



February 28th, 2020

Mr. Mark Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
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Re: Climate Solutions comments on Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023.

Dear Mr. Mark Johnson,

Climate Solutions thanks you for the opportunity to submit comments and recommendations on *Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023*. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is at the center of the movement as a catalyst, advocate, and campaign hub.

A clean and efficient grid serves as the foundation to deeply decarbonizing Washington's economy and achieving science-based greenhouse gas limits. Proper implementation of and compliance with the Clean Energy Transformation Act are critically important, and an effective planning process and comprehensive compliance requirements are critical for achieving the intent of the law. In response to questions posed by the Utilities and Transportation Commission ("Commission") on January 15th, 2020, Climate Solutions offers the following comments relating to Clean Energy Implementation Plans ("CEIPs") and with the Clean Energy Transformation Act.

I. CEIP Targets

Every four years, a utility must develop a CEIP that identifies specific actions that the utility will take over the next four years, consistent with the utility's long-range Integrated Resource Plan. Maintaining resource adequacy is a major component of the planning process, and should be a key consideration in the CEIPs. The Commission should provide guidance on acceptable tools to be used for assessing how individual resources or resource portfolios help meet resource adequacy requirements, such as the effective load carrying capability or other tools that are available to utilities. With a rapidly changing technology landscape, we recommend allowing a great deal of flexibility as new tools become available and utilities increase their understanding of how to incorporate new technologies into resource portfolios while maintaining resource adequacy. At the same time, we recommend the Commission establish overarching guidelines on general tools and processes for assessing resource adequacy to ensure that utilities are



approaching the issue consistently. During the development of the CEIPs, utilities should provide detailed information on the various resource portfolios under consideration, as well as the contributions from each resource or resource mix within the portfolios.

A utility's CEIP also must include "*specific targets*" for energy efficiency, demand response, and renewable energy, as well as "*interim targets*" for meeting the standard prior to 2030 and between 2030 and 2045. Because each utility has a unique resource portfolio, customer demand profile, and specific resource need, Climate Solutions supports maintaining some level of flexibility for utilities as they develop CEIPs, specific targets, and interim targets unique to each utility. However, we strongly recommend that the Commission develop rules and guidelines to ensure consistent methodologies for developing and complying with the requirements of the CEIP, the specific targets, and the interim targets that each utility identifies.

Climate Solutions recommends that both the specific targets for energy efficiency, demand response, and renewable energy, as well as the interim targets prior to 2030 and between 2030 and 2045 be defined annually by each utility. However, we believe compliance with these targets may be determined cumulatively over a four-year period in order to align with the CEIP schedule and four-year compliance periods and allow for some flexibility on the glide path for procurements occurring over that period.

Both interim and specific targets should be designed to demonstrate progress toward meeting the 2030 greenhouse gas neutral standard and the 2045 clean energy standard, as well as ensure that all customers are benefiting from the clean energy transition. A key consideration in setting both sets of targets should be intergenerational equity, ensuring that any potential cost savings associated with delaying progress do not create overly burdensome costs on utility customers in 2045. For this reason, steady progress as required as required in RCW 19.405.060(1)(a)(iii) throughout the time period with considerations for long-term cost declines should be preferred over clustered investments in the later years. In setting these targets, utilities also must ensure that highly impacted communities are protected, and that there is an equitable distribution of benefits considered as part of the target development.

Additionally, the specific and interim targets should align with the language in RCW 19.405(6)(a)(iii) that states "*In the acquisition of new resources constructed after May 7, 2019, rely on renewable resources and energy storage,*" insofar as doing so achieves the targets at the lowest reasonable cost. The intent of this language is to ensure that when utilities are constructing or acquiring newly constructed resources, they are accounting for any potential risks or cost savings associated with ensuring all new resources will meet the 2045 clean energy standard. We recommend that the Commission provide guidance on how utilities can ensure this language is taken into account during the development of the interim targets.

In setting the interim targets, the targets should be set as a percentage of sales met by renewable energy and nonemitting resources. The percentage of sales should be based on the electricity that is actually *used and supplied* to customers from renewable energy and nonemitting resources, rather than a percentage of sales of electricity that is generated at the source. (Please see comments in Section III for more detail on this distinction.)



The Clean Energy Transformation Act allows the Commission to approve, reject, or approve with conditions the CEIP and identified specific and interim targets, and may recommend or require more stringent targets after a hearing. There are a number of conditions under which the Commission should require more stringent targets: (1) if the targets are projected to be insufficient to meet the 2030 and 2045 standards; (2) if the Commission has reason to believe that there will be long- or short-term cost savings from more stringent targets; (3) if the utility did not adequately consider a broad set of public interest benefits and the Commission has reason to believe that these benefits exceed the costs of more stringent targets; or (4) if broad technological changes, including the development of new clean energy resources, cost declines of clean energy resources, or material changes to operational characteristics of the grid result in cost savings that were not incorporated in the original development of the targets.

