Markets and CETA Compliance Rulemaking| UE-210183
Notice of Opportunity to File Written Comments on the Proposed Rules on Use of Electricity
by November 12, 2021

Summary of Comments

- Alliance of Western Energy Consumers (AWEC)
- Bonneville Power Administration (BPA)
- Center for Resource Solutions (CRS)
- Climate Solutions (CS)
- Columbia Riverkeeper(CR)
- Copenhagen Infrastructure Partners (CIP)
- FlexCharging
- Joint Publics comments, Northwest Requirements Utilities (NRU), Washington Public Utility District Association (WPUDA), Washington Rural Electric Cooperation Association (WRECA), Pacific Northwest Generating Cooperative (PNGC), collectively "Joint Publics"
- King County, Office of Dow Constantine
- Northwest Energy Efficiency Council (NEEC)
- Northwest & Intermountain Power Producers Coalition (NIPPC)
- Natural Resource Defense Council (NRDC)
- Northwest Energy Coalition (NWEC)
- Public Counsel (PC)
- Public Generating Pool (PGP)
- Puget Sound Energy (PSE), Avista Corporation (Avista), Pacific Power and Light (PP&L), collectively, the Joint IOUs
- Renewable Northwest (RNW)
- Washington Public Utility District Association (WPUDA)
- Western Power Trading Forum (WPTF)

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?

Party	Summary of Comment	Staff Response
AWEC	No specific response. See general comments at Summary part 5, Other comments.	n/a
BPA	No response.	n/a
CRS	No response.	n/a
CS	Disagrees with interpretation of use. WAC 480-100-650(1)(a) is not written clearly enough to exclude the use of retained RECs.	The rules are intended to allow retirement of retained RECs to comply with CETA's primary compliance standard. Staff supports addition of language to make the exclusion of the use of retained RECs under -650(1)(a) explicit.
CR	No specific response. See general comments at Summary part 5, Other comments.	n/a
CIP	No response.	n/a
FlexCharging	Disagree with the interpretation of CETA requirement established in the Draft Rules. Support NWEC's comments on interpretation of use. See general comments at Summary part 5, Other comments.	See Staff reply to NWEC's comments.
Joint Publics	Reads Draft WAC 480-100-650(1) as an acquisition-based approach that is in compliance with the Greenhouse Gas Neutral Standard and aligns with the statute and utility system operations.	Staff generally agrees but emphasizes that the criterion for choosing new resources is their ability "to directly meet projected retail electric load."
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	See NIPPC comments in Summary part 5, Other comments.	n/a
NRDC	See NRDC comments in Summary, part 5, Other comments.	n/a

NWEC	No. The Draft Rules amounts to a theoretical planning and acquisition standard, not the actual use of electricity from renewables and nonemitting generation.	Staff agrees that the planning and acquisition standard described in the draft rules does not require that all renewable and nonemitting energy be delivered to serve customer load in actual system operations. Forecasts and modeling assumptions used for planning and acquisition are unlikely to perfectly reflect system operations. The intent behind the planning and acquisition standard is to require progressive acquisition of resources that create a portfolio with renewable and nonemitting resources that can meet at least 80 percent of customer retail load. Staff believes that, in practice, the requirements of -650(1) will achieve the intent of CETA and ensure investor-owned utilities will meet the 2030 and 2045 standards.
PC	i. Supports the intent for Draft WAC 480-100-650(1) as expressed in the notice but that intent is not reflected in the draft rules. ii. Strike -650(1) and retain -650(2). Compliance should be retrospective so -650(1)(a) should be eliminated and -650(1)(b) simply refers to -650(2) anyway.	Staff agrees language improvements could be made to make the intent of -650(1) clearer. Staff disagrees with removing -650(1). The planning and acquisition standard is contained wholly in -650(1), so striking it would remove the standard altogether. Staff agrees that there is a retrospective compliance obligation, but requirements for planning and acquisition are necessary given the interpretation of RCW 19.405.040 and -.050.
PGP	No comment. Considers this part of the Commission rules as applicable only to IOUs.	n/a

Joint IOUs	Supports rules in -650(1) with clarifications and proposed language change for -650(1)(b) and elimination of -650(2)(e): i. WAC 480-100-650(1)(a) means that over the compliance period a utility acquired the correct number of MWhs to meet its compliance obligation. The showing required in -650(1)(a) is retrospective due to the use of *has* acquired instead of will acquire. ii. WAC 480-100-650(1)(a) is a requirement without any details on how to demonstrate compliance. This flexibility is good, and a simple spreadsheet could be used or a portfolio analysis under median water conditions. iii. WAC 480-100-650(1)(a) is not a planning requirement and part b is not a compliance requirement as the rules are written and CETA's statutory compliance requirements would not allow it. iv. WAC 480-100-650(1)(b). Commission needs to add language on how utilities demonstrate compliance with 2030 standard, including how to use RECs under -650(1)(c), and nonemitting resources.	i. Staff believes that the Joint IOUs' interpretation of -650(1)(a) does not include requiring the evaluation of new acquisition to a portfolio to have the constraint that the portfolio must serve 80 % of the MWh-hours with renewable and nonemitting generation by 2030. ii. Section -650(1)(a) establishes a requirement that must be met through the planning standards (rules) and Commission practices for those planning standards. Those standards are constituted of more than a spreadsheet and the demonstration of the CETA requirements in Section -650(1)(a) is fully required throughout those standards and practices. iii. Staff believes the rules have a planning requirement component and will make that clearer in the next draft. Staff also believes the Commission has authority and a statutory obligation to implement CETA through the Commission's regulatory processes. iv. Staff supports adding more clarity to section -650(1)(c).

