Markets and CETA Compliance Rulemaking| UE-210183
Notice of Opportunity to File Written Comments on the Second Proposed Use, and Double Counting and Storage Rules
by February 9, 2022

Summary of Comments

- Alliance of Western Energy Consumers (AWEC)
- Bonneville Power Administration (BPA)
- Center for Resource Solutions (CRS)
- James Adcock
- King County, Office of Dow Constantine
- Linda Carroll
- Northwest & Intermountain Power Producers Coalition (NIPPC)
- Joint Comments Northwest Energy Coalition (NWEC) and Climate Solutions (CS)
- Public Counsel (PC)
- Puget Sound Energy (PSE), Avista Corporation (Avista), Pacific Power and Light (PP&L), collectively, the Joint IOUs
- Renewable Northwest (RNW)
- Washington Environmental Council
- Western Power Trading Forum (WPTF)

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?**

Party	Summary of Comment	Staff Response
AWEC	See part 5, Other comments.	
BPA	Request that UTC add the phrase "such as transmission that is other than firm". Utility can have contracts for renewable power delivered to load via a variety of transmission service contracts that do not have to be firm transmission.	Staff reads the wording in the rules to include the use of transmission that is other than firm. Staff also considers such choices by the utility allowed in the rules as subject to prudence review.
CRS	See part 5, Other comments.	

King County	See part 5, Other comments.	
NIPPC	See part 5, Other comments.	
NWEC and CS	No. The second sentence is necessary to demonstrate that procured electricity is deliverable to Washington and that a generating resource is used and useful to Washington customers. This requirement should apply to -650(1) in addition to -650(2).	Staff agrees that the second sentence in -650(2) provides additional clarity and certainty and should be retained. As a standard in statute and rule, as well as Commission precedent, planning and acquisition includes transmission capability to provide load service. In these contexts, Staff reads -650(1)(a) and (b) to include transmission for load service.
PC	Public Counsel supports this clarification and suggests that the second sentence be re-worded as follows: To meet this requirement, the ~~A~~ utility must also demonstrate that it has secured transmission rights or assets to provide feasible transmission for renewable or nonemitting resources to serve its retail electric service obligations.	Staff agrees that the second sentence in -650(2) provides additional clarity and certainty and should be retained and supports the suggested re-wording.
Joint IOUs	Do not oppose but is not necessary because no regulated utility would procure a resource without having sufficient transmission service to move that generation to load.	Staff does not agree with the underlying premise used to conclude the requirement is not necessary.
RNW	If the distinction between "retail electric service obligations" and "retail electric load obligation" in -650(2) is clear 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), second sentence should remain.	Staff agrees that the second sentence in -650(2) provides additional clarity and certainty and should be retained. As a standard in statute and rule, as well as Commission precedent, planning and acquisition includes transmission capability to provide load serve.
WEC	See part 5, Other comments.	
WPFT	See part 5, Other comments.	

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?**

Party	Summary of Comment	Staff Response
AWEC	See part 5, Other comments.	

BPA	See part 5, Other comments.	
CRS	See part 5, Other comments.	
King County	See part 5, Other comments.	
NIPPC	See part 5, Other comments.	
NWEC and CS	Do not understand the need, purpose, or legality of this exception and recommend striking it. Concerned that this could be a significant loophole because utilities can acquire up to two-year contracts for resources which are not anticipated to actually serve Washington customers with electricity. If this exception is retained, the UTC should adopt the definition of short-term contract already defined in RCW 19.405.030 for electricity from coal-fired generation (one month) and include additional reporting and disclosure requirements for short-term contracts because intervenors lack information on the length of utility contracts.	Staff does not share this concern. Power purchased within a two-year timeframe is for load service. Staff has not seen a persuasive argument that power purchases in a two-year time window would be prudent if they were not for load service. The two-year window encompasses most physical hedging program windows utilities use for shoring up load service. Allowing the use of retained NPAs for primary compliance (i.e. prior to 2045) will support the efficient dispatch of generation resources while still achieving CETA objectives.
PC	No objection to delineating between contracts of more than two years vs. two years or less for this purpose.	Staff agrees.
Joint IOUs	Not necessary because reference to reliance on retained NPAs when making resource acquisitions is inconsistent with the statute and should be removed in its entirety.	Staff disagrees with the assertion that the rules' application of CETA to resource acquisition is not required by CETA. CETA's intent and language require 80 percent of retail sales to be served by renewable and nonemitting resources. Staff believes that the resource acquisition standard in conjunction with the other portions of the rules and the Commission's ongoing authority to regulate IOUs will achieve the intent and language of CETA.

