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

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**Re: Comments of Renewable Northwest regarding issues related to electricity markets and compliance with the Clean Energy Transformation Act, Docket UE-210183**

**I. INTRODUCTION**

Renewable Northwest thanks the Washington Utilities and Transportation Commission (“the Commission”) for this opportunity to comment in response to the Commission’s March 23, 2022, Notice of Opportunity to File Written Comments on Draft Rules. With the Commission’s March 22, 2022, filing of a Notice of Proposed Rulemaking (CR-102), it has launched the final phase of a long, illuminating rulemaking process. Renewable Northwest appreciates this final opportunity to review the Commission’s revised draft rules (“Final Draft Rules” or “Draft Rules”) which interpret and implement the meaning of the term “use” in RCW 19.405.040 and RCW 19.405.050 of the Clean Energy Transformation Act (“CETA”).

We recognize and appreciate the Commission’s effort to, once again, find a place of compromise for all stakeholders while maintaining the integrity of the compliance requirements related to utilities’ “use” of electricity. As compared to the Second Draft Rules filed earlier this year, the Final Draft Rules lose quite a bit of granularity in the reporting requirements – which is unfortunate – but this final iteration also introduces a clear, concise compliance reporting structure that is well linked to the statute.

In these comments we show support for the data- and contract-reporting requirements proposed in the Final Draft Rules, which we think would create a coherent picture of the extent to which a utility has met its compliance obligations. We make a few minor recommendations, acknowledging that the Commission may benefit from a period of data collection before reassessing whether this novel compliance framework is sufficiently driving utilities’ clean energy transformations, and acknowledging that various other state and regional efforts may

drive the creation of new tools for simplifying CETA compliance reporting. We also recommend language to address what we see as a potential compliance loophole.

We appreciate the Commission’s thoughtful deliberation on this issue. We are optimistic that the interpretation of “use” and the surrounding details proposed in the Final Draft Rules, with the few minor changes we recommend below, will lead Washington investor-owned utilities (“IOU”) to decarbonize their electric portfolios in accordance with CETA’s clean energy mandates, and we are excited to soon see these Draft Rules put to work. We again thank the Commission for this additional opportunity to provide comments, and we look forward to continued participation in the rulemaking.

## II. COMMENTS

### A. Draft WAC 480-100-650(1) – Greenhouse gas neutrality resource portfolio performance standards and compliance

Renewable Northwest has supported the concept of retained renewable energy credits (“REC”) since the it appeared in the First Draft Rules, noting in our November 12, 2021, comments that we understood this primary compliance contingency tool to be “a proactive direction given to utilities relevant to the ongoing process to realize an extended day-ahead market (‘EDAM’) scenario in the region.”<sup>1</sup> And while we continue to recognize that utilities may need some operational flexibility – though, this is speculative and we need more information to know how essential retained nonpower attributes (“NPA”) will actually be for primary compliance – we do not support the *additional* flexibility of a two-year contract term exemption from the prohibition on “account[ing] for the ability to apply retained NPAs toward primary compliance...in making decisions to acquire or invest in resources....”<sup>2</sup>

We again recommend that – if the Commission intended for the language in Draft WAC -650(1)(b) to disincentivize utilities from relying on short-term contracts for emitting resources, and to instead incentivize utilities to pursue clean resources even to hedge their portfolios – the contract length for this incentive should be further limited to one month, just as is done in the statutory definition of coal-fired resource.<sup>3</sup> As such, we recommend the following revision to Draft -650(1)(b):

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<sup>1</sup> Comments of Renewable Northwest re: the Interpretation of “Use” (Nov. 12, 2021) (UE-210183) at 3.

<sup>2</sup> Draft WAC 480-100-650(1)(b).

<sup>3</sup> RCW 19.405.020(7)(b)(i).

May not account for the ability to apply retained NPAs toward primary compliance under (c) of this subsection or with its interim or other targets in making decisions to acquire or invest in resources with a contract term or useful life greater than ~~two years~~ one month.

This revision would limit the planning incentive to only those short-term “spot market” purchases made to hedge portfolios, minimizing what currently appears to be a loophole for contracts half as long as a CETA compliance period.

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

While we were encouraged to see the detailed level of reporting requirements in the Second Draft Rules as the Commission proposed creative solutions for repurposing data already being reported by utilities in other contexts, we did expect utility pushback on the “extensive,” “tremendous volumes” of data “impossible to reconcile for the intended purpose.”<sup>4</sup> Therefore, we were not surprised to see a loss in reporting granularity in the Final Draft Rules, including the removal of the provision requiring utilities to report “[a]ll electricity used to calculate the utility’s imbalance energy in a centralized energy imbalance market, aggregated into hourly amounts and listed by each generation source and any interchange amounts used in the calculation of the utilities imbalance energy.”<sup>5</sup> We think this level of utility accountability would help to protect against emitting generation slipping through the compliance cracks. But we understand the complexity of converting data collected in 5-minute increments into an hourly format, especially given that other elements of compliance reporting are presented in a monthly format.