RNW	i. Restrict the use of retained RECs in Draft WAC 480-100-650(2)(e) to non-bilateral transactions. ii. The requirements for WAC 480-100-650(1)(a) should be parallel with WAC 480-100-620(11)(b) by requiring a utility 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…," WAC 480-100-620(11)(b). See proposed language, page 2. iii. Clarify which resource planning process must inform utility's compliance demonstration under WAC 480-100-650(1)(a). Outdated IRP data is severely skewing IRP outputs and the validity of the CEIP. See proposed language, page 3. iv. Prohibit use or consideration of retained RECs in resource planning.	i. Staff will consider the restriction. ii. Staff believes the existing planning rules require hourly analysis of loads and resources. See WAC 480-100-620(11)(b). iii. Staff hears the concerns with the function of the IRP process, but believes the rules provide clarity for enforcement. iv. Staff agrees, believes the language in the draft rules is clear and unequivocable but will review draft rules' language to determine if it is possible to strength the language even more.
WPUDA	No response.	n/a
WPFT	Generally supports the rules, see general comments at Summary part 5, Other comments.	n/a

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

Party	**Summary of Comment**	**Staff Response**
AWEC	No specific response. See general comments at Summary part 5, Other comments.	n/a
BPA	No response.	n/a
CRS	No response.	n/a

CS	The interpretation RCW 19.405.050(1) created by referencing it in Draft WAC 480-100-650(1)(a) allows retained RECs to be used past 2045 contrary to CETA.	The distinction between compliance standards in -.040 as compared to -.050 is at the core of this question. Staff welcomes expanded comments on the legal distinction between compliance standards pre-2045 and post-2045. Staff disagrees that retained RECs can be used past 2045 and will review how to clarify that in the rules.
CR	No. Use of retained RECs should not be allowed.	Staff believes the requirements of CETA in -.040 and -.050 can be achieved through the rules' allowance for retained RECs prior to 2045.
CIP	No response.	n/a
FlexCharging	Disagree with the interpretation of CETA requirement established in the draft rules. Support NWEC's comments on interpretation of use. See general comment at Summary part 5, Other comments.	The rules are intended to allow retirement of retained RECs to comply with CETA's primary compliance standard.
Joint Publics	No response.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	No response.	n/a
NRDC	See NRDC comments in Summary part 5, Other comments, Summary.	n/a
NWEC	No. By 2045 all electricity used to serve load must be from renewable and nonemitting generation.	The distinction between compliance standards in -.040 as compared to -.050 is at the core of this question. Staff welcomes expanded comments on the legal distinction between compliance standards pre-2045 and post-2045.
PC	Yes, to the extent the commission retains -650(1). The requirements in the draft rules should apply to -040(1) and -050(1). Any additional requirements needed for -050(1) can be considered in the rules re-opener.	Staff appreciates the reminder that the re-opener may allow the Commission to revisit some of these topics.
PGP	No comment. Considered part of Commission rules for IOUs.	n/a
Joint IOUs	No. Subsections -040(1) and -050(1) are different and distinct and requirements of -050(1) are 23 years away so specific requirements are not needed now.	Staff agrees that many factors will evolve between now and 2045. Still, it seems appropriate to codify the current understanding of the statute's requirements for 2045 now. This codification can evolve as needed, and an opportunity to adjust has been included in the review described in -650(6).

RNW	No. RCW 19.405.040(1) is distinct from RCW 19.405.050(1). Please see comments filed on August 10, 2020 in Docket UE-191023.	Staff agrees.
WPUDA	No response.	n/a
WPFT	Generally supports of the draft rules, see general comments at Summary part 5, Other comments.	n/a

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?

Party	Summary of Comment	Staff Response
AWEC	No specific response. See general comments at Summary part 5, Other comments.	n/a
BPA	No response.	n/a
CRS	Yes.	Staff appreciates the positive feedback.
CS	No response.	n/a
CR	A retained REC is an unbundled REC.	The rules offer definitions for "retained REC" and "unbundled REC" to parse the distinction between these two varieties of REC.
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No comment.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	Yes.	Staff appreciates the positive feedback.
NRDC	No response.	n/a

NWEC	No. 1. A REC is from renewable energy but there are no RECs from nonemitting resources, yet the draft rules treat nonemitting resources as if they produce RECs. 2. The definition of a retained REC is not supported by statute. There is no statutory support for distinguishing electricity owned and controlled by a utility from electricity that a utility acquired through trade, purchase or contract. 3. CETA does not allow RECs of any sort as compliance, except for as part of the twenty percent alternative compliance option for the 2030 standard, RCW 19.405.040(1)(b).	i. Staff will seek common language for RECs from renewables and non-power attributes from nonemitting resources. ii. Staff believes the requirements of CETA in -.040 and -.050 can be achieved through the rules' allowance for retained RECs prior to 2045.
PC	Yes. Supports the definition of retained REC and the distinction between retained RECs and unbundled RECs. Clarify the definition of unbundled REC by adding "as defined in RCW 19.405.020(37)."	Staff appreciates the positive feedback.
PGP	Yes, and the term retained REC is consistent with CETA. However, the term is unnecessary because a retained REC is a subset of RECs.	Staff appreciates the positive feedback.
Joint IOUs	No response	n/a
RNW	i. Yes, they are distinct, and it is beneficial for the rules to make the distinction. Since Draft WAC 480-100-650(2)(d) states utilities must demonstrate "the acquisition of the electricity [generated by compliant resources] through *ownership, control, or contracted* agreement… (emphasis added), the definition of retained REC should be amended to included control or contracted after the word owned. ii. The definition of retained REC should refer to "generated by resources" owned, controlled or contracted by a utility. See language page 6.	Staff agrees with these recommendations and will endeavor to include them in the next iteration of draft rules.
WPUDA	No response.	n/a

