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Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Re: Comments of Renewable Northwest, the NW Energy Coalition, and Climate Solutions regarding issues related to electricity markets and compliance with the Clean Energy Transformation Act "use" rules, Docket UE-210183

I. INTRODUCTION

Renewable Northwest ("RNW"), the NW Energy Coalition ("NWEC"), and Climate Solutions thank the Washington Utilities and Transportation Commission ("the Commission") for this opportunity to comment in response to the November 4, 2024, Notice of Opportunity to File Written Comments on Draft Rules ("the Notice") regarding the "use" of electricity for compliance with the Clean Energy Transformation Act ("CETA"). After years of deliberating this issue, and with clear recognition in the April 9, 2024, draft rules that the flexibility of compliance tools offered to utilities should be limited or "capped," we are disappointed to see that the most recent November 2024 draft rules decline to make an official interpretation of "use" as it relates to CETA's 2030 greenhouse gas neutrality mandate. This is a clear win for the utilities, as they will have the ability to demonstrate compliance via the creative accounting of nonpower attributes ("NPAs"), a practice extensively discussed in this docket as "resource shuffling," thereby diluting the intent of CETA and delaying decarbonization.

We empathize with the Commission as it attempts to simultaneously consider the integrity of CETA and concerns over customer affordability. But rate impacts are already addressed in the framework of CETA,[1] and despite the Commission directly requesting that utilities perform a cost and emissions analysis to understand the impact of the previous iteration of draft rules,[2] no such analysis was produced (or has ever been produced across the docket's history).[3] Moreover, CETA plainly addresses this issue, stating:

> The transition to one hundred percent clean energy…*must happen faster than our current policies can deliver*. Absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security. The prices of clean energy technologies continue to fall, and are, in many cases, competitive or even cheaper than conventional energy sources.[4]

The Legislature goes further, proposing creative solutions to mitigate rate impacts, including granting Commission authority to conduct rate making that considers "performance and incentive-based regulation, multiyear rate plans, and other flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates,"[5] and bolstering its intent to "demonstrate progress towards making energy assistance funds available to low-income households."[6] We are disappointed that despite the extensive work in this docket to determine the ideal solution – in which all parties would compromise to some extent – utilities have in the end been granted additional layers of compliance flexibility beyond the off-ramps and creative regulatory solutions already provided within statute.

In these comments, we touch on each section of the draft rules, though we generally support a previous iteration of the draft rules which attempts to minimize resource shuffling – those filed April 9, 2024 or March 23, 2022. While we respectfully oppose the Commission's current direction because we do not feel it upholds the statute's intent, we do hope the Commission will consider our recommendations for the latest proposed rules, should it decide to continue in the current direction.

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[1] RCW 19.405.060(3)

[2] May 30, 2024, Notice of Opportunity to File Written Analysis and Comments on Effect of Draft Rules (UE-210183), *available at* UE-210183 Markets and CETA Compliance Rulemaking - Request for Analysis.pdf.

[3] Avista supplied a spreadsheet of the impact on the compliance eligibility of clean energy generation, but the analysis did not translate this data into impacts on compliance costs or greenhouse gas emissions. PacifiCorp and Puget Sound Energy declined to produce any analysis.

[4] RCW 19.405.010(3) (emphasis added).

[5] RCW 19.405.010(5).

[6] RCW 19.405.120(1)

II. COMMENTS

We begin by addressing the latest pushback by utilities to the Commission's previous approach to "use" which set a monthly load-based cap on the use of RECs or NPAs toward primary compliance. Though we recognize this approach as a compromise that addressed multiple utility-raised concerns while also putting limitations on the practice of resource shuffling, the utilities attacked the monthly framework, questioning the Commission's authority to implement it and claiming this approach "prohibits utilities from using all CETA-eligible generation within each statutory compliance period as the Legislature intended" – an opinion on the Legislature's intended meaning of "use" that we do not share.[7]

So before commenting on the current draft rules, we must remind the Commission that other rule frameworks have been proposed to minimize resource shuffling – a practice in which RECs or NPAs associated with excess CETA-compliant generation are submitted for primary compliance to mask the emitting generation serving a utility's load. In this case, resource shuffling would further undermine the efficacy of CETA because it enables trading across a policy boundary. For example, on March 23, 2022, after significant stakeholder feedback and multiple iterations of rule improvements, the Commission proposed draft rules that would limit resource shuffling via the compliance planning requirements:

