February 9, 2022

Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98504-7250

Glenn Blackmon, Ph.D.
Manager, Energy Policy Office
Washington Department of Commerce - State Energy Office
Olympia, WA

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' January 19, 2022, Notice of Opportunity to File Written Comments on Draft Rules. Renewable Northwest appreciates having another opportunity to review the revised draft rules ("Second Draft Rules" or "Draft Rules") which make an official interpretation of the requirement to "use" electricity for compliance with RCW 19.405.040(1)(a), prevent the double counting of nonpower attributes, and address the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050.

Regarding the "use" of electricity, which the Second Draft Rules also interpret for compliance with RCW 19.405.050(1), we recognize that the Agencies may need a couple rounds of data collection and review before refining the clean energy progress report framework. Until the Agencies have more context to understand what utility data is essential to making a compliance determination, we support robust data reporting requirements for utilities. Further, given the tight turnaround of the final rules on Clean Energy Transformation Act ("CETA") implementation, we attempt in these comments to focus only on recommendations which will fine tune the rules' current approach.

We appreciate the Agencies' careful attention to these issues, including through multiple stakeholder workshops and ample communication with stakeholders over the course of the rulemaking. Again, we thank the Agencies for this additional opportunity to provide comments as the Agencies work to implement Washington's nation-leading clean energy standard, and we look forward to continued participation in the rulemaking.

II. RESPONSES TO QUESTIONS FOR CONSIDERATION

1. *Draft WAC 480-100-650(2). The first sentence states that 100 percent of the electricity needed to supply retail electric service obligations must be generated by renewable and nonemitting resources. The second sentence explicitly establishes a requirement to secure transmission service rights for the electricity generated by the renewable and nonemitting resources. Is it sufficient for the first sentence to include an implicit requirement for feasible transmission service or is the second sentence also necessary to clearly state the requirement?*

Renewable Northwest has discussed with Commission staff the phrasing of Draft WAC 480-100-650(2) – specifically, "retail electric service obligations" – which is meant to be all-encompassing (e.g., requiring the utility to consider line losses and transmission availability), as compared to the softened phrasing in Draft WAC 480-100-650(1) – specifically, "retail electric load obligation." If this distinction in Draft -650(2) is familiar and unambiguous to utilities, then the second sentence establishing an explicit requirement to secure transmission service rights may be deleted. However, if this phrasing is unique to the differentiation of RCW 19.405.040(1)(a) and RCW 19.405.050(1), we suggest that the second sentence in Draft -650(2) remain.

2. *Draft WAC 480-100-650(1)(b). The prohibition on the reliance on retained nonpower attributes when making decisions on long-term acquisitions is applied to contracts longer than two years, as utility contracts of two years or less are generally used for hedging a utility's resource portfolio. Is this the correct contract length or should the cutoff be longer or shorter, and why?*

No. As written, Draft WAC 480-100-650(1)(b) may create a loophole for a utility to rely on contracts of two years or less with no impact to the utility's primary compliance demonstration.

Renewable Northwest supported the concept of retained renewable energy credits ("RECs") in the First Draft Rules on "use," noting in our November 12, 2021, comments that we understood this primary compliance fallback to be "a proactive direction given to utilities relevant to the ongoing process to realize an extended day-ahead market ('EDAM') scenario in the region."[1]

[1] Comments of Renewable Northwest re: the Interpretation of "Use" (Nov. 12, 2021) (UE-210183) at 3.

And while we continue to recognize that utilities may need some operational flexibility – though, this is speculative and we need more information to know how essential retained nonpower attributes ("NPAs") will actually be for primary compliance – we do not support the additional flexibility of a two-year contract term exemption from the prohibition on "account[ing] for the ability to apply retained NPAs toward primary compliance under subsection WAC 480-100-650(1)(c) or with its interim or other targets in making decisions to acquire or invest in resources…."[2]

We appreciate the guardrails introduced in the Second Draft Rules to the practice of using retained NPAs for primary compliance. With these protections in place, we support retained NPAs for the flexibility they were meant to give utilities for real-time operations – including for hedging practices.