RNW	No, this creates a loophole. 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…" Should limit the contract length for this incentive to one month. Edits to -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 as part of a limited duration wholesale power purchase with a contract term ~~or useful life~~ greater than ~~two years~~ one month.	Staff does not share this concern. Power purchased within a two-year timeframe is for load service. Staff has not seen a persuasive argument that power purchases in a two-year time window would be prudent if they were not for load service. The two-year window encompasses most hedging program windows. Allowing the use of retained NPAs for primary compliance (i.e. prior to 2045) will support the efficient dispatch of generation resources while still achieving CETA objectives, pursuant to RCW 19.405.130(3).
WEC	See part 5, Other comments.	
WPFT	See part 5, Other comments.	

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?

Party	Summary of Comment	Staff Response
AWEC	See part 5, Other comments.	

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<tr>
<td>BPA</td>
<td>1. Add language that enables utilities to demonstrate an unbundled REC may be used for compliance when the associated electricity was sold as unspecified power into a state with a GHG program.
2. Use the California Air Resource Board (CARB) and other states' definition of unspecified power; add -XXX (2)(a): <u>The associated electricity was sold, delivered, or transferred as an unspecified source of electricity where the power was not a specified source at the time of entry into the transaction.; or</u>

3. Supplemental comments filed 2/15/22: Agree with IOUs' concern that language in the rules places a constraint on the use of RECs from BPA system sales that is inconsistent with CETA. Clarify that REC was not associated with sale to an entity regulated by the state GHG program. Provide proposed addition to -XXX (4).</td>
<td>1. The rules as written allow the use of unbundled RECs if power is sold as unspecified.
2. Staff recognizes that CARB has a definition of unspecified power but Staff's recommendation for rule language is based on CETA language.
3. The proposed rules include language provided in BPA's supplemental comments to address this concern.</td>
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CRS	1. -XXX(2)(b) should only exclude unbundled RECs associated with power that is reported or claimed as imported or delivered to a state with a GHG program (other than WA and linked programs) and assigned the emissions rate of the renewable facility. Unbundled RECs from generators located inside states with source-based GHG programs (e.g. CA generators) should not be excluded for use by WA utilities for CETA compliance on the basis of double counting. Generation from CA generators is not necessarily delivered to serve CA load under cap-and-trade. Suggested edit: The associated electricity was not delivered, reported, or claimed as imported or delivered to serve load and ~~a zero-emission specified source or~~ assigned the emissions rate of the renewable generating facility under a GHG program outside of Washington or programs linked with Washington. 2. Additional clarification related to -XXX(2)(b) may be required to address an "unspecified" or "zonal" approach to GHG optimization and attribution being considered in CAISO EDAM. 3. Clarify which documentation options in -XXX(3) could be used when the unbundled REC is associated with electricity sold into a wholesale electricity market where there is no contract or transaction record specifying that the source is unspecified. 4. Should coordinate with agencies in CA and other states to determine whether RECs are associated with specified imports or deliveries outside of Washington using REC ID numbers. 5. Suggested edit to -XXX (4): "directly into a state with a GHG program other than Washington or states with programs linked with Washington." 6. Suggested edit to -XXX (5): "any governmental program outside of Washington or linked states," and, "from	1. Staff disagrees. CETA has clear language against double counting and the requirement that all nonpower attributes of a renewable resource be included in a REC and not used twice. 2. The Commission can reopen a rule if changes to regulatory or market rules affect the implementation, enforcement, or achievement of CETA. 3. Staff believes that specification in rule of the specific type of documentation necessary for specific market designs and structures would unduly limit a utility's ability to demonstrate the intent of the statute's prohibition on double counting. 4. Staff considers this recommendation the primary responsibility of utilities with CETA obligations. Staff will stay informed and engaged with utility activities on this front. 5. Prior to the advancement of Washington Department of Ecology's work on linking the Climate Commitment Act's GHG regulatory schema to other state's GHG cap and trade programs, Staff believes rule language on that linkage would be ill-informed and potentially more damaging than productive in achieving CETA. 6. See Staff response to part 5 of CRS comments. 7. Staff believes that the rules, in whole, consider use of unbundled RECs for CETA compliance and the use of those same RECs in any GHG program that requires delivery of the emissions associated with the electricity that produced those RECs to be double counting.