> **WAC 480-100-650 Reporting and compliance.** (1) **Greenhouse gas neutrality resource portfolio performance standards and compliance.** A utility must demonstrate how its resource acquisition, resource retirement, and continued investment in and operation of existing resources serve a minimum of 80 percent of its retail electric load, or other minimum percentage established by the commission, with renewable or nonemitting electricity in each compliance period beginning January 1, 2030. Using electricity for compliance under RCW 19.405.040(1) means that a utility:
>
> (a) May not account for the ability to apply retained NPAs toward primary compliance under (c) of this subsection when developing its long-range integrated resource plan solution under WAC 480-100-620 and its CEIP under WAC 480-100-640 and must have models, scenarios, projections, and other information and analysis within the utility's IRP and CEIP that are consistent with this requirement.
>
> (b) 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.
>
> (c) May report retained NPAs toward primary compliance with interim or other targets under this section or WAC 480-100-665, but only if the utility has complied with (a) and

[7] June 21, 2024, Comments of Joint Utilities (UE-210183) at 1.

(b) of this subsection and subsection (6) of this section, and if applicable subsection (2) of this section during the period under review.[8]

This language would prohibit a utility from *planning* to use retained NPAs toward primary compliance, except for within the two-year contract term exemption. The intent of this proposal was to (1) require that a utility *plan* to meet at least 80% of its load with renewable and nonemitting resources, (2) support market optimization and thus strong market participation through an exemption to the limitation on retained NPAs,[9] and (3) allow a utility to use retained NPAs toward primary compliance at the end of a compliance period if necessary.

We feel this approach is the best compromise because it requires utilities to make a good faith effort to plan for a system that is 80% renewable and nonemitting, and it creates flexibility for utilities – flexibility that we still do not know the utilities need – to account for unforeseen circumstances, allowing utilities to divert some of the RECs they could sell for profit toward primary compliance.

But the point we want to make by recalling the 2022 draft rules is that the utilities have shown that they will not be content with any compliance framework that minimizes resource shuffling. In response to the March 23, 2022, draft rules, the joint utilities filed comments to express concern that the rule language "creates complex and administratively burdensome planning, acquisition, contracting and reporting requirements that will likely have multiple negative consequences…."[10]

This is important to note because the 2022 draft rules attempted to minimize resource shuffling through a planning-centric approach, and the response from utilities was that the planning would become too burdensome. But when the Commission proposed the April 9, 2024, draft rules with an approach to minimize resource shuffling by capping the activity on a monthly basis, the joint utilities issued a strong response that, "the Commission lacks the authority to adopt anything other than a four-year, multi-year compliance requirement for CETA's greenhouse gas standard…."[11]

We advise the Commission to recall the extensive history of this docket, with multiple approaches to "use" proposed, consistent utility pushback, and consistent reluctance from the utilities to provide analysis supporting their arguments.

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[8] UE-210183 Draft Rules (OTS-3653.3), UE-210183 (Mar. 23, 2022), *available at* https://apiproxy.utc.wa.gov/cases/GetDocument?docID=728&year=2021&docketNumber=210183.
[9] UE-210183 Summary of Comments on 2nd Use and Double Counting and Storage Draft Rules, *available at* https://apiproxy.utc.wa.gov/cases/GetDocument?docID=732&year=2021&docketNumber=210183.
[10] April 22, 2022, Comments of Joint Utilities (UE-210183) at 1, *available at* UE-210183-Jt-Utility-Comments(04-22-2022).pdf.
[11] June 21, 2024, Comments of Joint Utilities (UE-210183) at 2, *available at* 210183-Joint-Comments-(06-21-2024).pdf.