However, if the Agencies intended for the language in Draft WAC 480-100-650(2)(b) to disincentivize utilities from relying on short-term contracts for emitting resources, and to instead incentivize utilities to pursue clean resources even to hedge their portfolios, we recommend further limiting the contract length for this incentive to one month, just as is done in the statutory definition of coal-fired resource.[3] As such, we recommend the following revisions to Draft -650(2)(b):

> May not account for the ability to apply retained NPAs toward primary compliance under subsection WAC 480-100-650(1)(c) or with its interim or other targets in making decisions to acquire or invest in resources <u>as part of a limited duration wholesale power purchase</u> with a contract term ~~or useful life~~ greater than ~~two years~~ <u>one month</u>.

This revision would limit the planning incentive to only those short-term "spot market" purchases made to hedge portfolios, minimizing what currently appears to be a loophole for contracts half as long as a CETA compliance period. We feel particularly comfortable with this one-month contract limitation because, in discussing with the Department the risk of consecutive contracts for unspecified electricity diluting RCW 19.405.030, we found that the types of short-term contracts pursued by Puget Sound Energy in the first quarter of 2020 were of a duration less than 24 hours. Therefore, to help prevent utilities from substituting clean energy procurements with "short-term" one- or two-year contracts, we recommend the Agencies consider the above language recommendation.

[2] Draft WAC 480-100-650(2)(b).
[3] RCW 19.405.020(7)(b)(i).

3. *Are the demonstrations required in WAC 480-100-XXX(3) reasonable and sufficient to prevent double counting considering the Commission's ongoing authority to prevent double counting?*

Renewable Northwest appreciates that Draft WAC 480-100-XXX explicitly prohibits the use of unbundled RECs associated with electricity sold as specified into another jurisdiction's GHG program for compliance with CETA. However, we do recommend the following revision to Draft WAC 480-100-XXX(5) to ensure any future program linkage with a GHG program in Washington provides an exclusion from the requirements in Draft -XXX(2):

> For the purposes of this section, "GHG program" includes any governmental program outside of Washington, excluding those linked with Washington, that caps or limits greenhouse gas emissions or requires the purchase, surrender, or retirement of greenhouse gas allowances, if the scope of the greenhouse gas program includes electricity imported from outside the governmental jurisdiction and does not require the retirement of RECs for such imported electricity.

Regarding Draft -XXX(3), we appreciate that the Agencies have been tasked with developing rules on double counting to specifically address the sale of underlying electricity into states with GHG programs – a task for which there is no precedent. However, we are concerned that the lack of transparency in how a utility's underlying electricity is allocated could prevent an entity described in Draft -XXX(3)(c) from attesting that all previous owners of a REC have complied with Draft -XXX(3)(a) and (b). For example, California does not currently provide public data on electricity imports such that a third party could know with certainty whether the underlying electricity was claimed as non-emitting generation in that state.

While it is common for a REC sale agreement to prohibit duplicate claims by the seller of the nonpower attributes associated with a given megawatt-hour ("MWh") of electricity, most agreements do not explicitly address a scenario in which the underlying electricity may be imported into a state with a GHG program. While we expect that the market could adapt to comply with Draft -XXX(3), we recommend that this rule be revisited in five years to consider potential market developments, such as the ongoing discussions via the California Independent System Operator ("CAISO") extended day-ahead market ("EDAM") initiative.[4]

4. *Are the requirements under WAC 480-100-ZZZ sufficient, clear, and understandable?*

Draft WAC 480-100-ZZZ appears to apply a shorthand version of the business practices for unbundled RECs to the accounting for retained NPAs. We recommend that Draft -ZZZ either

[4] For more information, see https://stakeholdercenter.caiso.com/StakeholderInitiatives/Extended-day-ahead-market.

reference the relevant provisions in Draft -XXX which prevent double counting or that Draft -ZZZ be revised to include those same safeguards.

Renewable Northwest also appreciates the addition of Draft WAC 480-100-ZZZ(2) for reasons identified in our November 11, 2021, comments.[5]

5. *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?

Currently Draft -650(1)(a) requires compliance planning to occur in the IRP and the CEIP, which we think is unclear. As stated in our November 11, 2021, comments, "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)."[6] And since we submitted those comments, we have seen just how impactful this data refresh out of the IRP can be to a utility's preferred portfolio.

