

**BEFORE THE WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION**

In the matter of the Rulemaking to  
consider adoption of Markets and  
Compliance Requirements for the Clean  
Energy Transformation Act

DOCKET NO. UE-210183

NORTHWEST & INTERMOUNTAIN  
POWER PRODUCERS  
COALITION'S COMMENTS ON  
DRAFT RULES

**I. INTRODUCTION**

The Northwest & Intermountain Power Producers Coalition (“NIPPC”) provides these Comments pursuant to the Washington Utilities and Transportation Commission’s (the “UTC’s” or the “Commission’s”) Notice of Opportunity to File Written Comments on Draft Rules issued October 25, 2023 and amended November 3, 2023 (the “Notice” and the “Draft Rules”). In past years, NIPPC had filed several sets of comments on the issue of interpreting “use,”<sup>1</sup> and NIPPC appreciates the UTC revisiting this unresolved issue. As noted in prior comments, NIPPC wholeheartedly supports the Commission’s goal of “uphold[ing] CETA’s statutory requirements while allowing for the efficient

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<sup>1</sup> *In re Amending, Adopting, and Repealing WAC 480-100-238, Relating to Integrated Resource Planning, And Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act*, Docket Nos. UE-190698 and UE-191023, NIPPC Comments on the Interpretation of “Use” in RCW 19.405.040(1)(a) (Aug. 10, 2020); Docket Nos. UE-190698 and UE-191023, Comments on “Use” (Dec. 3, 2020); NIPPC Comments on Draft Rules (Nov. 12, 2021); NIPPC Comments on Second Draft Rules (Feb. 9, 2022).

operation of energy markets.”<sup>2</sup> NIPPC generally finds the Draft Rules to be consistent with this aim, but NIPPC offers these comments to flag a couple remaining concerns.<sup>3</sup>

## II. COMMENTS

### A. NIPPC Remains Strongly Supportive of the Procurement-Based Approach

NIPPC continues to strongly support the Commission’s adoption of a procurement-based framework for interpreting “use.”<sup>4</sup> NIPPC is not reiterating its prior comments on the Commission’s lawful and pragmatic interpretation, as NIPPC’s position has not changed.

### B. NIPPC Appreciates the Revised Definition of “Clean Electricity Market”

Although NIPPC understands the Commission’s intent to “mirror Commerce’s rules relating to RCW 19.405.040(1)(a),” NIPPC appreciates that the Commission made a beneficial edit to the rules relating to RCW 19.405.050. Whereas Commerce’s rules define a “clean electricity market” as “an organized wholesale electricity market that provides for the physical delivery of electricity *and excludes electricity from fossil fuel and unspecified sources,*” the Draft Rule defines this term as “an organized wholesale electricity market that provides for the physical delivery of *renewable and nonemitting* electricity.”<sup>5</sup>

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<sup>2</sup> Docket Nos. UE-190698 and UE-191023, Notice of Opportunity to File Written Comments at 3 (Nov. 5, 2020).

<sup>3</sup> NIPPC also intends to review other stakeholders’ comments and may agree with additional concerns not raised here.

<sup>4</sup> See generally NIPPC Comments on Draft Rules at 1-21.

<sup>5</sup> WAC 194-40-415(3) (emphasis added); Draft Rule WAC 480-100-675(3) (emphasis added).

Further changes may be needed before 2045, but the Commission’s revision avoids an identifiable concern today. Commerce’s rule language could be read to preclude participation in markets that include “fossil fuel and unspecified sources,” even if the utility only transacts clean electricity from specified sources. NIPPC understands the Southwest Power Pool’s Markets+ initiative could potentially allow unspecified transactions. In NIPPC’s view, the Commission has revised the rule to appropriately avoid forcing a utility’s hand in deciding which market(s) to participate in.