WPFT	Generally supports of draft rules, see general comments at Summary part 5, Other comments.	n/a

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

Party	Summary of Comment	Staff Response
AWEC	No specific response. See general comments at Summary part 5, Other comments.	n/a
BPA	No response.	n/a
CRS	i. In the draft rules, Unbundled RECs may unintentionally be inclusive of retained RECs. To assure the two are mutually exclusive the draft rules should specify who is buying the unbundled REC. In the alternative the draft rules could simply state that unbundled RECs do not include retained RECs. ii. Retained RECs "should not be permitted for primary compliance where the underlying electricity is sold into California, even if it is sold as unspecified power." Page 3. iii. The draft rules should require that the replacement power for unspecified power sold be either unspecified or cleaner.	i. Staff believes the rules are clear in their distinction but will consider changes to make the distinction clearer. ii. Staff does not agree. Unspecified electricity sold into California is not using any RECs or nonpower attributes of that electricity. iii. Staff will consider this in light of the current power market trading instruments available.
CS	No response.	n/a
CR	A retained REC is an unbundled REC.	The rules offer definitions for "retained REC" and "unbundled REC" to parse the distinction between these two varieties of REC.
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No comment.	n/a
King County	No comment.	
NEEC	No response.	n/a
NIPPC	No. The distinction is clear.	

NRDC	See NRDC comments at Summary part 5, Other comments.	
NWEC	Retained RECs and unbundled RECs are a distinction without a difference. Strike the definition of retained REC as it is not different that an unbundled REC.	Staff considers them distinguishable and different. A retained REC requires that the IOU owned or controlled the plant that generated the renewable energy. In terms of the IOUs ability to meet the 2030 and 2045 standards, this is a meaningful difference compared to simply purchasing an unbundled REC.
PC	Yes.	
PGP	No, the difference is clear.	
Joint IOUs	No, but reference to nonemitting electricity should be removed from definition of retained RECs. RECS are not a compliance instrument for nonemitting electricity.	Staff will seek common language for RECs from renewables and non-power attributes from nonemitting resources.
RNW	Explicitly prohibit the use of a retained REC that was sold to a utility from being used for primary compliance. See draft language page 6.	Staff believes the rule language as written prohibits this.
WPUDA	No response.	
WPFT	Generally supports of draft rules, see general comments at Summary part 5, Other comments.	

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?

Party	**Summary of Comment**	**Staff Response**
AWEC	No specific response. See general comments at Summary part 5, Other comments.	
BPA	No response.	n/a
CRS	Yes. In part because Commission Staff have access to transactions of power and attributes and the procurement contract, and sale of electricity.	Staff appreciates the comment but is still considering an approach to enforcement.
CS	No response.	n/a
CR	A retained REC is an unbundled REC.	Staff considers them distinguishable and different.
CIP	No response.	n/a

FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No comment.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	No response.	n/a
NRDC	See NRDC comments in Summary part 5, Other comments.	n/a
NWEC	RECs can not be used for primary compliance. The question contains the underlying fallacy of creating types of RECs. Given that, retained RECs will be difficult to track and it will be difficult to prevent double counting.	
PC	Yes.	
PGP	It is practicable to track unbundled RECs separately from all other RECS.	Staff generally agrees with this statement.
Joint IOUs	Unbundled RECs and retained RECs can be differentiated. They can be held in different WREGIS accounts. "A retained REC can only exist where proof of ownership of associated electricity has been made prior to the wholesale sale of unspecified energy."	Staff agrees.
RNW	Yes. RECs and retained RECs will both be registered at WREGIS. With a simple revision of WREGIS reporting, utilities can identify RECs.	Yes, they will both be registered but Staff is still considering if WREGIS must have a "retained REC" designation. Such a designation in WREGIS is something that IOUs could pursue to help fulfill their obligation not double count.
WPUDA	No response.	n/a
WPFT	Generally supports of draft rules, see general comment at Summary part 5, Other comments.	n/a

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

Party	**Summary of Comment**	**Staff Response**
AWEC	No specific response. See general comment at Summary part 5, Other comments.	n/a
BPA	No response.	n/a

CRS	i. The draft rules should assure that the electricity associated with retained RECs is sold as unspecified. ii. Commission Staff should provide more detail on what qualifies as power sold as unspecified power. iii. Distinguish retained RECs from bundled RECs (the RECs a utility gets when it uses renewable electricity for load service) by defining bundled RECs. See draft language page 7.	i. Staff agrees. ii. Staff has refined the language governing this topic in the draft rules. iii. Staff believes the two are distinguished by the rules and statute.
CS	Use of retained RECs should be eliminated.	Staff disagrees. Read as a whole, the rules will achieve the intent and requirement of CETA. The two-year decision horizon for acquisitions that can consider retained RECs in economic decision making will allow the market optimization while still achieving CETA. Staff experience and the practice of prudence standards is that acquisitions of electricity within a two-year window are executed to serve physical load.
CR	No response.	n/a
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No response.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	No response.	n/a
NRDC	See NRDC comments in Summary at part 5, Other comments.	n/a
NWEC	Stakeholders have indicated that tracking RECs associated with unspecified electricity is hard so presumably tracking retained RECs would be just as challenging.	Staff agrees with the difficulty in "tracking" but believes it is possible to count retained RECs for compliance and to prevent double counting.