	outside the governmental jurisdiction or linked GHG compliance area. 7. Minor modifications to the definition of GHG program in -XXX (5) may be needed in order to cover all GHG programs that may affect unbundled RECs used in WA. Should include any GHG program outside of WA that claims delivery of the emissions associated with electricity to serve load in the state without the RECs, including but not limited to GHG cap and other programs that include imported electricity.	
King County	See part 5, Other comments.	
NIPPC	See part 5, Other comments.	
NWEC and CS	Continue to have concerns about how the UTC will monitor compliance of third-party entities, especially those out of state. Suggest explicitly stating that any REC used as alternative compliance options must not only meet the requirements of XXX-3, but also retire the RECs in WREGIS.	Staff reads the rules in the context of the Commission's ongoing authority to regulate and enforce the requirements of the rules. CETA places its compliance obligations on the covered utilities. The rules provide flexibility but also maintain the compliance obligation upon the utility to provide commercial contracts or arrangements that prevent double counting by assuring any unbundled REC cannot under the contract be legally used for any purpose and that the contract has provision that permit enforcement of that term. Staff considers WREGIS registration or other REC registrations services outside of the Western Interconnect as required and necessary as part of a showing by the utility that their unbundled RECs used for CETA compliance are not double counted.
PC	Opposes the demonstration required by -XXX(3). Believes that it is expensive with little or no benefit. "Public Counsel recommends that WAC 480-100-XXX(2) and (3) be replaced by the requirement that all RECs used for alternative compliance under CETA be qualified under WREGIS and have a vintage consistent with the compliance period in which they are used."	Staff considers the rules' requirements as necessary to fulfill the requirements in CETA that REC not be double counted. Staff considers WREGIS registration a requirement.
Joint IOUs	Yes, but additional clarifications recommended in attachment B.	There are no edits to section -XXX(3) in attachment B.

RNW	1. Recommend adding "including those linked with Washington" to -XXX(5) to ensure any future program linkage with a GHG program in Washington is not perceived as an exclusion from the requirements in Draft -XXX(2). 2. Recommend that -XXX(3) be revisited in five years to consider potential market developments, such as the ongoing discussions on CAISO EDAM initiative.	1. Prior to the advancement of Washington Department of Ecology's work on linking the Climate Commitment Act's GHG regulatory schema to other state's GHG cap and trade programs, Staff believes rule language on that linkage would be ill-informed and potentially more damaging than productive in achieving CETA. 2. Staff will and believes the Commission will continue to consider any changes in the industry or regulatory structures, state or federal, that may affect or require revisions to these rules.
WEC	See part 5, Other comments.	
WPFT	1. "In the case where the resource owner has not sold electricity as specified to another entity, the attribution of the emission rate to that resource by a regulator under a cap-and-trade program should not be considered double counting. This would be consistent with the rules proposed for 'use of electricity'." 2. Change -XXX(2)(b) to: (b) The associated electricity was not ~~delivered, reported, or claimed~~ sold or ownership otherwise transferred as a zero-emission specified source ~~or assigned the emissions rate of the renewable generating facility~~ under a GHG program.	1. Staff disagrees. This would be double counting. 2. Staff recognizes that CARB has a definition of unspecified power but Staff's recommendation for rule language is based on CETA language.

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

Party	Summary of Comment	Staff Response
AWEC	See part 5, Other comments.	
BPA	See part 5, Other comments.	