However, we continue to think certain elements of the Draft Rules would benefit from reconsideration following a couple rounds of data collection and review, especially considering that the Western Electricity Coordinating Council (“WECC”) recently announced that the Western Renewable Energy Generation Information System (“WREGIS”) is migrating to the M-RETS software services, which may result in modified operating rules to fit with the newly available software functions.<sup>6</sup> The CETA implementation process has spurred productive regional conversations, especially regarding the importance of state regulatory considerations in an expanded market scenario. As such, the Commission may benefit from a rule reopening to consider 1) whether there are new tools to ease compliance reporting and review, 2) whether this unprecedented compliance framework is setting utilities on a trajectory to meeting the firm 2045 mandate, and 3) the implementation of Washington’s Climate Commitment Act. Therefore, we recommend the following provision be added to initiate a rule revisit prior to 2030:

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<sup>4</sup> Feb. 9, 2022, Joint Comments, on behalf of Avista, PacifiCorp and Puget Sound Energy, *available at* <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=707&year=2021&docketNumber=210183>.

<sup>5</sup> Second Draft WAC 480-100-650(a)(iv).

<sup>6</sup> WECC Signs Multi-Year Agreement with M-RETS for Software Services (Apr. 4, 2022), *available at* [https://www.mrets.org/wp-content/uploads/2022/04/News-Release-WREGIS-MRETS\\_FINAL.pdf](https://www.mrets.org/wp-content/uploads/2022/04/News-Release-WREGIS-MRETS_FINAL.pdf).

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

Further, we were surprised to see that the Second Draft Rules' resource-specified reporting for all renewable and nonemitting generation owned, contracted, or controlled by the utility has been generalized into "[t]otal electricity production."<sup>7</sup> To add a layer of transparency, we recommend draft WAC 480-100-650(6)(a)(iii) be revised to the following:

Total electricity production reported by resource type for all renewable and nonemitting generation owned, contracted, or controlled by the utility.

Renewable Northwest appreciates the Agencies' thoughtful modifications to the Second Draft Rules to ensure that the loss of granularity in utility data reporting did not compromise the efficacy of the compliance framework to track utility progress toward CETA's clean energy mandates.

First, what was lost – total retail sales are no longer linked to AMI meter data, and a utility will no longer be required to report the load data or electricity used to calculate the utility's imbalance energy for participation in the EIM. This data would have made utility compliance reporting impressively transparent. And while we continue to think utilities have the necessary lead time to build a dynamic compliance tracking system (with the first showing of compliance being in 2034), we acknowledge that utilities are not currently equipped to report at this level of detail.

Next, what was gained – utilities will be required to report "[a]ll electricity sold or transferred for all bundled sales of electricity from renewable and nonemitting sources."<sup>8</sup> When the concept of retained NPAs was first introduced – at that time termed "retained RECs" – Renewable Northwest recommended that bundled RECs be introduced into the compliance framework to more explicitly track utilities' compliance accounting.<sup>9</sup> The clear framework introduced in the Final Draft Rules would result in: 1) bundled RECs being associated with utility-owned, controlled or contracted CETA-compliant generation used to meet load, 2) unbundled RECs being associated with the nonpower attributes procured to meet the alternative compliance requirement outlined in RCW 19.405.040(1), and 3) retained RECs being associated with utility-owned, controlled or contracted CETA-compliant generation beyond that required to meet load, in which the underlying electricity was sold in accordance with the draft rule provisions preventing the double counting of nonpower attributes.

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<sup>7</sup> Final Draft WAC 480-100-650(6)(a)(iii).

<sup>8</sup> Draft WAC 480-100-650(6)(a)(v).

<sup>9</sup> Nov. 12, 2021, Comments of Renewable Northwest (UE-210183), *available at* <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=587&year=2021&docketNumber=210183>.

In addition to this simple REC / NPA tracking structure likely being more accessible to a broader group of stakeholders, the inclusion of bundled sales will shed light on the extent to which utilities are relying on retained NPAs for primary compliance. Because retained NPAs are meant to provide a utility with real-time operational flexibility to balance its system and were not designed to play a significant role in the utility's primary compliance demonstration, we think it is important that a utility's compliance demonstration be mathematically consistent and unambiguous such that the Commission or an interested stakeholder could extrapolate the extent to which a utility is relying on retained RECs for primary compliance. For this reason we support the Commission's proposed data reporting requirements in Draft WAC -650(6)(a).

