis to evaluate their own customers in connection with bill assistance, using county-by-county level of analysis.<sup>15</sup> As noted above in response to Question 17(b), substantial amounts of information are available on a sufficiently granular basis to allow utilities to present service territory level analysis using census block and other data.

**Question 20: Data And Methodologies For Quantifying Non-Energy Benefits.**

17 In our IRP Comments, TEP discussed some existing data sources and methodologies for quantifying non-energy benefits (NEBs).<sup>16</sup> The comments are incorporated here by reference. Some supplemental references are also provided.

18 The Energy Project cited several studies, evaluations, and reports that evaluated NEBs and found quantifiable NEBs that accrued to participants, the economy, the environment, or society more broadly. For example, a United States Department of Energy(DOE) study, in cooperation with the Opportunity Council, found reductions in ashma-related Medicaid claims in

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<sup>14</sup> See, e.g., Dockets UE-011570/UG-011571, Puget Sound Energy Annual Report on Program Outcome of PSE's Low-Income Program, Home Energy Lifeline Program ("HELP"), For 2017 Program Year October 2017 through September 2018. (HELP Annual Report), pp 16-19.

<sup>15</sup> *An Estimate of the Number of Households in Poverty Served by Avista Utilities in Washington State*, Brian Kennedy, D. Patrick Jones, Eastern Washington University, Institute For Public Policy And Economic Analysis, May 2015; *Analysis of Low-Income Heating Assistance Programs Administered by Cascade Natural Gas in its Washington State Service Area*, Brian Kennedy, D. Patrick Jones, Holly Miller, Eastern Washington University, Institute For Public Policy And Economic Analysis, November 2017. Utility service territories do not always precisely match county boundaries so the studies also used census tract information.

<sup>16</sup> TEP IRP Comments, ¶¶ 11-18.



homes that received weatherization assistance.<sup>17</sup> An evaluation of PSE's low-income weatherization program by Cadmus found that the program produced quantifiable non-energy benefits.<sup>18</sup>

19 Another source for NEB analysis is Skumatz Economic Research Consulting (SERA),<sup>19</sup> whose 2010 study was cited in our IRP Comments. Dr. Lisa Skumatz is a national leader in research regarding NEBs and has published extensively on NEB issues.<sup>20</sup>

20 A 2014 ACEEE paper co-authored by Ingrid Malmgren and Dr. Skumatz provides an overview of literature regarding consideration of NEBs in energy efficiency research over the past twenty years.<sup>21</sup> The paper explains that recent literature has focused on methodologies for including NEBs in cost-effectiveness screening as a best practice for energy efficiency programs. As research on NEBs has become more robust, regulators and stakeholders have recognized that significant benefits were being omitted from energy efficiency cost-benefit analyses, and consequently, “that traditional regulatory tests excluding NEBs were biased and might not lead to optimal program investment.”<sup>22</sup> The paper also provides detailed case studies of four different utility regulatory commissions that considered treatment of NEBs in cost effectiveness screening

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<sup>17</sup> Weatherization Works II – Summary of Findings From the ARRA Period Evaluation of the U.S. Department of Energy’s Weatherization Assistance Program, Oak Ridge National Laboratory, Tonn, Bruce *et. al.*, July 2015.

<sup>18</sup> Cadmus 2016 PSE Low-Income Weatherization Evaluation, Table 12.

<sup>19</sup> A link to the SERA energy website can be found at <https://serainc.com/energy-1>.

<sup>20</sup> SERA is based in Boulder, Colorado, with an additional office on Orcas Island, Washington. SERA has provided analysis for utilities (e.g. PSE and Seattle City Light), municipalities, counties, and state and federal agencies.

<sup>21</sup> American Council for an Energy Efficient Economy (ACEEE), 2014 Summer Study on Energy Efficiency in Buildings, “Lessons from the Field: Practical Applications for Incorporating Non-Energy Benefits into Cost-Effectiveness Screening,” Ingrid Malmgren and Lisa A. Skumatz. <http://www.aceee.org/files/proceedings/2014/data/papers/8-357.pdf> (“2014 ACEEE paper”).

<sup>22</sup> 2014 ACEEE Paper, p. 8-188.

– Colorado, New York, Vermont, and the District of Columbia – and how they chose to quantify and account for the impact of NEBs in their energy efficiency programs.<sup>23</sup>

21 A central challenge faced by regulators regarding consideration of NEBs, according to Malmgren and Skumatz, is weighing the potential costs and benefits of evaluation efforts to quantify NEBs, determining a reasonable evaluation budget, and prioritizing categories of NEBs for evaluation and research.<sup>24</sup> They identify four different approaches states have used to balance these cost and accuracy issues related to consideration of NEBs:

- incorporating a simple, conservative “adder” to the benefits. Most states suggest they are trying to incorporate factors related to omitted environmental or emissions effects;
- incorporating “easy to measure” NEBs into the benefits. Several states are adopting this flexible approach, with the “easy to measure” benefits varying among programs (for example, including easier-to-measure water bill savings from clothes washer programs, and omitting “softer” NEBs such as comfort, measured from surveys);
- trying to measure all NEBs, or the primary NEBs from among several dozen; or

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<sup>23</sup> 2014 ACEEE Paper, pp. 8-191 – 8-198.