CRS	1. Additional clarification or rule language may be required in this section to address a situation in which the Retained NPAs are associated with electricity sold into a wholesale electricity market where there is no contract specifying that the source is unspecified. 2. Unclear whether subsection (1) or -650(3)(d)(i) prevent use of Retained NPAs for primary compliance where the associated electricity was assigned the emissions rate of the renewable generating facility under a GHG program outside of WA or programs linked with WA.	1. CETA places the burden of preventing double counting of unbundled RECs on the utility providing those RECs for compliance. The rules provide a means to fulfill that requirement without undue restriction to the commercial arrangement and instrument that achieves that requirement. Ultimately, it is utility's obligation to seek commercial arrangements that allow it to fulfill the CETA requirements to assure there is no double counting. 2. Staff reads the proposed rules in section (1) prevent double counting in the example presented but agree that the rules do not address *directly* GHG programs linked to Washington's CCA.
King County	See part 5, Other comments.	
NIPPC	See part 5, Other comments.	
NWEC and CS	The rules are too complicated, and sufficiently open to interpretation that it fails to provide the clarity that it seeks to establish. The introduction of the concept of "retained NPAs" adds to the complexity while providing dubious benefit, and without statutory justification under RCW 19.405.040(1).	Staff disagrees. The number and structure of the proposed rules are written to prevent double counting and to require load service provided by electricity from renewables while preventing loopholes.
PC	Public Counsel recommends the following edit to -ZZZ(b) to clarify that all indicated restrictions must be part of contractual arrangements between the utility and any purchaser of electricity associated with retained NPAs: (b) A utility must identify and report separately any contract under which the utility sold or transferred electricity without the associated REC or nonpower attribute. The contract must include terms stating the utility is not transferring any of the nonpower attributes, the buyer will not represent in any form that the electricity has any nonpower attributes associated with it, and <u>that</u> the buyer must include such provision in any subsequent sale of the electricity.	The proposed rules achieve the same meaning as the language addition provided by Public Counsel.

Joint IOUs	"-ZZZ(1)(a) does not appear germane to when a retained NPA can be used for primary compliance because the subsection addresses when the NPA is transferred with the underlying electricity." Suggest removing a reporting requirement that is duplicative of proposed edits in Attachment A.	Staff disagrees. Renewable electricity owned, contracted or controlled that is sold as bundled by the utility cannot be used for CETA primary compliance. It is necessary and reasonable in the means specified in the rules to require reporting of such sales.
RNW	Recommend that Draft -ZZZ either reference the relevant provisions in Draft -XXX which prevent double counting or that Draft -ZZZ be revised to include those same safeguards.	The proposed rules prevent double counting for both unbundled RECs and retained NPAs, but rely on different methods. Staff believes it will not be practical to track all retained NPAs in the same way the utility tracks all RECs.
WEC	See part 5, Other comments.	
WPFT	See part 5, Other comments.	

5. Other comments

Party	Summary of Comment	Staff Response
AWEC	Opposes modifications to -650 that require electric utilities to assume they may not use retained NPAs for primary compliance when planning their lowest reasonable cost portfolio and acquiring those resources. Second draft of the rules is "effectively requiring over-compliance with the 2030 standard, accelerating the Legislature's chosen timeline at greater cost to customers".	Staff finds AWEC's support for its claim to be inaccurate in light of the overall statutory scheme. The requirement that IOUs plan and acquire resources as if Retained NPAs will not be allowed toward primary compliance is no more or less than traditional utility regulation principles now applied to the requirements of CETA. Staff concludes that the rules do not in itself pre-determine that over building must occur. The physics of electricity have always required load service match generation of electricity with the time of demand and have feasible transmission to allow that generated electricity to serve load at the location of the load. The use of renewable energy as the source of the energy of the generator does not change, *or increase* those physical requirements.