Finally, we continue to appreciate the requirement in Draft -650(6)(b)(vi) that utilities include "[a]ny data provided to the Western power pool's resource adequacy program or its successor" in each clean energy progress report. We hope this data reporting will help the Commission and stakeholders gain a better understanding of utilities' capacity planning efforts, an area of utility resource planning in which emitting resources continue to be chosen by portfolio modeling tools, posing potential challenges to CETA compliance.<sup>10</sup>

### III. RESPONSE TO QUESTION FOR CONSIDERATION

*The proposed rules recognize that a utility's dispatch decisions of its owned, contracted, or controlled generation are driven by economic optimization with respect to market conditions. To better understand the value of such economic dispatch, the Commission requests interested persons respond to the following question:*

*1. Washington state utilities with hydroelectricity generation will, to the extent the hydroelectric generation resource has the pondage or coordinated dispatch with other hydroelectric generation facilities, purchase off system power during lower load or lower price time periods to meet their load obligations and in turn use the reserved water in hydroelectric generation facilities to facilitate peak hour or peak price off system power sales, including, at times, electricity from their own hydroelectric generation facilities. The Commission requests commenters explain the frequency, magnitude, economic significance, and contribution to reliability of this market driven dispatch to the utility and Washington state's load service.*

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<sup>10</sup> See, e.g., Puget Sound Energy's and Avista's 2021 Integrated Resource Plans, available at <https://pse-irp.participate.online/2021-irp/reports> and <https://www.myavista.com/-/media/myavista/content-documents/about-us/our-company/irp-documents/2021-electric-irp-w-cover-updated.pdf>, respectively.

The answer to this question is not straightforward, as it depends on how a utility contracts with BPA or operates its own hydro resources. BPA offers a Block product, which can be shaped, and a Slice/Block product, which is less shapeable. If the majority of a utility's BPA-sourced power comes from the Block, the utility will be less engaged in hedging. However, if a utility's BPA-sourced power is a Slice product, the utility will have more surplus power during on-peak hours similar to how a utility would run its system if it operated that hydro generation facility in-house. For utilities that own and operate hydro resources internally, typical production cost models are set up to ensure least-cost, least-risk optimization. This approach provides the option for a utility to operate their system in a way that reduces the Net Present Value of Revenue Requirement ("NPVRR") while meeting a pre-specified threshold of reliability. This operation may involve a utility purchasing or selling power into a wholesale market when economically feasible while also reserving enough capacity and energy to meet peak demand hours in their system. Provided a utility is meeting a reasonable reliability standard (loss of load expectation or loss of load probability), wholesale purchases and sales should not have any impact on reliability for customers. In addition, participation in the Western Resource Adequacy Program ("WRAP") would also allow both consumer-owned and investor-owned utilities to leverage the load-resource diversity of the region to ensure reliability in the operational timeframe provided they meet a common standard of reliability in the forward showing program.

Tacoma Power's 2020 Integrated Resource Plan ("IRP") included a modeling exercise that sheds some light on the magnitude of net surplus power in a Block scenario vs. a scenario in which BPA purchases have been replaced with renewables. Tacoma's modeling shows that the scenario with the BPA Block product generates the least amount of surplus, while the high renewables scenario generates the greatest net surplus power (i.e. greatest potential for specified sales). This illustrates the limitation of the Block product to a utility's ability to conduct the sort of hedging described in question one. For context, since 2015 Tacoma Power has sold between 125,000 MWh and 1.1 GWh of Asset Controlled Supplier ("ACS") sales annually.<sup>11</sup>