<sup>24</sup> 2014 ACEEE Paper, p. 8-189.

- a hybrid approach: using an adder and measuring either easy-to-measure benefits, or as many benefits as possible beyond what is included in the adder.<sup>25</sup>

22 Washington IOUs have generally incorporated easily-quantified NEBs as a benefit in cost effectiveness analysis.<sup>26</sup> In addition, the IOUs also follow Council methodology and include a 10 percent risk adjustment to recognize the reduced risk of conservation as compared to supply side resources.

23 In two of the state case studies in their 2014 ACEEE paper, Skumatz and Malmgren discuss the methods adopted by Colorado and Vermont to reflect the impact of NEBs on energy efficiency programs generally, and the specific additional recognition of the greater impact of NEBs for low-income programs. In its first proceeding to comprehensively consider NEBs, the Colorado Public Utility Commission (PUC) directed Public Service of Colorado to use the following proxy values in its 2009-2010 DSM Plan: 10 percent for electric programs, 20 percent of avoided costs for its electric low-income programs, and a multiplier of 1.05 for its natural gas programs. These adders for NEBs were incorporated in the Modified Total Resource Cost Test (TRC).<sup>27</sup> Colorado subsequently reviewed these values in 2011 and increased the NEB adder for low-income electric programs to 25 percent. The Commission also expanded the approach to apply the adder to low-income natural gas programs.<sup>28</sup> The co-authors of the paper also

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<sup>25</sup> 2014 ACEEE Paper, p. 8-189.

<sup>26</sup> Dockets UE-160918 & UG-160919, PSE's 2017 Integrated Resource Plan, Appendix J, Conservation Potential Assessment, Developed for PSE by Navigant Consulting, at Section 2.1.8, p. 19.

<sup>27</sup> 2014 ACEEE Paper, p. 8-192.

<sup>28</sup> 2014 ACEEE Paper, p. 8-192.

explained that “cost-effectiveness screening of energy efficiency programs is ongoing,” and “dynamic,” and hence should be revisited periodically, as Colorado had done.<sup>29</sup>

24 The Energy Project’s research indicates that in 2018 the Colorado PUC approved a settlement further increasing NEBs adders for Public Service of Colorado, adopting a 50 percent adder for low-income measures and products, and 20 percent adder for all other measures and products.<sup>30</sup>

25 The Vermont Public Utility Commission has also revisited its cost-effectiveness guidance for energy efficiency investments several times over the past few decades. In 1990, Vermont adopted the Societal Cost Effectiveness Test which included a 5 percent adder for environmental externalities and a 10 percent adder to reflect the reduction of risks from electric efficiency savings.<sup>31</sup>

26 In 2009, Vermont revisited these values and considered how to incorporate NEBs in its cost effectiveness analysis. Ultimately, after extensive stakeholder participation, research, testimony, and examination of practices in other jurisdictions, the Vermont Board issued an order in 2012 that adopted a 15 percent NEB adder for thermal and efficiency screening and another 15 percent NEB adder for low-income energy efficiency projects.<sup>32</sup>

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<sup>29</sup> 2014 ACEEE Paper, p. 8-193.

<sup>30</sup> *In The Matter of The Application of Public Service Company of Colorado for Approval of a Number of Strategic Issues Relating to its Electric and Gas Demand Side Management Plan*, Decision Approving, With Modifications, Non-Unanimous Comprehensive Settlement; and Establishing Electric Energy Savings and Demand Reduction Goals For 2019 Through 2023, With Associated Financial Incentives, Pursuant to § 40-3.2-104, C.R.S., Decision No. C18-0417, Colorado Public Utilities Commission, Proceeding No. 17A-0462EG, Adopted April 8, 2018, Mailed June 11, 2018, at ¶ 45 (p. 12), ¶ 104 (p. 30) and Ordering ¶ 2, p. 31.

<sup>31</sup> 2014 ACEEE Paper, p. 8-194, citing Vermont Public Service Board Docket 5270.

<sup>32</sup> 2014 ACEE Paper, p. 8-196, citing Vermont Public Service Board Order dated 2/7/2012.