BPA	Concerned that the rules could lead to inefficiencies in organized markets that could result in costly overbuilds of renewable resources and transmission.	Staff shares this concern but in light of allowances provided in -650(1)(c) believe that the rules do not inhibit organized markets or bind future Commission enforcement of the rules to require over building of transmission.
CRS	1. Not clear that the definition in -605 refers to RECs “sold” or “delivered” to or “purchased” by a utility, as opposed to RECs sold or delivered to or purchased by WA customers. RECs that are delivered to customers separately from the underlying electricity could include Retained NPAs, which are not procured unbundled by utilities. Alternatively, the definition could include an explicit statement that Unbundled RECs do not include Retained NPAs. 2. -YYY does not help a utility, or the state determine whether electricity from an energy storage facility has sourced energy for its production (discharge) from electricity from renewable or nonemitting generation resources. Please provide guidance on compliance with this section.	1. Staff does not agree that additional language in -605 and specifically the definitions of unbundled RECs or retained NPAs is necessary to understand the difference between the two or to prevent double counting. The difference between an unbundled REC and a retained NPA lies in the disposition of the NPA. If the utility sells the NPA, then it becomes an unbundled REC. If the utility retains the NPA associated with wholesale sales of unspecified electricity generated by resources they own or control, then the NPA is not an unbundled REC.. 2. The intent of CETA that renewable and nonemitting energy be used to serve load is clear in the rules. The guidance on the use of storage in the rules is provided in the form of the intent of CETA, rather than in a list of specific future envisioned circumstances in which storage may be used and qualify, or not, under CETA.
King County	Opposes the concept of Retained NPAs. The UTC must make explicit that retained NPAs or other substitutes for clean electricity supplies cannot be used to meet CETA, which clearly states that only electricity from renewable and non-emitting generation sources can be supplied to meet retail loads starting 1/1/45.	Staff disagrees. The proposed rules clearly reflect the 2045 standard which requires 100 percent of load be met with renewable or nonemitting energy. Read as a whole, the rules will achieve the intent and requirements of CETA. Allowing the use of retained NPAs for primary compliance (i.e. prior to 2045) will support the market optimization while still achieving CETA objectives.

NIPPC	1. Support adoption of a procurement-based framework for interpreting “use”, removal of language imposing a deadline for revisiting the rules, and removal of reference to “points of delivery”. 2. Concerned that data and contract reporting obligations exceed what is required and may be burdensome and that there may be inadequate time and space for stakeholders and UTC to fully engage and address new issues. Requested changes: 3. Reconsider prohibition on use of Retained NPAs for planning purposes because could achieve CETA compliance and reliability in a least-cost manner. Instead, achieve transparency by requiring IOUs to provide IRP sensitivity analyses or similar. 4. Guidance beyond CETA’s plain language on the 2045 standard is not needed at this time. First draft rules were sufficient. Avoid adopting rushed rules on 2045 standard. 5. Prohibition on IOUs buying unbundled RECs unless the electricity was sold subject to explicit contract terms should only apply prospectively. Instead, consider a good-faith attestation from the current seller that that seller has the necessary property rights to sell an unbundled REC in full compliance with CETA’s prohibition on double-counting.	1. Staff agree with the removal of the requirement but continues to believe the requirements of points of delivery contribute to achieving the intent and requirements of CETA. 2. Staff has scaled back the reporting requirements in the proposed rules to reduce administrative burden. 3. The requirement to plan utility service with 80 percent renewable and nonemitting electricity is a necessary component of the rules for achieving CETA. If utility actions are based on a plan and that plan is not carrying out CETA then the actions of the utility will fail CETA, despite the best post-planning regulatory interventions. The least cost requirements of CETA planning and acquisition are constrained by the 2030 and 2045 statutory standards. 4. The benefit in 2045 and beyond of resources acquired now is essential to the prudency evaluation of those resources and therefore the requirement of CETA for that period must be defined. 5. Staff agrees that a transition period for implementing the requirements in these rules into commercial practices and contracts is necessary. Staff notes that the requirements cited begin in 2030 and consider 7.5 years to be sufficient time for a smooth transition.