Despite multiple stakeholder requests throughout the public participation phase of Puget Sound Energy's IRP development, PSE would not revise its generic resource costs to align with the latest research (the most current National Renewable Energy Laboratory ("NREL") Annual Technology Baseline ("ATB") report). However, upon hearing the same request from stakeholders during its CEIP development, PSE did take the recommendation to revise its generic resource costs. The resulting resource mix with the new model inputs was significantly different from that reflected in PSE's IRP, with so much economic "Washington wind" that PSE had to manually diversify the preferred portfolio.[7]

We continue to see value in a utility rerunning its portfolio modeling tool with updated information relative to the IRP. Therefore, we recommend that the language in Draft -650(1)(a) be revised to state the a utility

[5] Comments of Renewable Northwest re: the Interpretation of "Use" (Nov. 12, 2021) (UE-210183) at 6.
[6] Comments of Renewable Northwest re: the Interpretation of "Use" (Nov. 12, 2021) (UE-210183) at 3.
[7] *See, e.g.*, PSE's 2021 Clean Energy Implementation Plan at 31, *available at* https://irp.cdn-website.com/dc0dca78/files/uploaded/2022_0201_PSE%202021%20Corrected%20Clean%20Energy%20Implementation%20Plan.pdf.

May not account for the ability to apply retained NPAs toward primary compliance under subsection WAC 480-100-650(1)(c) when planning its preferred resource portfolio under WAC 480-100-640 based on the most recent available inputs and hourly data as defined in WAC 480-100-620(11)(b), and must have models, scenarios, projections, and other information and analysis within the utility's IRP and CEIP that are consistent with this requirement.

III. ADDITIONAL COMMENTS

A. Draft WAC 480-100-650(6) – Data and contract reporting

Renewable Northwest appreciates the Agencies' thoughtful consideration of the essential data and contracts a utility must report to demonstrate its compliance with RCW 19.405.040(1)(a) and RCW 19.405.050(1). We see value in each piece of information required in Draft WAC 480-100-650(6), especially this early in CETA implementation as the Agencies, utilities, and stakeholders navigate uncharted territory. Further, all information required of the utilities in Draft -650(a) and (b) is already being tracked for some other purpose (e.g., for participation in the Western Energy Imbalance Market or to confirm revenue meter data on each generator). And considering the lead time utilities have to build a compliance tracking system (with the first showing of compliance being in 2034), we support these reporting requirements.

Worth noting, we see Draft WAC 480-100-650(6)(a)(iv) as particularly helpful to the Agencies' review of utilities' effort to comply with CETA's standards. This provision requires utilities to report "[a]ll electricity used to calculate the utility's imbalance energy in a centralized energy imbalance market, aggregated into hourly amounts and listed by each generation source and any interchange amounts used in the calculation of the utilities imbalance energy."[8] This level of utility accountability will help to protect against emitting generation slipping through the compliance cracks. And because utilities are already confirming revenue meter data on each generator and settling payments from both the EIM and entities within their balancing authority ("BA") to which they charge imbalance energy, this requirement should not be administratively burdensome.

This reporting requirement, along with Draft -650(6)(a)(v) which requires "[e]lectricity production separately reported for all renewable and nonemitting generation owned by the utility, contracted by the utility, or controlled by the utility," should paint a mostly-clear picture of a utility's use of CETA-compliant generation, especially if the utility is more explicitly required to report the latter by the generating facility rather than by the resource type.

[8] Draft WAC 480-100-650(a)(iv).

However, we see an opportunity to strengthen these data reporting requirements by also requiring utilities to report the hourly outflow of system sales for each contract identified in Draft -650(6)(a)(v). Prior to the passage of CETA in 2019, utilities did not need to understand their system sales at this level of granularity, hence utilities' pushback to the prospect of this requirement in previous stakeholder workshops. Nonetheless, given that enforcement of these requirements starts in 2030 and that the Agencies could potentially make the compliance demonstration more efficient with this information, we recommend the following language addition to Draft -650(6)(a):

> (x) Hourly outflow system sales for all electricity production identified in WAC 480-100-650(a)(v);

If the above language is incorporated, we also recommend that the Agencies reference this requirement in Draft WAC 480-100-ZZZ to ease the accounting of retained NPAs.