PC	It is impractical to track retained RECs separately from other RECs acquired with renewable energy. Compliance can be established by requiring "a utility to show that it acquired and retired RECs produced along with each MWh of renewable energy from qualified sources claimed for compliance, as verified by the selected tracking system." Paragraph 12. Tracking of retained REC associated with unspecified electricity sales may not be necessary, the utility should report sales of energy sold as specified to a third party in order to prevent double-counting.	Staff will consider this approach. Staff is considering whether compliance measures must require tracking retained RECs and in what manner.
PGP	No. To try to do so would be costly and technically challenging.	Staff is considering whether compliance measures must require tracking retained RECs and in what manner.
Joint IOUs	i. Yes, but tracking them separately is more difficult. It is currently not possible to determine which RECs are retained RECs due to the sale of unspecified electricity and which are RECs due to the use of the renewable energy. System sales are an example of unspecified sales. ii. It is possible to eliminate the "retained REC" definition and use a REC for primary compliance that is either, "a REC that is associated with electricity owned by the utility" or "a 'retained REC' that *was* associated with such electricity before the sale of that electricity." page 6. There should be no limitation on the eligibility of retained RECs for use for primary compliance.	Staff is considering whether compliance measures must require tracking retained RECs and in what manner. Staff does not agree with eliminating the term retained REC when the rules still allows its use. The term is convenient and helpful to understanding the rules.
RNW	Yes and the recommendation to define bundled RECs separately from retained RECs should help. See RNW response to Notice question 2.c.i	Staff agrees but is not certain the term bundled RECs needs to be defined in rules.
WPUDA	No response.	n/a
WPFT	Generally supports of draft rules, see general comments at Summary part 5, Other comments.	n/a

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?

Party	Summary of Comment	Staff Response
AWEC	No specific response. See general comments at Summary part 5, Other comments.	n/a
BPA	No response.	n/a
CRS	Yes.	
CS	Creating a "primary compliance" is unnecessary and implies there is a secondary, perhaps less important or less enforceable, level of compliance.	n/a
CR	No response	n/a
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No comment.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	Yes.	
NRDC	No response.	n/a
NWEC	Reference 19.405.040(1)(b) instead. It is only of minimal use if the fiction that a REC can count for electricity is accepted.	Staff believes the term is useful and not a fiction. The statutory language is ambiguous regarding the requirements of RCW 19.405.040(1)(a), and therefore Staff believes this clarification in the rules is helpful.
PC	Proposes language addition to definition for clarification.	Staff will consider the proposed change.
PGP	No response.	n/a
Joint IOUs	Yes.	
RNW	Yes. The creation of this phrase does not create compliance optionality, *i.e.*, secondary compliance.	Staff agrees.
WPUDA	No response.	n/a
WPFT	Generally support rules, see general comments at Summary part 5, Other comments.	n/a

4. **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.

Party	Summary of Comment	Staff Response
AWEC	i. Supports the draft rules overall. ii. Though CETA does penalize the utility for each MWh of energy from a non-compliant resource (emitting resources), that does not mean that hourly data must be collected on non-complaint resources to administer penalties. iii. If the draft rules intend the hourly data to be the basis for penalties, the draft rules do not make that connection clear. iv. CETA does not appear to impute penalties on market purchases. The Commission should provide further guidance on this topic.	i. n/a ii. The rules do not establish the method for assessing penalties. Accordingly, they do not address or rule out what data or format may be necessary to have to assess penalties. One purpose of the report is to allow a better understanding of utility operations and market activities to improve implementation of CETA. iii. The draft rules do not limit the data that may be used for assessing penalties. iv. The draft rules do not establish the method for assessing penalties
BPA	No response.	n/a
CRS	Clarify on which data is to be reported hourly.	Staff agrees.
CS	No response.	n/a
CR	Supports NWECs comments- supports hourly reporting.	Staff agrees for some data.
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No response.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	The hourly reporting data is not necessary. Its potential use to review a utility's performance is likely to confuse issues rather than resolve them. Hourly reporting data should not be used for determining compliance with the procurement standard. Need to know Commission intent to improve this subsection of the draft rule.	Staff disagrees in part and agrees in part. Staff will examine which data should be reported hourly. Staff disagrees that hourly data should not be used for determining compliance.

NRDC	No response.	n/a
NWEC	See comments for part a and b.	See Staff response in part a and b.
PC	i. It is impossible to determine the specific hours or specific MWh for which a utility fell short under the multi-year compliance-period standard in -650(1)(a)(ii). It is not burdensome for utilities to supply hourly data, but that data will not enable the Commission to determine which hours or MWh a penalty should be applied. ii. "Requiring a multiyear compliance period that is measured by aggregate renewable or nonemitting MWh, while potential penalties are based on the carbon intensity for specific MWh, creates an inherent apples-to-oranges outcome requiring Commission discretion." iii. Recommends modifying WAC 480-100-665(4)(3) to specify that the commission will determine the applicable multiplier based on all MWhs that are not renewable or nonemitting. Paragraph 17.	The rules do not try to establish a method for assessing a penalty. Staff believes the rules can be improved to prevent unintended "apples-to-oranges" comparison. Staff believes the rules are not establishing the means for assessing penalties.
RNW	See answers to specific subsections.	
WPUDA	Hourly reporting could create dis-alignment between the Commission's and Commerce's rules. Hourly reporting of BPA data would be meaningless and impossible to comply with because BPA does not provide generation mix data on an hourly basis.	Staff disagrees. Staff is writing rules to apply to IOUs to achieve compliance with the overarching requirements of CETA under Commission regulatory authority. Staff does not believe that this exercise of the Commission's authority constitutes a different interpretation of the overarching requirements of CETA as interpreted by Commerce and the Commission.
WPFT	Generally supports of draft rules, see general comments at Summary part 5, Other comments.	n/a