NWEC and CS	1. Support clarifications around use of electricity from storage and documentation on non-emitting generation. 2. "The rule's attempt to define "use" as something other than its plain meaning could distort utility efforts to meet the clean energy standards, have unintended consequences, could allow for more noncompliant generation than the statute allows for, and could lead to suboptimal outcomes for customers. We remain troubled by this approach and do not believe it meets the legal requirements of CETA." 3. Since retained NPA is not authorized by statute, utility could comply with the requirements of the rules, yet not be in compliance with the statutory requirements of RCW 19.405.040. Concerned that a utility could apply unlimited NPAs to its 2030 obligation, resulting in the service of customer load with a mix that is less than 80 percent clean. 4. Markets can be designed to accommodate and facilitate compliance with a variety of clean energy policies, including CETA so should not worry about creating flexibility to integrate CETA with markets, they can integrate with CETA. 5. Line losses must be included in 2030 standard, i.e. utility must supply 80% of retail electric sales with renewable or nonemitting resources – reference to load is problematic. 6. Clarify in -650(2) that no NPA, retained or otherwise, can substitute for electricity in planning for post 2045 portfolio. 7. Rule relies heavily on the planning process to demonstrate compliance with CETA, rather than actually implementing a standard based on using electricity to comply. Planning should include CEAPs and CEIPs and account for climate change.	1. The intent of CETA that renewable and nonemitting energy be used to serve load is clear in the rules. The guidance on the use of storage in the rules is provided in the form of the intent of CETA, rather than in a list of specific future envisioned circumstances in which storage may be use and qualify, or not, under CETA. 2. 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 NPAs in economic decision making will allow the market optimization while still achieving CETA objectives. 3. Staff disagrees. Read as a whole, the rules will achieve the intent and requirements of CETA. The two-year decision horizon for acquisitions that can consider retained NPAs in economic decision making will allow the market optimization while still achieving CETA objectives. 4. Staff recognizes the principle concept but still concludes that the use of retained NPAs in conjunction with other provisions of the rules are designed to allow the interface of the utility and its CETA compliance obligations with market conditions in which the utility operates. 5. Staff disagrees. The statute establishes the quantity of renewable and nonemitting electricity by reference to the quantity of electricity sold at the retail electric service level. 6. Staff agrees and has clarified the proposed rules. 7. Staff agrees that the CEAPs and CEIPs should be included and has clarified the proposed rules. 8. Staff agrees that all non-confidential information in the planning process should be made public. Staff is concerned with the usefulness and volume of the information in the reporting standard, and

	8. Recommend additional, required reporting details. Utility data used in planning should be made available to the public. 9. See previous comments on preventing double counting in a wider array of programs beyond greenhouse gas programs. 10. Commission should emphasize the role of customer-side resources in CETA implementation.	has scaled back the reporting requirements to reduce administrative burden. 9. See Staff's reply to previous comments. 10. Staff agrees. The existing planning rules and statutory requirements to consider resource opportunities are directive enough for the Commission to act with its authority to assure the role of customer-side resources.
PC	1. Appreciates changes to and clarifications of reporting requirements under -650 which are clearer and provide a more logical connection to the planning requirements under -640. 2. Opposes the approach to double counting under WAC 480-100-XXX(3) which is "unworkable, unduly burdensome and costly, and unnecessary". Should simply allow WREGIS certified RECs to be used for compliance on a MW for MW basis.	1. Staff appreciates the supportive comment. 2. Staff considers it the obligation of the utility to enter contracts that have provisions for the exclusive use of the NPA/RECs. Staff believes under CETA a utility has the obligation to enforce the provision of its contract.