In addition, the Commission may also adjust or expedite the timelines when considering a utility's CEIP or interim targets. The Commission should take into account similar criteria mentioned above, such as short- and long-term cost-effectiveness, broader public interest benefits, and technology advancement. Expedited timelines must also ensure a safe and reliable system is maintained, that the standards are met at the lowest reasonable cost, that all customers are benefiting from the transition to clean energy, and that no customer or class of customers is unreasonably harmed as required by RCW 19.405.060(1)(c). If the Commission recommends an expedited or adjusted timeline, it should demonstrate that these conditions are met, and should actively engage community members when determining that all customers are benefiting from the expedited timeline. Given the rapid pace of change with technological development and community needs, we recommend that timelines be reviewed and considered for adjustment during annual check-ins and filing reports to demonstrate progress on the CEIP and identified targets.

After development and approval of the specific and interim targets, the Commission should develop a process for ensuring compliance with the interim targets, and ensuring utilities are demonstrating progress towards meeting the standards in the law. Rules should identify a process for utilities to demonstrate these requirements, and should utilities fall short of the interim targets and demonstration of progress, rules should identify a penalty and process for utilities to achieve compliance moving forward.

II. Public Process

Decisions that are made in the CEIPs will directly impact all utility customers, and a critical component of the planning process is to ensure that the public is able to provide meaningful input into the decision-making process. Interim targets, ensuring an equitable distribution of benefits, and resource decisions will all be determined through the CEIP process. Feedback from the public, industry experts, community partners, and other stakeholders should be heavily considered during the development of the plan.



Given the importance of public participation, the Commission should provide additional guidance in rules outlining a detailed process for timelines for developing plans and engagement strategies, guidance on how to form advisory groups and who should be included, and guidance on how to incorporate stakeholder feedback into the utility's CEIP. Engagement and participation from stakeholders should include workshops that are open to the public and educational in nature to ensure that participants less familiar with the electric system can participate effectively. Additionally, utilities should create advisory groups made up of technical experts, community experts, environmental organizations, and other stakeholders in the public interest that can actively participate in the development of the CEIP. Finally, the process should require a formal comment period with a public hearing on the draft CEIP that provides an opportunity for public input prior to final approval, conditional approval, or rejection by the Commission. This provides the Commission an opportunity to understand any stakeholder concerns or feedback, and provides the utility with an opportunity to be able to address any stated concerns prior to finalizing the plan for submission to the Commission.

Given that the CEIP must also ensure an equitable distribution of benefits, it is critical that utilities proactively engage and reach out to highly impacted communities to ensure that CEIPs and targets are prioritizing the needs of the communities. Traditional engagement processes have often led to low engagement from disadvantaged communities, so utilities should partner with local organizations and others to increase the effectiveness of their outreach strategies. They should also consider providing resources to those local partners and community members to facilitate participation from that may otherwise be constrained due to non-standard work schedules, familial obligations, and other obstacles to engagement.

III. Demonstration of Compliance with RCW 14.405.030, 040, and 050

The Commission uses a planning cycle that requires a biennial conservation plan, followed by an annual progress report and identification of requested changes. With four-year compliance periods and CEIPs, Climate Solutions recommends a similar reporting structure, requiring the development of four-year CEIPs, followed by annual reports that demonstrate progress and allow for the utility or stakeholders to request changes. With the rapid pace of changing technology and evolving community needs, an annual check-in will ensure that progress is being made towards meeting all of the statutory requirements, but also provide opportunities to consider a changing landscape that may result in recommended changes to the CEIPs, specific targets, and interim targets. Because CEIPs and change to CEIPs go through a formal approval process, the Commission should also require an opportunity for public participation through a public comment period and public hearing before approving changes to the CEIP, specific targets, or interim targets.

To demonstrate compliance with the various standards, utilities must document and identify the specific resources being used to serve load in Washington each year. These resources should be confirmed by the fuel mix disclosure report, which should demonstrate that coal is not a part of the utility's resource mix after 2026. For compliance with the 2030 greenhouse gas neutral



standard and the 2045 clean energy standard, the Commission should clarify in rules the application of the words “*used*” and “*supplied*” as referenced in statute. RCW 19.405.040(1) states that “*all retail sales of electricity...be greenhouse gas neutral,*” but the statute goes on to require that for compliance with the standard, the utility must “*use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility’s retail electric load.*” The word “*use*” indicates that one hundred percent of the resources are actually used and delivered to customers. RCW 19.405.050 goes on to require that “*nonemitting electric generation and electricity from renewable resources supply one hundred percent of all sales of electricity.*” Similarly, we interpret this language to indicate that one hundred percent of resources supplied and delivered to load must come from renewable or nonemitting resources. Acquiring renewable and nonemitting resources equal to retail sales on a generation basis would allow emitting resources to fill in gaps created by line losses and other factors that may result in differences between the amount of electricity generated versus actually supplied to load. This would not satisfy the “*use*” requirement and should be explicitly disallowed. To provide clarity for utilities, we recommend the Commission clarify these compliance obligations in rules.

