

Service Date: April 9, 2024



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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April 9, 2024

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS ON DRAFT RULES
(By 5 p.m., Friday, May 10, 2024)

and

NOTICE OF OPPORTUNITY TO RESPOND TO SMALL BUSINESS ECONOMIC
IMPACT STATEMENT (SBEIS) QUESTIONNAIRE
(By 5 p.m., Friday, May 10, 2024)

Re: Relating to Electricity Markets and Compliance with the Clean Energy
Transformation Act “USE” Rules, Docket UE-210183

TO ALL INTERESTED PERSONS:

On May 3, 2021, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to promulgate new rules to implement certain sections of the Clean Energy Transformation Act (CETA).¹ The Commission filed the CR-101 in Docket UE-210183.

BACKGROUND

CETA requires investor-owned electric utilities (1) to eliminate coal-fired generation from their portfolios by the end of 2025; (2) to ensure that all retail sales of electricity to their retail customers will be greenhouse gas neutral by the end of 2030; and (3) to source all of their power from renewable and non-emitting resources by the end of 2045. Furthermore, CETA requires that the utilities ensure that all customers are benefiting from the transition to clean energy through the equitable distribution of energy and nonenergy benefits and reductions of burdens to vulnerable and highly impacted communities.

In 2020, the Commission adopted three sets of rules to begin implementing CETA's requirements.¹ This docket initiated the second phase of rulemakings to implement the legislation. RCW 19.405.130(3) required the Department of Commerce (Commerce) and the Commission to adopt rules by June 30, 2022, defining the requirements for complying with RCW 19.405.030 through 19.405.050 with electric market purchases from centralized markets, and to address the prohibition of double counting of nonpower attributes under RCW 19.405.140. Commerce and the Commission both adopted rules from their respective rulemakings. Commerce additionally adopted rules providing an interpretation of compliance with RCW 19.405.040(1)(a).²

On June 29, 2022, the Commission used its discretion to delay the adoption of rules related to the interpretation of "use" when implementing chapter RCW 19.405. The Commission is now giving notice of updated proposed draft rules regarding the interpretation of "use" within chapter RCW 19.405. The updated proposed draft rules address feedback received after the publication of draft rules proposed in October 2023.³

SMALL BUSINESS ECONOMIC IMPACT QUESTIONNAIRE

The Commission requests that affected companies provide information concerning whether the draft revised rules create additional costs for your company. The cost information you provide concerning these draft rules will assist the Commission to assess the possible costs of the rules and to determine whether a Small Business Economic Impact Statement (SBEIS) is required.

Washington's Regulatory Fairness Act, chapter RCW 19.85, is intended to focus an agency's attention on the economic impact of proposed rules on affected businesses, involve affected businesses in developing rules, and minimize any disproportionate impact of the rules on small businesses.

Before adopting a rule that will impose more than minor costs on an industry, the Commission must analyze the compliance costs for **both large and small** businesses (including lost sales or revenue), involve small businesses in the development of the rule, take feasible steps to reduce the economic impact of the rule on small businesses, and prepare an SBEIS. A "small business" is any profit-making entity that has 50 or fewer employees.

¹ Integrated Resource Planning and Clean Energy Implementation Plans in Dockets UE-190698 & UE-191023, Purchase of Resources, Docket U-190837, and the Energy Independence Act, Docket UE-190652.

² WAC 194-40-410, WAC 194-40-415.

³ UE-210183 Draft Rules (OTS-5035.1), UE-210183 (October 25, 2023)

The Commission requests that companies submit to the Commission **no later than 5 p.m. on Friday, May 10, 2024** their analysis of whether the draft rules impose an additional cost impact on the company other than what the company already incurs to comply with WAC 480-07-510(6). Please be sure to include your company name; company contact person, including that person's contact phone number and email address; and the number of people your company employs. For each draft rule for which you identify an additional cost impact, please provide, at a minimum, the following information:

1. Identify the rule number, *i.e.*, WAC 480-100-XXX, of the draft proposed rule that you identify as having a cost impact.
2. Explain why there will be an additional cost impact on the company;
3. Provide a detailed analysis of how you calculated the additional cost impact of each draft rule you identify as having an additional cost impact; and
4. Identify any draft proposed rule that may create a cost savings to the company compared to the current rule.

Pursuant to WAC 480-07-250, responses to the SBEIS questionnaire must be submitted to the Commission in electronic format, specifically in .pdf format (using Adobe Acrobat or similar software). As provided in WAC 480-07-140(5), you must submit those responses via the Commission's web portal at www.utc.wa.gov/e-filing. If you are unable to submit documents via the portal, you may submit them via email to the Commission's Records Center at records@utc.wa.gov or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (Docket UE-210183).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post all responses and other comments on its website at www.utc.wa.gov/casedocket/2021/210183.

If you have questions regarding this rulemaking, you may contact staff lead Charlie Inman at (360) 664-1303, or by email at charlie.inman@utc.wa.gov.

JEFF KILLIP
Acting Executive Director and Secretary