27 The 2014 ACEEE paper noted the research regarding low-income weatherization that contributed to the additional 15 percent NEB adder for low-income programs:

Of particular value to the low-income NEB adder was research on the Vermont Weatherization Assistance Program (Hall and Riggert, 2002), cited in participant comments in the proceeding. This research specifically measured the non-energy benefits of low-income programs. By quantifying reduced arrearages, fewer shut-offs, lower collection costs, lower emissions, economic impact through employment, water savings, increase in property value, fewer lost work or school days due to illness, and fewer fires, the researchers were able to quantify an NEB value per participant of \$11,391 for a program that cost \$2,259 per participant.<sup>33</sup>

28 The Energy Project's research indicates that the Vermont Commission reaffirmed the 15 percent NEB adder for cost-effectiveness screening, as well as the additional 15 percent NEB adder for low-income cost-effectiveness screening in a 2015 Order.<sup>34</sup> Vermont also continues to apply a 10 percent risk adjustment to the costs of efficiency measures in cost-effectiveness screening, to reflect risks associated with supply side resources that are avoided with investments in demand-side resources.<sup>35</sup>

29 The Energy Project recommends that the possibility of using adders of this type in Washington be given consideration. Research on NEBs has become more robust, illuminating the inherent bias in traditional cost-effectiveness analyses when NEBs are excluded. In their

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<sup>33</sup> 2014 ACEEE Paper, p. 8-195.

<sup>34</sup> *Order Re: EEU Avoided Costs for 2016-2017 Time Period*, Vermont Public Service Board, EEU-2015-04, Updated Avoided Costs for Use by the Energy Efficiency Utilities, Order Entered 12/22/2015, at p. 15. [[Vermont 2015 Avoided Cost Order](#)]

<sup>35</sup> Vermont 2015 Avoided Cost Order, pp. 9-11.

2014 ACEEE paper, Malmgren and Skumatz urge states to incorporate NEBs in cost-effectiveness tests to reduce that inherent bias:

To accurately account for both the costs and the benefits of these programs, NEBs must be counted in cost-effectiveness tests. Society, ratepayers, and utilities will benefit by including NEBs in program evaluations, thus reducing bias in determining program cost-effectiveness. Inclusion of some NEBs is better than exclusion of NEBs, but long-term progress in addressing the bias in tests should not be delayed.<sup>36</sup>

The approach of adopting statewide adders for NEBs would formally recognize NEBs as a critical, quantifiable benefit for EE measures in general, and additionally for low-income EE measures.

**Question 21: Interpretation of RCW 19.405.060(1)(c)(iii).**

30           This question asks how the Commission should interpret RCW 19.405.060(1)(c)(iii) and how it differs from RCW 19.405.040(8).

31           RCW 19.405.040(8) has a broad context. Under this provision, the company is required “in complying with this section,” (i.e, all of Section 4 regarding greenhouse gas neutrality), to ensure all customer benefit via equitable distribution of benefits. This equitable distribution requirement is then encompassed in the obligation to submit a CEIP regarding Section 4(1). Accordingly, the initial CEIP must address the equitable transition component of Section 4.

32           RCW 19.405.060(1)(c)(iii) has a somewhat more specific application, derived from its placement in the provision of Section 6(c) that allows the Commission to adjust or expedite the timelines for CEIPs that are under consideration. The Commission is allowed to adjust or

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<sup>36</sup> 2014 ACEEE Paper, p. 8-198.

expedite a plan timeline, but in doing so, is required to protect certain enumerated policy goals: (1) safety, reliability, and balancing; (2) lowest reasonable cost and risk; (3) customer benefit to all through equitable distribution; and (4) avoidance of unreasonable harm from rate increases arising from compliance with CETA.<sup>37</sup>

33 The import of RCW 19.405.060(1)(c)(iii), therefore, is to emphasize the continued applicability and policy importance of the equitable distribution requirement, along with the other important goals listed such as safety and reliability, even if the plan timing is modified. Although the Commission is authorized to modify the CEIP timelines, it may not do so without maintaining the underlying equitable distribution requirements arising from Section 4.

## **B. Responses to Notice Questions Regarding Other CEIP Issues**

### **Questions 2-5: Targets.**

34 The Energy Project supports requiring additional detail beyond the statutory language in RCW 19.405.060 for setting specific CEIP targets. The language states that a plan must propose “specific targets for energy efficiency, demand response, and renewable energy.”<sup>38</sup> While this language does not expressly address equitable distribution requirements, those are incorporated through the requirement of a plan “for the standards established under sections 4(1) and 5(1).”<sup>39</sup> The Energy Project therefore recommends that the implementing rules include additional language to require that plan targets specifically address equitable distribution. For example, for renewable energy, the rule would require not only that the utility “propose specific targets for ...

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<sup>37</sup> RCW 19.405.060(1)(c)(i) through (iv).

<sup>38</sup> RCW 19.405.060(1)(a)(i).

<sup>39</sup> *Id.*

renewable energy” per the statute, but that company propose specific renewable energy targets to serve vulnerable low-income customers and highly impacted communities, including specific targets for reduction of burden for these households. A similar approach for both energy efficiency and demand response targets is also recommended.