Lastly, nonemitting electric generation in statute refers to electricity from a generation facility or a resource that provides energy, capacity or ancillary services. This definition provides openness for electric storage to be considered nonemitting electric generation, but does not clarify how the generating resources that supply energy to the storage facility or battery should be treated. The Commission should provide clarity in rules that a storage facility charged with electric generation that is not renewable nor nonemitting would not qualify for meeting the standards identified in law as it does not align with the objective to deliver only clean energy resources delivered to load by 2045.

IV. Compliance, Enforcement, and Penalties

A detailed process for relieving utilities of compliance obligations and administrative penalties under RCW 19.405.090 should be clarified in rule, and such a determination should undergo significant scrutiny by the Commission and other stakeholders. Climate Solutions recommends that the Commission provide guidance and a formal procedure for specific details that must be included in the application process, as this is critical for ensuring a consistent process for requesting relief across all utilities. The process should include a request for utilities to justify why the interim targets or standards in statute are unable to be met, as well as a detailed plan for achieving future compliance in a timely fashion. Because utilities will begin have compliance obligations beginning in 2022, we providing certainty around the process will help utilities understand compliance obligations and mechanisms for relieving compliance when they are needed.

V. Equitable Distribution of Benefits

The Clean Energy Transformation Act builds upon and clarifies that environmental, public health, and economic benefits, as well as energy security and resilience, are in the public interest. Additionally, the law requires that utilities ensure an equitable distribution of benefits to highly impacted communities in the clean energy transition. This language appears in multiple sections throughout the Clean Energy Transformation Act, including for compliance with the 2030 greenhouse gas neutral standard. This emphasizes the need for utilities to consider a broad range of benefits to *all* customers when selecting resource portfolios for compliance, as well as ensure that benefits of the clean energy transition are specific being realized by highly impacted communities. The statute requires an assessment of benefits and burdens and their distributional impacts, which will be informed by the cumulative impacts analysis and identify where current benefits and burdens are flowing. This is a critical component for ensuring an equitable distribution of benefits flow to highly impacted communities, but we view this as in addition to the requirement that utilities consider a broad range of benefits for all customers.

Climate Solutions recommends that the Commission identify a minimum set of categories of benefits that utilities must incorporate into all planning and compliance obligations, but also allow for additional flexibility for utilities to incorporate a broader set of benefits that may be in the public interest of its customers. The minimum considerations should include short- and long-term environmental benefits and avoided costs (such as avoided greenhouse gas emissions, improved water quality, improvements to fish habitat, or other environmental benefits identified); public health benefits and avoided costs (such as avoided indoor air pollution, a reduction in outdoor air pollution, or other health benefits identified); economic development benefits (such as local economic development, resource ownership structures, job quality evaluation for local workers, and apprenticeship opportunities); and resiliency benefits (such as reduced outages, distributed grid benefits, and others). Many other of these benefits can be quantified using various studies and state policies that have been adopted, such as the social cost of carbon, public health benefits of clean energy¹, incentives for distributed generation and apprenticeship utilization in RCW 19.285, renewable energy tax incentives adopted under the Clean Energy Transformation Act and their implementation by the Department of Labor and Industries, and energy efficiency cost-effectiveness calculations that incorporate nonenergy benefits. While those benefits may be quantifiable, some benefits may be more challenging to quantify and utilities will have to rely on qualitative analysis in order to incorporate benefits and avoided costs into the planning and procurement processes. We recommend that the utility and Commission quantify benefits and avoided costs wherever practicable, and actively engage the impacted communities where qualitative data will be relied upon.

In considering specific geographic areas, populations, customer demographics, or other factors, utilities should rely heavily on the cumulative impact analysis required by law and identify highly impacted communities and vulnerable populations within their service territory. Utilities should pay particular attention to communities that are identified as highly impacted communities by the analysis, low-income households, lower rates of literacy and English

¹ <https://www.epa.gov/sites/production/files/2019-07/documents/bpk-report-final-508.pdf>



language proficiency, higher energy burdens, and communities of color. Beyond incorporating the equitable distribution of benefits into general utility planning and procurement practices, utilities should also create specific programs and metrics for ensuring that these vulnerable communities are benefiting from the transition to clean energy. As mentioned above, active community engagement in this process will be critical in identifying community needs and creating successful programs and metrics for meeting those needs. Utilities should consider customer surveys to evaluate company interactions and service, and evaluate whether different demographic groups report differential expectations, values, and experiences, and seek to adapt their programs based on these learnings.

