



Received
Records Management
May 10, 2024

May 10, 2024

VIA ELECTRONIC FILING: <https://efiling.utc.wa.gov/Form>

Jeff Killip
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: Docket UE-210183 Relating to Electricity Markets and Compliance with the Clean Energy Transformation Act

Dear Mr. Killip:

The Washington Utilities and Transportation Commission (Commission) issued a Notice of Opportunity to File Written Comments on Draft Rules on April 9, 2024 (Notice).

The Public Generating Pool (PGP) is a trade association representing nine consumer-owned utilities that own and operate their own generating resources in Washington and Oregon. PGP appreciates the multiple opportunities we have had to provide comments to the Commission in various dockets addressing the Clean Energy Transformation Act (CETA).¹ PGP looks forward to continued collaborative discussions with the Commission, the Department of Commerce (Commerce), and other stakeholders on CETA implementation.

General Comments

CETA creates parallel—though not identical—requirements for consumer-owned utilities and investor-owned utilities. Whereas for investor-owned utilities the Commission is responsible for both implementing and determining compliance with CETA, for consumer-owned utilities implementing rules are adopted by Commerce and compliance with those rules is audited by the

¹ PGP has filed comments, for example, in this Docket UE 210183 (April 22, 2022, comments pertaining to hydroelectric generation; November 12, 2021, comments on “retained nonpower attributes”; and June 14, 2021, comments submitted jointly with Puget Sound Energy, Pacific Power, Avista, and the Washington Public Utility Districts Association, on double counting) as well as in Docket UE-191023 (June 29, 2020, comments addressing “use” and related issues; July 31, 2020, comments submitted jointly with PSE, Pacific Power, and Avista addressing “use” and including a legal memorandum) and Dockets UE-191023/UE-190698 (December 3, 2020, comments addressing issues of compliance and “use”). PGP incorporates those comments herein by reference.

State Auditor and enforced by the Attorney General.² And whereas the Commission is responsible for setting rates and overseeing investor-owned utility operations, for consumer-owned utilities that function is served by each utility's locally elected governing board.

As consumer-owned utilities, PGP's members are not subject to the Commission's jurisdiction; as such, the following comments are offered in the interest of emphasizing the merits of Commerce's adopted CETA rules relating to "use," which were finalized on June 17, 2022. We continue to encourage the Commission to adopt rules that are comparable to those adopted by Commerce so as to limit the possibility of friction that could arise in renewable energy credit (REC) and bilateral and centralized electricity markets as a result of having two different regulatory interpretations on "use" in the state.

Commerce's approach for demonstrating "use" is consistent with the plain language of RCW 19.405.010(1)(a).

RCW 19.405.040(1)(a), establishing CETA's 2030 Greenhouse Gas (GHG) Neutral Standard, requires an electric utility to "use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period," which use is verified by the retirement of RECs or other nonpower attributes, in accordance with RCW 19.405.040(1)(c) and RCW 19.405.040(1)(f). PGP believes that Commerce's adopted rules—which have informed approximately two years of consumer-owned utilities' operational decision-making to date—strike an important balance between addressing concerns around the use of nonpower attributes for compliance with CETA's GHG Neutral Standard and allowing utilities to continue participating in both bilateral and centralized electricity markets in a way that maintains reliability and affordability while advancing the goals of Washington's clean energy transformation. Most notably, PGP believes that Commerce's rules meet the Legislative intent of CETA to "ensure that the achievement of this policy does not impair the reliability of the electricity system or impose unreasonable costs on utility customers"³ by giving utilities the flexibility to use the nonpower attributes associated with renewable and nonemitting energy generation for CETA compliance across the four-year compliance period. Such an approach to "use" allows these utilities to meet their CETA obligations while participating in economically beneficial bilateral and centralized electricity markets and balancing the seasonal variability in carbon-free energy production with utilities' native loads.

Commerce's approach for demonstrating "use" preserves the integrity of CETA's statutory four-year compliance period.

PGP also believes that Commerce's rules balance CETA's statutory four-year compliance period framework with the policy objective of ensuring that consumer-owned utilities are prospectively

² RCW 19.405.090(10)

³ RCW 19.405.010

planning on meeting the 2030 GHG Neutral Standard at more granular timescales within each compliance period. In particular, PGP understands the non-binding hourly planning analysis required under WAC 194-40-410(4) as appropriately providing flexibility to a consumer-owned utility with respect to updating its analysis as load, resource, and other relevant inputs evolve over the course of the compliance period. PGP does not believe that compliance demonstrations at hourly, monthly, or annual granularities are supported by the statutory language of CETA.

Conclusion

PGP appreciates the opportunity to comment. We look forward to participating in future discussions about the implementation of CETA.

Sincerely,

/s/ Mary Wiencke

Mary Wiencke
Executive Director
Public Generating Pool