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

Party	Summary of Comment	Staff Response
AWEC	See general comments in Summary under question 4.	n/a

BPA	No response.	n/a
CRS	Clarify which data is to be reported hourly and which is not.	Staff agrees further work on this is needed.
CS	No response.	n/a
CR	See general comments in Summary under question 4.	n/a
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No comment.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	No, due to the lack of explanation of commission intent.	
NRDC	No response.	n/a
NWEC	i. The draft rules should make clear that in addition to the data, actual analysis and data must be included in the annual report. The report should show RECs claimed for compliance and that they were retired. ii. The language under contracting should include more clearly inclusive by having the term "any" added. See proposed language page 7. iii. Reporting from organized markets should be for the shortest available market interval.	i. Staff agrees with the need for analysis. ii. Staff agrees with clarifying the language under contracting. iii. If reporting from organized markets is required Staff does not agree that it is necessary to report the data in the shortest market interval for CETA compliance if data can be aggregated accurately.
PC	Yes, however, "the contracting information included under draft WAC 480-100-650(5)(b) should include schedule and quantities of MWh delivered under each contract." See proposed language Paragraph 19.	Staff is still considering whether it is necessary to have data reported by each contract and in what manner.
PGP	Commission reporting rules should not apply to consumer-owned utilities. This level of granularity is not required by CETA. RCW 19.405.090 is not referring to hourly generation of electricity. PGP has not taken a position on whether these reporting requirements are necessary to oversee IOU compliance. Regardless, compliance for CETA is not on an hourly basis.	Commission rules only apply to IOUs.

Joint IOUs	Yes, most are. i. Need to discuss the range of utility voluntary programs that fall under retail sales for customers participating in a voluntary renewable energy purchase program. ii. Utilities do not have hourly retail loads only hourly system loads.	Staff agrees the rules need to consider voluntary programs and flexibility for determining hourly retail loads for those programs.
RNW	Yes, we think the detail provided in the rules is sufficient and well within the data management capabilities of a utility.	n/a or Staff appreciates the response.
WPUDA	No response.	n/a
WPFT	Generally supports of draft rules, see general comment at Summary part 5, Other Comments.	n/a

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

Party	**Summary of Comment**	**Staff Response**
AWEC	See general comments in Summary under question 4.	n/a
BPA	No response.	n/a
CRS	No response.	n/a
CS	All reporting requirements should be included in final rules.	Staff is still considering refinements to the reporting portions of the rules.
CR	See general comments in Summary under question 4.	n/a
CIP	No response.	n/a
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No comment.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	Yes.	
NRDC	No response.	n/a
NWEC	The statute's core requirements are to meet the legislative goal of having clean electricity used to serve load. The Commission should not undermine that goal.	Staff believes this requirement will be met by the rules.

PC	No, Public counsel does not find them unnecessary, although this reporting will not allow the Commission to determine which MWhs that penalties would be applied to, the information is nonetheless useful.	Staff agrees that some requirements are necessary and has revised the reporting in the draft rules. The rules do not establish the method for assessing penalties and therefore do not address or rule out what data or format that data may be necessary to have to assess penalties.
PGP	N/A	n/a
Joint IOUs	Want further discussion of commission goal of "increase[ing] 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."	Staff agrees.
RNW	No.	Staff is still considering refinements to the reporting portions of the rules.
WPUDA	No response.	n/a
WPFT	Generally supports of draft rules, see general comment at Summary part 5, Other comments.	n/a

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

Party	**Summary of Comment**	**Staff Response**
AWEC	See general comments in Summary under question 4.	n/a
BPA	No response.	n/a
CRS	No response.	n/a
CS	No response.	n/a
CR	CR supports NWEC comments.	See response to NWEC comments.
CIP	i. Adds a reporting requirement for energy delivered to a storage resource that is subsequently delivered to the utility. ii. Adds to the reporting requirement on contracting information, the reporting of contracts with storage facilities, and reporting on the round-trip efficiency losses.	i. Staff is not convinced this is necessary to implement CETA clean energy requirements or to prevent double counting. ii. This may be reporting needed for the 2045 standard, but Staff believes this level of specificity in reporting and beginning that reporting this far in advance is not necessary.
FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	

Joint Publics	No response.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	Unclear until commission intent is explicitly stated.	Staff will hold workshops and discussions with commenters on this issue.
NRDC	No response.	n/a
NWEC	Include reporting on sales from all renewable or non-emitting generation facilities owned or controlled by the utility on an hourly basis and to whom the electricity is sold.	At this time, Staff is not convinced that such detailed annual reporting is necessary.
PC	See response to Notice question 4a.	n/a
PGP	These reporting requirements for IOUs may be natural for the different regulatory structures of IOUs and COUs under CETA.	Staff takes no position on the reporting needs for implementing CETA with respect to COUs.
Joint IOUs	No.	
RNW	i. Yes. The rules should require the filing of the analysis and underlying data that the clean energy progress report is based on (see WAC 480-100-650(4)). ii. The rules should include access to the analysis and underlying data by stakeholders.	Staff agrees with the need for analysis and for access but cautions that this data is generally confidential in nature.
WPUDA	No response.	n/a
WPFT	Generally supports of draft rules, see general comments at Summary part 5, Other comments.	n/a

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.