Because this is a statutory requirement, the Commission should provide as much guidance as possible through rules. However, because this is a new framework under which utilities and the Commission are operating, more granular guidance may be reserved for a policy statement that can evolve over time as utilities, communities, and other stakeholders learn the most effective ways of incorporating a broader set of public interests and ensuring an equitable distribution of benefit into planning and procurement.

VI. Incremental Cost of Compliance

The cost-protection mechanism allows a utility to be considered in compliance if the annual average incremental cost of meeting the standards or the interim targets over the four-year compliance period meets a two percent increase in the utility's weather-adjusted sales to customers above the previous year. The law defined compliance periods between 2030-2045, but three of the compliance periods are four-year compliance periods and one is a three-year compliance period. Given that the defined compliance periods are a mix of three and four years, the legislature was likely intending the cost-protection mechanisms to be applied in four-year clean energy implementation plan compliance periods. This distinction is important to ensure that utilities begin planning immediately, rather than assuming compliance with the standard by through investments beginning in 2030 without having demonstrated progress and making investments in prior years.

In determining how much a utility is allotted for the incremental cost, the Commission should standardize the commission basis report in order to ensure consistent application and methodology. Without a consistent methodology for the basis report, the incremental cost compliance mechanism would not be applied and enforced in a consistent manner.

Once a utility's commission basis report has been determined and the utility has identified an incremental cost allotment of two percent, the utility must then identify what incremental costs of compliance, if any, are directly attributed to 19.405.040 and 19.405.050. Because the Clean Energy Transformation Act applies to all resources, rather than just a share percentage of resources as in RCW 19.285, the calculation of incremental costs must occur on a portfolio basis rather than comparing each individual renewable resource to a gas plant or capacity resource as is current practice in the Renewable Portfolio Standard incremental cost calculation. Climate Solutions recommends that the Commission require utilities to run two primary scenarios for



comparison: one baseline scenario that assumes all obligations under current law, except for those required by RCW 19.405.040 and RCW 19.405.050; and a second clean energy scenario that assumes all compliance obligations under current law, including the obligations under RCW 19.405.040 and RCW 19.405.050. The baseline and clean energy scenarios can then be compared from a total cost perspective, and used by the utility as a basis for determining whether the clean energy scenario has any associated incremental costs. The baseline scenario must include all other requirements of the act, including the social cost of carbon, the equitable distribution of benefits, energy assistance programs, and other requirements of the act or in existing law. To ensure consistent application, Commission rules should provide guidance laying out the incremental cost compliance calculation.

Utilities should not be found in compliance with the incremental cost compliance mechanism until after actually spending the incremental cost allotment on resources from the clean energy scenario. The IRP will project a potential incremental cost, but utilities should rely on the most accurate information from actual resource bids in order to more accurately determine any incremental cost. Determining compliance after a utility makes clean energy investments will ensure the use of updated cost information because the utility can update the incremental cost calculation using the real costs.

Rules should also clarify that utilization of the incremental cost compliance mechanism may only be permitted if the utility has met or exceeded the average annual two percent incremental cost beginning in the first compliance period in 2022 and beyond. For example, a utility should not be permitted to use the incremental cost compliance mechanism in the 2030-2033 compliance period if it has not invested at least two percent annually, averaged over four-year periods, in all compliance periods prior to 2030-2033.

After compliance is determined at the end of the compliance period, there should be a true-up mechanism if a utility has exceeded the two percent annual incremental cost allotment over the four-year period. Costs incurred above and beyond the two percent annual incremental cost may be applied to meeting the cost cap in a subsequent compliance period.

Lastly, RCW 19.405.060(3)(b) states that if a utility relies on the incremental cost mechanism for compliance, the utility must maximize investments in renewable resources and nonemitting electric generation prior to using alternative compliance options. Climate Solutions interprets this language to mean that if a utility plans to rely on the incremental cost compliance mechanism, it must first achieve the 80% clean energy requirement using renewable resources and nonemitting electric generation before relying on the alternative compliance payment or energy transformation projects as alternative compliance mechanisms. Commission rules should clarify this requirement as a condition of the incremental cost compliance mechanism.



VII. Conclusion

Thank you again for the opportunity to provide comments and recommendations on the proposed rules in the matter of *Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023*. Achieving the intent of the law is dependent on a robust and effective planning process and compliance obligations, and we look forward to continuing to engage with you as this process moves forward.

Sincerely,

A handwritten signature in black ink that reads "Kelly Hall". The signature is written in a cursive style.

Kelly Hall
Washington Policy Manager
Climate Solutions

A handwritten signature in black ink that reads "Vlad Gutman-Britten". The signature is written in a cursive style.

Vlad Gutman-Britten
Washington Director
Climate Solutions