**C. NIPPC Recommends Revisions to Draft Rule WAC 480-100-675(1)(b)**

In Draft Rule WAC 480-100-675(1)(b), the Commission proposes to allow utilities to use Renewable Energy Credits (“RECs”) if the utility shows that, among other things, “The utility did not use the associated electricity for any purpose other than supplying electricity to its Washington retail electric customers.”<sup>6</sup> NIPPC is concerned this language could require an impossible showing that certain electrons went to certain loads.<sup>7</sup> NIPPC believes the intent is to prohibit a utility from having sold the electricity to serve another load. Thus, NIPPC recommends revising this text so that subsection (1) reads, in its entirety:

- (1) Except as provided in subsection (2) of this section, a utility may not use a REC to comply with the requirements of RCW 19.405.050(1) unless:
  - (a) The utility acquired the REC and the electricity associated with the REC in a single transaction through

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<sup>6</sup> Draft Rule WAC 480-100-675(1)(b).

<sup>7</sup> This concern was also raised to Commerce. *See* Commerce CETA Rulemaking, Comments of Public Generating Pool at 3 (Apr. 27, 2022) (calling this restriction “unrealistic and ... likely prohibitive for Washington utilities to continue participating in regional wholesale energy markets. It is not physically possible to identify which electrons from which generating resources are used to serve which load, making proposed subsection (1)(b) impractical to demonstrate.”).

ownership or control of the generating facility or through a contract for purchase or exchange; and

(b) The utility did not use the associated electricity for any purpose other than supplying electricity to ~~contract~~ *to sell the associated electricity to anyone other than* its Washington retail electric customers.

**D. NIPPC Continues to View the Hourly Reporting Obligations as Exceeding What is Required, But NIPPC Defers to the Utilities and Staff on How Burdensome These Obligations Will Be**

As noted previously, NIPPC continues to view the data and contract reporting obligations<sup>8</sup> as exceeding what is required, and NIPPC is concerned that the reporting may be burdensome on utilities as well as on Commission Staff.<sup>9</sup> NIPPC is generally aware that at least two utilities have already needed to seek exemptions from the hourly reporting requirements, based on the limited technological capability of currently installed metering equipment.<sup>10</sup>

Ultimately NIPPC defers to the utilities and Commission Staff on whether the reporting for this heightened requirement is worthwhile. So long as the hourly reporting

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<sup>8</sup> *E.g.*, Draft Rule WAC 480-100-670 (“Each utility required under RCW 19.280.040(1) and WAC 480-100-620 to prepare an integrated resource plan must demonstrate compliance with this requirement by, at a minimum, *showing through an hourly analysis* that the expected renewable or nonemitting output of the resource portfolio could be generated and delivered to serve at least 80 percent of expected retail electric load.”) (emphasis added).

<sup>9</sup> NIPPC Comments on Second Draft Rules at 3.

<sup>10</sup> *See generally PacifiCorp Petition for Exemption from WAC 480-100-650(4)(a)(i), which requires the Company to provide hourly retail sales information in its 2023 Clean Energy Transformation Act clean energy progress report*, Docket No. UE-210829, Order 01 (June 29, 2023); *Puget Sound Energy Company Petition for exemption to WAC 480-100-650 (4)(a)(i), (ii), and (iv) which requires the Company to provide hourly retail sales information in its 2023 Clean Energy Transformation Act clean energy progress report*, Docket No. UE-210795, Order 09 (Aug. 17, 2023).

obligations do not negatively impact the utilities' market engagement (which is NIPPC's current understanding), NIPPC is not opposed to the adoption of this Draft Rule.


### III. CONCLUSION

NIPPC appreciates the opportunity to comment and looks forward to the Commission's adoption of rules resolving the interpretation of "use."

Dated this 27th day of November 2023.

Respectfully submitted,

Sanger Law, PC



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Joni Sliger  
Sanger Law, PC  
4031 SE Hawthorne Blvd.  
Portland, OR 97214  
Telephone: 971-930-2813  
Fax: 503-334-2235  
joni@sanger-law.com

Of Attorneys for Northwest &  
Intermountain Power Producers Coalition