Party	**Summary of Comment**	**Staff Response**
AWEC	See general comments in Summary under question 4.	See Staff's response to AWEC comment on question 4.
BPA	No response.	n/a
CRS	No response.	n/a
CS	No response.	n/a
CR	No response.	n/a
CIP	No response.	n/a

FlexCharging	No specific comment. See general comments at Summary part 5, Other comments.	n/a
Joint Publics	No response.	n/a
King County	No response.	n/a
NEEC	No response.	n/a
NIPPC	No response.	n/a
NRDC	No response.	n/a
NWEC	No comment at this time.	n/a
PC	No response.	n/a
PGP	These reporting requirements for IOUs may be natural for the different regulatory structures of IOUs and COUs under CETA.	Staff agrees that reporting requirements may differ for IOUs and COUs under CETA.
Joint IOUs	i. See Docket U-210151, (Inquiry into Reducing the Administrative Burden in Support of the Commission's Ongoing Inquiry into the Adequacy of the Current. Regulatory Framework), for information already provided. iii. Utilities do not have hourly retail data for green direct customers and CAISO does not provide a pro-rate allocation of dispatched renewables or nonemitting generation. iv. The information request is administratively burdensome. General comments: v. Much if not all of data would need to be filed confidentially. See proposed rule language page 8. vi. Data requested should be tailored to the need. Technical workshop to discuss reporting requirements may be useful. vii. Desire more information on the reason the information is needed. viii. Multijurisdictional utilities may have unique challenges in reporting.	Staff will explore what means IOUs have for determining hourly data for green direct. Staff will have conversations with interested persons to discuss details of reporting.
RNW	No response.	n/a
WPUDA	No response.	n/a
WPFT	Generally supports of draft rules, see general comments at Summary part 5, Other comments.	n/a

5. Other comments

Party	Summary of Comment	Staff Response
AWEC	i. AWEC summarizes its interpretation of the rules in paragraph 3 of its comments as, "Put more simply, if customers pay for it, then it counts." ii. AWEC states that "Any requirement other than to demonstrate compliance over these four-year periods would violate CETA." iii. AWEC states that, "the draft rules do not clearly tie this hourly data to penalty assessments, and this issue should be clarified."	i. Staff cautions against this narrow conclusion and the narrow interpretation of what is contained in paragraph 3. In whole the rules include additional conditions for meeting CETA than the simple use of retained RECs. ii. Staff recognizes the four-year period over which compliance with the use of electricity will be evaluated. The draft rules are establishing the meaning and application of "use" to achieve the goals and requirements of CETA. iii. The rules do not define the standards for assessing penalties.
BPA	i. Either of Commerce's proposed draft rules, WAC 194-40-320 or WAC 194-40-410, and/or the Commission draft rules language in WAC 480-100-650 (1) and WAC 480-100-650 (2)(d) is a reasonable interpretations of RCW 19.405.040(1)(a). ii. BPA is a federal power marketing administration not regulated by CETA. iii. BPA uses its annual system fuel mix report to identify every MWh it sells throughout the western United States. BPA sales to Washington load service make up approximately 50% of the load serve of Washington.	i. Staff agrees the two rules have the same interpretation of RCW 19.405.040(1)(a). Staff believes the differences in the rules reflect different approaches to enforcement that are the result of the different regulatory authority of the two agencies. ii. Staff agrees and seeks to cooperate with the federal agency to find a mutually beneficial arrangement that allows the agency to provide the vast benefits of its federally marketed hydroelectric power to its customers in Washington state. iii. Staff appreciates an explanation of the federal fuel tracking practice.

CS	i. Draft rules should be based on supplying clean energy to customers not simply procuring clean energy. ii. Retained RECs are a form of unbundled RECs. Electricity sold separately from the REC at time of generation does not create a REC that accompanied the use of electricity as required by CETA for primary compliance. iii. "Allowing retained RECs for primary compliance allows a utility to continue relying on emitting resources by pairing a clean energy attribute that has been separated from electricity that is sold to another entity with unspecified energy or an emitting resource." The statute only allows clean energy attributes for 20 percent of compliance between 2030-2044. iv. The draft rules require procurement only, rather than the use of electricity and clean energy attributes together. Without the latter requirement, there is no drive to have load management strategies or diverse solar and wind resources that match the utility' load profile. Retirement of RECs is a secondary verification function to prevent double counting, not a primary compliance mechanism. v. The meaning of used in the 2030 standard should have the same meaning as the 2045 standard. The use language appears in both RCW 19.405.040 and RCW 19.405.040. vi. A utility should be penalized as the statute states, "for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting generation." This language is clear that for electricity from emitting generation used to meet load in excess of 20% a penalty must be assessed. Any emitting resources used for meeting line losses must also be assessed a penalty.	i. Staff does not believe that simply procuring clean energy should be the sole measure of CETA compliance. ii. Staff does not agree on either point. The use of retained RECs is only one feature of the rules that collectively are intended to meet the requirements of CETA. iii. Staff believes the conclusions in the comments fails to take into account the requirements in -650(1)(a). Staff will strength those requirements in the next draft version of the rules. iv. Staff does not believe the rules only require procurement. Staff will work to strengthen the rules. v. Staff agrees but recognizing that regulatory discretion is necessary to implement the difference in the quantity of renewable and nonemitting energy required in 2030 and 2045 by the section. vi. Staff does not agree that line losses are required by the statutory language.