As mentioned above, we recognize that there will need to be a period of information gathering before the data reporting required in the clean energy compliance report can be simplified. For this reason and to consider the implementation of the Climate Commitment Act and potential market developments (discussed above), we recommend that these rules be revisited prior to 2030:

> (x) The [commission/department] shall commence a review of these rules no later than September 1, 2027, and, if determined to be necessary, recommend revisions to achieve the policy objectives set forth in chapter 19.405 RCW.

Further, we strongly support the language in Draft -650(6) which requires the utility's data and contract reporting to also be made in the utility's clean energy progress reports. This will help to ensure the data reported to support a utility's compliance is transparent and accessible to stakeholders for review.

Our November 11, 2021, comments detailed a recent instance of stakeholder review resulting in a dramatic correction of the utility's modeling: "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."

Just as the refresh of PSE's generic cost inputs (see our response to question 5 above) led the model to select far more Washington wind, this correction of variable transmission costs had the same effect. And while we are certainly supportive of Washington wind procurements, we are also concerned that there may be fundamental issues with PSE's model that are preventing its selection of a more diversified resource mix. To conclude, the language in Draft -650(1)(a) requiring the utility to include its supporting data in its clean energy progress report will support a transparent compliance review process and may help lead to meaningful stakeholder-driven corrections.

Finally, we appreciate the requirement in Draft -650(6)(v) that utilities include "[a]ny data provided to the Northwest Power Pool's resource adequacy program or its successor" in each clean energy progress report. We hope this data reporting will help the Agencies and stakeholders gain a better understanding of utilities' capacity planning efforts, an area of utility resource planning in which emitting resources continue to be chosen by portfolio modeling tools.[9]

B. Limitation of the primary compliance consideration of retained NPAs to non-bilateral transactions

Earlier in these comments we flagged a potential loophole in Draft -650(1) related to the way utilities are required to retire retained NPAs for primary compliance. We maintain that to protect the integrity of CETA's standards, there must be strong safeguards around utilities' ability to use retained NPAs for primary compliance. To create these safeguards, the Agencies must consider how to limit the use of retained NPAs to true real-time transactions to balance a utility's resource mix -- *not* shuffle resources such that fossil-based generation is knowingly purchased for primary compliance.

To help accomplish this, we recommend that a utility's use of retained NPAs for primary compliance, as defined in Draft WAC 480-100-650(1)(c), be restricted to non-bilateral market transactions. As we stated in our November 11, 2021, comments, "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.[10]" Thus, Draft -650(1)(c)

[9] *See, e.g.*, Puget Sound Energy's and Avista's 2021 Integrated Resource Plans, *available at* https://pse-irp.participate.online/2021-irp/reports and https://www.myavista.com/-/media/myavista/content-documents/about-us/our-company/irp-documents/2021-electric-irp-w-cover-updated.pdf, respectively.

[10] We also appreciate that the need for this flexibility is not certain, and we appreciate the Agencies' inclusion of a September 2028 rule review and possible revision at Draft WAC 480-100-650(6).

should more explicitly target that expanded market future by limiting the relevance of retained NPAs for primary compliance to non-bilateral transactions.

C. Draft WAC 480-100-605 – Definitions

To align the definition of retained NPA with the data reporting language in Draft WAC 480-100-650(6)(v) regarding contracts for renewable and nonemitting generation, we recommend revising this definition in Draft WAC 480-100-605 to read,

> "Retained nonpower attribute" or "Retained NPA" means the nonpower attributes of renewable electricity (represented by RECs) or the nonpower attributes of nonemitting electricity, from electricity owned, ~~or~~ controlled, or contracted by a utility where the associated electricity was sold by that utility in a wholesale sale as unspecified electricity.

III. CONCLUSION

Renewable Northwest again thanks the Agencies for this second opportunity to weigh in on the Draft Rules. We appreciate their responsiveness on the issues of "use" and the double counting of nonpower attributes, and we look forward to continued engagement in the Agencies' CETA-implementation processes.

Sincerely,

/s/ Katie Ware
Katie Ware
Washington Policy Manager
Renewable Northwest
katie@renewablenw.org

/s/ Max Greene
Max Greene
Regulatory & Policy Director
Renewable Northwest
max@renewablenw.org