**Questions 7-9: Public Process.**

35 RCW 19.405.060(1)(c) states that the Commission “after a hearing, must by order approve, reject, or approve with conditions” an IOU CEIP and interim targets. The Energy Project interprets this to mean that an adjudicative proceeding will be established for the review of a utility’s CEIP. The framework of an adjudicative proceeding provides a robust, equitable, and inclusive framework for CEIP review that protects the rights of all parties. At the same time, the Commission has the flexibility within this framework to tailor an appropriate schedule, provide for public comment hearings, and for alternative dispute resolution.

36 The questions in the Notice appear to inquire about public input during the drafting stage of the CEIP, before filing with the Commission for approval in an adjudicative process. The Energy Project believes it would be useful to require the utility to provide a draft CEIP for public input during this phase of the CEIP process. An initial period of informal review by stakeholders could be helpful as a way to potentially improve the final product that is filed with the Commission and allow for advance resolution of some issues, as well as allowing for broader and more inclusive participation. The informal review process would need to be scheduled to conclude prior to the January 1, 2022, filing of the utility CEIP with the Commission for the formal stage of review.



37 To the extent the CEIP is expected to derive from the IRP and Clean Energy Action Plan (CEAP) processes, one advantage is that these will already provide for a significant public involvement process. The CEIP pre-filing draft review can build upon the IRP advisory committee and stakeholder involvement procedures prior to the formal CEIP filing. While the subsequent CEIP adjudicative proceeding will have more formality, the procedures are flexible enough to provide for robust and inclusive stakeholder participation as a continuation of the pre-filing activity. Additional customer outreach and notice can be provided. Public comment hearings can be scheduled for the service territory with facilitated and informational components, as well as settlement conferences or other ADR mechanisms.

**Questions 10-13: Demonstration of Compliance.**

38 As a general proposition, TEP recommends that the Commission adopt rules for regular reports demonstrating compliance with RCW 19.405.030, 040, and 050. Annual reporting of progress toward meeting compliance metrics would be reasonable, and comparable with EIA practices. There does not appear to be a need to link the frequency of CEIP reporting to rate case activity such as rate plans. Renewables and energy efficiency target setting and reporting under the EIA, and resource planning in the IRP process, have so far been conducted successfully independent of rate case schedules. Connecting CEIP compliance reporting frequency to rate cases could introduce unpredictability to the reporting process. This approach could also result in different reporting schedules for different companies which would make it more difficult for the Commission and stakeholders to get an overall sense of progress toward CETA goals and for comparisons to be made between utilities.

**Questions 26-29: Cost Information Within The CEIP.**

39           The Energy Project is not clear about the relationship between a utility's CEIP and the ratemaking process and looks forward to seeing other party comments on the questions in this section. In an overall sense, TEP's current view is that the relationship is comparable to the relationship between ratemaking and IRPs or the EIA. Planning and target setting, over multiyear periods, occur in IRP and EIA proceedings, but recovery of the costs incurred to implement those plans occurs through the separate ratemaking process, or through tariff riders, as the Notice observes.<sup>40</sup> Similarly, while a CEIP may well have cost-recovery implications, at first blush it would seem that those costs would be presented and reviewed in the context of a single, or multiyear general rate case. Where appropriate, tariff rider recovery could be used, as is already established for energy efficiency and low-income programs.

40           Many, if not most, types of costs incurred for CEIP implementation (energy efficiency, demand response, renewables, affordability) will likely fall into categories for which cost-recovery is already reasonably well-established (e.g. investments in plant, energy efficiency programs). It is not immediately apparent that the CEIP itself becomes a rate proceeding. There does not appear to be specific statutory language in RCW 19.405.060 stating that the CEIP would be used to set rates prospectively or that otherwise explicitly links the CEIP directly to ratemaking.

41           If utilities or other parties have new ratemaking mechanisms to propose that go beyond current frameworks, those should be presented in as much detail as possible and reviewed in the

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<sup>40</sup> Notice at 8.

alternative ratemaking docket, or possibly in a GRC setting. One approach that has been mentioned by parties is performance-based ratemaking. In light of the focus of CETA in general, and the CEIP in particular in meeting both short and long-term targets, it makes sense that new cost-recovery mechanisms should include performance metrics tied to meeting those targets. Major changes to Washington ratemaking will require thorough review by the Commission before they can be applied in the CETA context to mechanisms such as the CEIP. The Energy Project looks forward to participating in that process.

### III. CONCLUSION

42           The Energy Project respectfully requests consideration of these issues by the Commission in this rulemaking docket. The Energy Project may have additional recommendations or modifications to these proposals as the rules develop. We look forward to working with the Commission and other stakeholders as this docket moves forward.

43           Respectfully submitted, February 28, 2020.