CR	i.	"The draft rules fail to require the clean energy that CETA mandates in its letter and spirit. The term "use" in the statute is unambiguously clear. The statute calls for "using electricity from renewable resources." This terminology is distinct from a renewable portfolio standard, or other procurement-based standard.	i.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards in statute.
	ii.	Supports NWEC comments.	ii.	See reply comments to NWEC.
	iii.	The draft rules allow utilities to continue to serve customers with fossil fuel resources.	iii.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.
	iv.	The draft rules theoretically require utilities to acquire electric generation to comply with the 2030 and 2045 standards the draft rules provide no recourse should those investments fail to meet the standard established in law.	iv.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards. The Commission has multiple regulatory authorities to penalize or deny rate recovery of costs to assure compliance.
	v.	Clark PUD's proposed natural gas generation plant is a specific example of how the draft rules could lead to the expansion of the use of fracking gas for electric generation. The draft rules will compound environmental injustices and disparate energy burdens, particularly in SW Washington. Pollution from the existing natural gas plant disproportionately effects low-income, BIPOC, and other environmental justice communities.	v.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.
	vi.	Commission should eliminate the use of retained RECs.	vi.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.
	vii.	CRS cite multiple specific comments by NWEC that it supports.	vii.	See replies to NWEC comments.
	viii.	"The proposed draft rules undercuts the statute by allowing electricity from fossil resources to be used for compliance, if that dirty electricity is offset with RECs, without penalty." Page 5.	viii.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.

CIP	i. Charging a storage resource should not constitute a "use" of electricity regardless of ownership of the resources or the charging or discharging of energy, and the storage resource should be included as a point of delivery. ii. Adds energy storage resources to the list of items excluded from retail load in the definition of retail load. iii. Adds storage resource as one of the points of delivery at WAC 480-100-650(2)(d)(ii) and that the power delivered to the storage resource be redispatched and acquired by the utility at one of the points of delivery in (iii) of the same subsection. iv. Adds storage as a point of delivery in WAC 480-100-650(2)(d)(iii)(d).	i. Staff agrees, except for adding storage as a point of delivery. ii. Staff agrees. iii. Staff does not agree that this is necessary. iv. Staff does not agree that this is necessary and does not relate to the purpose of the proposed points of delivery requirement aimed at assuring the use of renewable electricity.
FlexCharging	i. Oppose the draft rules' interpretation of use. Support NWEC comments on use. Combination of renewable, storage and demand flexibility can lower price of CETA requirements.	i. See replies to NWEC comments.
Joint Publics	i. Joint Publics read the acquisition-based approach as supporting the use of BPA's current preference electricity products and processes, including the use of the BPA annual fuel mix report. ii. For simplicity and clarity prefers Commerce's draft language in 2020, (WAC 194-40-320 or WAC 194-40-410), but could support the commission language.	i. Staff intends to work with the federal agency to find a mutually beneficial structure for counting their clean energy. ii. Staff intends to continue to work with Commerce for the rules that are as consistent as possible given the differences in each agency's statutory duties and authority.
King County	The compliance methodology in the draft rules extends beyond the statute. The use of retained REC allows for offsets for polluting resources, slowing the progress to clean energy resources and ignoring the spirit of the law.	i. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.
NEEC	The draft rules are plainly inconsistent with CETA. The draft rules if adopted would fail to require clean energy as CETA mandates and allow utilities to use fossil fuel resource indefinitely. The Commission should eliminate the use of retained RECs. Utilities must be required to use clean energy to serve Washington customers.	i. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.

NIPPC	i. After examination of legal arguments presented by stakeholders, NIPCC concludes the Commission has sufficient room to exercise its discretion in making an interpretation of use. In light of that, the best manner to pursue the intent of the statute is to decarbonize strategically and cost-effectively. ii. Opposes a stringent consumption-based rules which would lead to over building. iii. It is unnecessary to re-open the rules. Retaining the re-opener may cause confusion and even delay progress towards CETA's goals. iv. Opposition to consumption-based approach: a. E-tags do not contain necessary information- rules should not rely on market functions that do not exist, b. Would require significant amounts of data to enforce v. Support for procurement-based approach a. The only new documentation would be the location of the generation resource and the contracted for delivery points. Contractual terms are proxies of electricity flows, but the information is readily available in the contracts themselves. b. The draft rules do not penalize CETA complaint resources for minute-to-minute, hour-to-hour, or day-to-day discrepancies between generation and consumption profiles by allowing retained RECs. c. Draft rules utilize existing data sets. d. Draft rules allow maximization of renewable benefits even if some electricity generated is unneeded to meet customer demands. vi. Legal support for compliance a. CETA includes a multi-year compliance period. b. CETA defines retail electric load in terms of electrical energy delivered in a calendar year.	i. Staff agrees and believes that it will be necessary for the Commission to use its authority to implement and achieve CETA. ii. Staff does not agree that load service with renewables and nonemitting resources inherently leads to overbuilding. iii. Staff will consider whether it is necessary to require by rule the Commission to re-open the rules. iv. Staff still believes e-tags are a useful indicator of the achievement of CETA but will consider other approaches in rule for establishing the CETA requirements. v. Staff is still considering the value of the use of contract specific information. Staff is looking for ways to use existing data sets or data that can be harvested from data files. vi. Staff agrees these are components of the statute but they do not speak directly to the meaning of the "use" requirement in RCW 19.405.040(1)(a). vii. a. Staff agrees with this general interpretation of Commission authority and views the rules in light of all the totality of the Commission authority. b. The rules do not specify penalty standards. Staff cautions that the use of retained RECs is limited and subject to conditions. c. Staff intends to work in this direction, but also recognizes that CETA's requirements are not constrained to existing data bases. Also, in utilizing existing data bases, Staff does not mean to rule out the need to extract data from existing data bases to fulfill reporting requirements. d. The rules are designed to minimize generation of electricity from renewables and nonemitting generation