Joint IOUs	1. "Strongly encourage the Commission to reissue draft rules on these topics for further review and comment by parties before taking further steps toward issuing final rules." 2. Significant differences between Commerce's and the UTC's proposed draft rules are problematic and could result in higher CETA compliance costs for IOU customers versus COU customers. Suggest revisions to -650(3) to more closely match Commerce's language which is straightforward and consistent with the overall approach used by the UTC. 3. Utility planning for compliance with CETA in IRPs should not be considered a basis for compliance determination – see proposed edits to -650 in Attachment A. Current version of -650(1)(b) and -550(2)(b) are neither justifiable nor necessary. UTC should eliminate acquisition requirements because adopted final rules cannot eliminate a statutorily guaranteed compliance pathway. How should a utility run its resource acquisition process if it is not allowed to plan to rely on retained NPAs? Limits on when and how utilities may plan to use retained NPAs belong in WAC 480-100-620. Suggest edits to align with Commerce's proposed rules. 4. Requirements for post 2045 compliance are beyond UTC's statutory authority. 5. Recommend removing -650(2). If retain, must modify to match language in statute. Remove "retail electric service obligations" because this term is undefined in law and its meaning is unclear. 6. Will need further dialogue on how to identify and account for retained NPAs because in system sales each IOU makes	1. Staff strongly disagrees on both procedural and substantive grounds. The interested parties were first given an opportunity to comment on the interpretation of "use" in June 2021. Staff believes the proposed rules will achieve the intent and requirements of CETA. 2. Staff strongly disagrees. The Joint IOUs, after nearly two years of opportunity, do not support this claim with any substantive arguments or citation to language and explanation of how that language has divergent meaning with regard to the implementation of the statute. 3. Staff disagrees. The planning process is part of Commission regulation that should be used to assure CETA is met. The rules have such requirements for the purpose of meeting CETA and should be enforced for the purpose of achieving CETA. In Staff's view failing to use them as part of CETA implementation and enforcement would be a violation of Commission statute. Staff considers -650(1)(b) central to achieving CETA's requirements. 4. Staff strongly disagrees. Staff comes to the opposite conclusion: The Commission's failure to interpret and enforce CETA standards in RCW 19.405.050(1) would leave IOUs without a clear understanding of the end goal of the clean energy transformation. The benefit analysis of resource acquisitions must include the 2045 standard. Throughout various CETA rulemakings, the need to further describe that ultimate goal in light of differing stakeholder interpretations has become clear to Staff. 5. Staff disagrees with the removal of the -650(2) for reasons stated in reply to comment 4 and with the change or removal of the phrase, "retail electric

	unspecified sales from a general pool of resources, with no unit or generation type attribution possible. Could develop an accounting method wherein a certain number of RECs and non-power attributes are deemed retained NPAs based on the quantity of unspecified wholesale sales a utility has made in a given time period, such as a month or a year. 7. Reporting requirements, especially in -650(6) will be burdensome and much of the information will need to remain confidential. Propose a uniform timescale for reporting based on data availability (hourly data not available for 100% of load). Recommend removing references to imbalance market data sources in the rules because data would have to be aggregated which wouldn't provide a meaningful picture of how/which electricity was used. Contract documentation should be maintained by the utility and provided to UTC only upon request. Reporting should begin with the 2024 annual clean energy progress report. 8. Remove reference to "minimum requirements" in -XXX(1). 9. Remove -XXX(4) as it is unnecessary and may disallow the use of unbundled RECs, even when no double counting has occurred.	service obligations." The meaning of the phrase is clear on its face. 6. The rules do not provide proscriptions for a compliance filing. the rules provide for the requirements under CETA. Staff believes from those requirements utilities will be able to determine what facts and documents to produce to demonstrate CETA compliance. 7. Staff agrees that the reporting requirements should be scaled back and has done so in the proposed rules to reduce administrative burden. 8. Staff disagrees. Under CETA the Commission has a legal obligation to use its ongoing regulatory authority to enforce the prohibition on double counting. The sentence stating no minimum requirements reflects that obligation. 9. Staff disagrees. The language as Staff intends to modify it (see response to BPA comments in this comment cycle) is a practice that the federal agency intends to follow and which Staff believes sufficient, in conjunction with the other rules on double counting to provide a ground for the Commission to enforce the prohibition on double counting requirements of CETA.