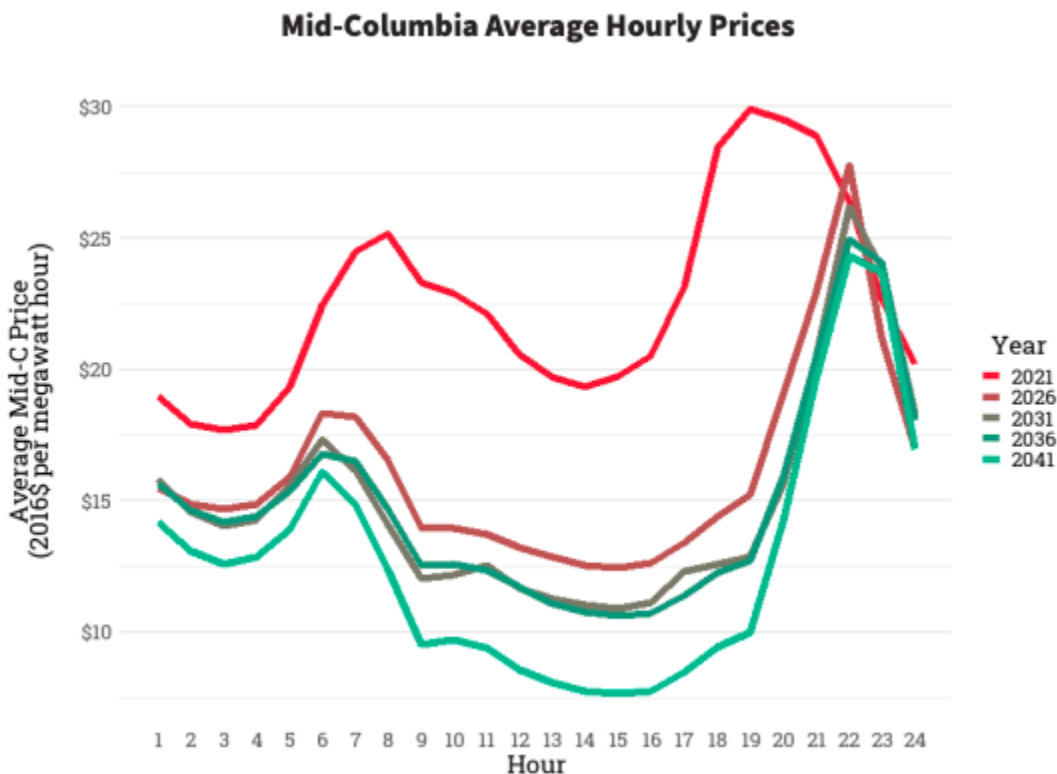
A utility contracting Slice/Block power with BPA could more easily manage its market driven dispatch as described in question one. However, the Western Energy Imbalance Market ("EIM") was intended to create this type of exchange, thereby increasing the load-resource diversity of the region and generating meaningful cost savings which are passed on partially or fully to customers.<sup>12</sup> Unfortunately, some utilities have very recently started to reduce market reliance in their resource planning efforts, citing market constraints during regional load-curtailment events that may pose a reliability risk. However, if utilities account for regional capacity procurements – Puget Sound Energy's analysis for its 2021 IRP does not – or simply look to the Northwest Power and Conservation Council's ("NWPPCC") 2021 Northwest Power Plan, they will find

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<sup>11</sup> Tacoma Power 2020 Integrated Resource Plan, *available at* <https://www.mytpu.org/wp-content/uploads/2020-Integrated-Resource-Plan.pdf>.

<sup>12</sup> *See, e.g.*, Western Energy Imbalance Market surpasses \$2 billion in benefits (Apr. 21, 2022), *available at* <http://www.caiso.com/Documents/Western-Energy-Imbalance-Market-Surpasses-2-Billion-in-Benefits.pdf>.

projections supporting sufficient Mid-Columbia (“Mid-C”) market availability and a minimal regional loss of load probability (“LOLP”) in 2022 and 2027.<sup>13</sup> Additionally, the 2021 Power Plan projects that over the next twenty years, Mid-C prices will trend downward considering averages:



**Figure 1.** Mid-C Average Hourly Prices, NWPCC’s 2021 Power Plan.<sup>14</sup>

As seen in Figure 1, certain evening hours continue to jump in price at the Mid-C, with solar generation driving the low midday prices. So of course, on a daily basis and an annual basis, a utility should operate via economic dispatch considering market availability and its owned, contracted, and controlled renewable and nonemitting generation. Tying this back to the Final Draft Rules, we think the proposed compliance framework and the supporting data reporting requirements will allow utilities to economically optimize their dispatch, though that optimization model will of course be modified to operate within the constraints of CETA.

<sup>13</sup> The Northwest Power and Conservation Council 2021 Northwest Power Plan, *available at* [https://www.nwcouncil.org/media/filer\\_public/4b/68/4b681860-f663-4728-987e-7f02cd09ef9c/2021powerplan\\_2022-3.pdf](https://www.nwcouncil.org/media/filer_public/4b/68/4b681860-f663-4728-987e-7f02cd09ef9c/2021powerplan_2022-3.pdf).

<sup>14</sup> The Northwest Power and Conservation Council 2021 Northwest Power Plan at 54.

#### IV. CONCLUSION

Renewable Northwest again thanks the Commission for this additional opportunity to weigh in on the proposed rules to interpret and implement the term “use” in RCW 19.405.040 and 19.405.050 of CETA. We appreciate the Commission’s responsiveness on the issues of “use” and the double counting of nonpower attributes, and we look forward to the adoption hearing and continued engagement in the CETA-implementation processes.

Sincerely,

/s/ Katie Ware

Katie Ware

Sr. Regulatory & Policy Manager

Renewable Northwest

[katie@renewablenw.org](mailto:katie@renewablenw.org)

/s/ Max Greene

Max Greene

Deputy Director

Renewable Northwest

[max@renewablenw.org](mailto:max@renewablenw.org)