	c. The allowance that unbundled RECs can be used from any time within the four-year compliance period parallels the requirements for nonemitting electric generation. d. The statute indicates that eligible non-emitting electric generation may be generated at any time during the multiyear compliance. vii. Draft rules and UTC regulatory oversight a. UTC can disallow costs of resources that do not achieve the intent of CETA or for costs unrelated to providing utility service or that were not prudently incurred. The Commission's Notice states that the Commission intends to evaluate resources based on their matching customer needs. b. NIPPC states that in Draft WAC 480-100-650(1) the commission does not mean instantaneous delivery and proof of delivery where the draft rules states "a utility has acquired renewable and nonemitting resources to meet its retail electric load" but rather that the resources *meet customer needs* [emphasis in original]. The Commission should make this intent clear. viii. Re-opener of rules is unclear, unnecessary and could be harmful by undermining the confidence in the interpretation of use. Commission should adopt a later date, if it adopts a date for a re-opener.	at times a utility does not have load and to produce electricity at time of the utility's load obligation. viii. Staff will consider the value of a reopener.
NRDC	The use of retained RECs will create a shell game and effectively result in double counting as the purchaser of the unspecified power ("null" power) claims no GHG emissions at the same time the seller of the power retains the environmental attributes to offset an equivalent amount of fossil generation.	Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.

NWEC	i. Commission rules should reflect the intent of CETA to have Washington customers' electricity come from renewable and nonemitting sources. ii. Commission lacks authority to adopt the utilities interpretation of use. iii. The CETA requires the **using** of **electricity**[emphasis in original comments]. iv. Defining retained RECs as a form of using electricity does not meet the statute. v. The draft rule limits CETA to a procurement program. vi. Eliminate retained RECs.	i. Staff believes that is what the rules do and that the combined approach of the requirements in the rules will achieve the CETA standards. ii. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards. iii. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards. iv. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards. v. Staff disagrees. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards. vi. Staff disagrees. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards.

PC	i. Suggests that the definition of distributed energy resources in WAC 480-100-605 does not conflict with use of the term in RCW 19.280.030(2). ii. Remove definition of "resource need." iii. Proposes language to clarify WAC 480-100-650(2)(c). iv. Change draft WAC 480-100-650(2)(d)(ii)(A) to require the delivery of electricity to the utility claiming it for compliance rather than any utility. v. Proposes language to simplify reference to participate in centralized electricity markets. vi. Because subsection (e) in draft WAC 480-100-650(2)(e) is not a compliance item it should be moved to a new numbered section. vii. Proposes language to explicitly include the 2030 and 2045 standards in WAC 480-100-650(2).	i. Staff believes that this comment is beyond the scope of this rulemaking and given that the definitions currently in rules were just recently established, Staff does not find that there is sufficient cause to reexamine them. ii. Staff will consider this suggestion. iii. Staff will consider the language but may revise -650(2)(c) in additional ways. iv. Staff will consider how the combination of the use of the delivery points and the other requirements in the rules work together to achieve CETA. v. Staff is reviewing the rules requirements regarding centralized markets. vi. Staff will consider the structural elements of the rules in its next draft. vii. Staff agrees explicit interpretation of the 2030 and 2045 standards should be in the rules and will consider the language proposed.
PGP	i. PGP agrees with joint IOU comments that the Commission's draft rules' compliance requirements are consistent with CETA. ii. PGP filed separate comments to Commerce supporting adoption of Commerce's August 14, 2020, draft rule 194-40-410. iii. Commerce and Commission rules should recognize the different treatment of COUs versus IOUs under CETA. iv. The statement in WAC 480-100-650(2)(e) that "retiring retained RECs is a form of using electricity toward primary compliance" aligns with the statutory language in CETA. v. Do not set a date for a reopener, pursue need for rule review through workshop. Setting a date so soon after adoption of rules creates uncertainty for utilities.	i. Staff agrees. ii. Staff is working to arrive at a common interpretation and implementation (to the extent possible considering the different regulatory authority of the agencies) of CETA with Washington Department of Commerce. iii. Staff agrees with this conceptually but does see the key requirements of CETA applying to both types of utilities. iv. Staff agrees v. Staff is reconsidering the requirement for a re-opener of the rules.

Joint IOUs	a. Commission/Commerce should align rulemaking process and issue substantively similar rules except for statutory differences between investor-owned utilities and consumer owned utilities. b. Remove specific date for re-opener. Re-opener creates "un-mitigatable risk for…utility participation in existing wholesale power markets." Instead hold workshops, (possibly at the end of each Clean Energy Implementation Plan) on how the rules are functioning and how to align market structures with CETA. Page 2-3.	i. Staff agrees. ii. Staff is reconsidering the requirement for a re-opener of the rules.
RNW	See comments in response to Notice questions.	n/a
WPUDA	The draft rules should align with the use of BPA electricity products, processes, and information disclosures.	Staff is working with the federal power marketing agency to determine an agreeable means of realizing the benefits of the federal hydro system for CETA compliance.
Public comments (multiple comments)	i. Rules will allow utilities to continue to use fossil fuel-generated electricity in Washington past 2045. ii. Eliminate use of retained RECs. The use of Retained RECs is clearly inconsistent with CETA.	i. Staff does not agree with this reading of the rules but will work to strengthen the rules to prevent this misinterpretation. ii. Staff believes the combined approach of the requirements in the rules will achieve the CETA standards in statute.
WPFT	i. Generally supports the draft rules. ii. Supports the use of: a. RECs where the associated electricity has been sold as unspecified electricity without limitation, b. delivery requirements c. hourly analysis iii. Approach of Draft rules will support centralized markets. iv. Drop the rule re-opener. It causes significant uncertainty that will complicate long-term contracting of renewable resources.	i. n/a ii. Staff generally agrees but limitations or conditions to prevent double counting are necessary. iii. Staff agrees. iv. Staff is reconsidering the requirement for an re-opener of the rules.