RNW	1. Support robust data reporting requirements for utilities and appreciate reporting requirements in -650(1)(a) and -650(6). Requirements of -650 (6)(a)(iv) will be particularly helpful in assessing compliance and will help to protect against emitting generation slipping through the compliance cracks. Should not be administratively burdensome. 2. -650(1)(a) should be revised to state the utility: 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. 3. Add to -650(6)(a) (and referencing this requirement in -ZZZ to ease the accounting of retained NPAs): (x) Hourly outflow system sales for all electricity production identified in WAC 480-100-650(a)(v). 4. UTC should commence a review of the rules by 9/1/27 to consider revisions. 5. Restrict utility's use of retained NPAs for primary compliance, as defined in -650(1)(c), to non-bilateral market transactions. 6. Modify -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.	1. Staff appreciates the support but has scaled back the reporting requirements in the proposed rules to reduce administrative burden. 2. Staff supports the intent, meaning and purpose of the proposed language. Staff believes the proposed rules reflect the intent of this comment. 3. Staff does not see how this proposal will ease the accounting of retained NPAs. Staff has scaled back the reporting requirements in the proposed rules to reduce administrative burden. 4. Staff does not believe it is possible to predict when a review of the rules will be necessary. Staff as well as the Commission by its own action can initiate review of the rules at any time. 5. Staff does not agree with this proposal. The liquidity of bilateral front month and multi-month contracts for hedging utility resource positions is part of what this section is trying to protect. 6. Staff included additional language in the proposed rules to cover the resources that are in the utility's possession.

WEC	1. Allowing the use of retained NPAs for primary compliance does not comply with statute, is unnecessary, and has the potential to undermine requirement for 100% GHG neutral electricity by 2030. Additionally, the rules must specify that retained NPAs cannot be used for compliance under any circumstance after 12/31/44. 2. Problematic to rely heavily on planning for CETA compliance because the lack of transparency in utility planning processes limits the ability of the public to provide necessary oversight. Utility data must be publicly available and UTC should take steps to improve public participation. 3. Language in -620(10)(b) is insufficient to address climate change impacts. Require that the best available climate science inform every aspect of the utility planning process and be fully integrated into all rules governing utilities' planning requirements.	1. Staff disagrees. The rules, with the use of retained NPAs, will achieve CETA requirements. 2. More transparency in the IRP process and encouraging participation in the IRP process are out of the scope of this rulemaking. Staff believes that the planning rules are important but believes the rules are balanced and have multiple points of enforcement, not the least of which is the prudence review of resource acquisitions. 3. The rules establish minimum not a maximum. Additional studies reflecting climate science must be done in the IRP if there is a reasonable demonstration of their need.
Public comments (multiple comments)	1. Linda Carrol: Do not allow use of "retained Renewable Energy Credits". All fossil fuel use must be eliminated under CETA. 2. James Adcock: Use of RECs should not be allowed other than for 20% under the 2030 greenhouse gas neutral standard. Should not rely on utility planning because it is flawed. Ability of IOUs to create retained RECs may violate interstate commerce clause. UTC should withdraw -645(2)(b) as it is biased in favor of the utilities.	1. Read as a whole, the proposed rules will achieve the intent and requirement of CETA. The two-year decision horizon for acquisitions that can consider retained NPAs in economic decision making will allow the market optimization while still achieving CETA. 2. 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 NPAs in economic decision making will allow the market optimization while still achieving CETA. Staff does not agree that retained RECs can violate the interstate commerce clause as they are a creation of the state and only apply as requirements on entities that are state regulated.

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1. Current EIM and market structures being considered do not attribute resources to individual utility loads and if markets make resource-specific attribution to the state, this data should be kept confidential by the market operator. Thus, change the annual clean energy progress reporting in -650 (6)(a)(vi) as follows: (vi)All electricity used to calculate the utility’s imbalance energy in a centralized energy imbalance market, aggregated into hourly amounts and multiplied by the emission rate determined by the market operator for, as applicable, transfers into the state or the entire market footprint. ~~listed by each generation source and any interchange amounts used in the calculation of the utilities imbalance energy.~~
2. (vi bis) All electricity associated with dispatch of a renewable or nonemitting resource in a centralized energy imbalance market aggregated into monthly amounts, associated with non-power attributes used for CETA compliance.

3. Utilities should not be expected to ensure that power purchased as unspecified is not sourced from a coal resource. Change -650 (6) (b)(iv) as follows: Beginning January 1, 2026, all existing or new purchase contracts longer than one month with documentation that the electricity has been purchased as unspecified from an exchange or broker or that none of the electricity delivered is sourced from coal fueled generation.
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1. Staff has scaled back the reporting requirements in the proposed rules to reduce administrative burden.
2. Staff has scaled back the reporting requirements in the proposed rules to reduce administrative burden.
3. Staff disagrees. Staff considers the language in statute to be very clear.
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