The following comments address the latest approach which centers on additional reporting requirements. **Because the compliance requirements for the greenhouse gas neutrality standard have been significantly relaxed compared to previous iterations of the rules, we strongly recommend:**

1. Additional scrutiny of the rules regulating compliance with the one-hundred percent clean standard, and
2. The addition of a rule reopener in 2032 to review the ability of these rules to support state policy.[12]

Definitions

To maintain consistency with the terminology used in regional market expansion discussions and to better reflect the process of allocating resources to particular jurisdictions, we recommend the draft term "Renewable Attribution Framework" be changed to "Greenhouse Gas Allocation framework," with "Greenhouse Gas" ("GHG") more broadly capturing the greenhouse gas emissions-focus of resource allocation in a markets context. Additionally, to maintain consistency with draft WAC 480-100-6XXc(2), we recommend the following changes to the draft definition of this term:

> (#) "Greenhouse Gas ~~Renewable Attribution~~ Allocation Framework" means, within the context of an organized electricity market, a system or protocol that allows for the attribution or allocation of renewable or nonemitting nonpower attributes that has been approved by the Commission as having sufficient safeguards ~~with protections~~ against the double counting of nonpower attributes.
>
> **WAC 480-100-6XXa Use of NPAs other than unbundled RECs to comply with the greenhouse gas neutral standard**
>
> The latest draft rule regarding compliance with the greenhouse gas neutral standard allows a utility to use RECs or NPAs toward its primary compliance demonstration so long as the RECs or NPAs are associated with electricity generated during the relevant compliance period. If this rule is implemented, a question posed by the Commission in a Notice issued November 5, 2020, will be answered affirmatively:
>
> *Do the [proposed] rules…allow a utility to produce renewable electricity in excess of the amount required to serve its load and use the RECs from that excess renewable electricity, sold off system, to cover periods of load in which more than 20 percent of its load is served by GHG emitting resources as a means of complying with RCW*

[12] See Attachment A for redlines to the Nov. 4, 2024, draft rules.

19.405.040(1)(b)(ii)? For example, can a utility comply with the 80 percent requirement through buying 1000 MWh of hydroelectricity in excess of its load service needs in every hour of the day during the spring runoff and resell that power while retaining the nonpower attributes for compliance?[13]

It is difficult to imagine that the original intent of CETA was to allow this type of compliance planning, hence our continued pushback. We remain concerned that if utilities do not have to plan to serve load with renewable and nonemitting resources but can instead rely on REC and NPA banking, then emitting resources will remain a viable option in utilities' portfolio modeling until 2045. And at that time, the utilities will say that there are periods of the day or year when it is too difficult to serve load with renewable or nonemitting resources. And we will be in a position in 2045 that we could have been in 2030 – with utilities *starting* to explore creative ways to achieve a fully decarbonized system.

We do appreciate that the Notice issued alongside the draft rules explicitly states that "the Commission believes it has the authority to implement a monthly use cap"[14] – the previous approach to minimize resource shuffling – and we agree. The statute gives the Commission clear authority to consider and implement "flexible regulatory mechanisms where appropriate to achieve fair, just, reasonable, and sufficient rates and its public interest objectives."[15] The monthly use cap would have been such a flexible regulatory mechanism, not an attempt to granularize the four-year compliance term.

Before abandoning the consideration of guardrails to minimize resource shuffling, we offer another creative and simple solution proposed by the Center for Resource Solutions ("CRS") that would require very little adjusting to the current draft rules. CRS proposed long ago that if resource shuffling must be permitted, the Commission should consider limitations on the replacement power that serves customers and is paired with the NPAs of renewable or nonemitting generation. CRS noted that while the replacement power may be "unspecified or cleaner than the resold energy," utilities should be prevented "from replacing the unspecified power they sell with specified, dirtier power" and pairing that fossil-based generation with nonpower renewable attributes for primary compliance with RCW 19.405.040(1).[16] **We recommend the following rule language to this effect:**

> (x) If a utility claiming a renewable resource or nonemitting generation as provided in subsection (2) sells or transfers ownership of the electricity, it may not use the nonpower attributes associated with that sale of electricity for compliance with RCW 19.405.040(1)

[13] UE-191023 Notice of Opportunity to File Written Comments (Nov. 5, 2020), *available at* https://apiproxy.utc.wa.gov/cases/GetDocument?docID=407&year=2019&docketNumber=191023.
[14] UE-210183 Notice of Opportunity to File Written Comments (Nov. 4, 2024) at 2.
[15] RCW 19.405.010(5).
[16] Dec. 3, 2020, Comments of CRS (UE-190698 and UE-191023) at 4. *Available at* 191023 190698-CRS Cmt12-3-2020.pdf.

if replacement electricity is procured in a transaction that contractually specifies a generation source with an emissions factor that is greater than the regional grid average.

Considering there are multiple regulatory mechanisms that could address resource shuffling, we urge the Commission to allow for a data collection period upon implementing these rules, followed by a rule reopening to reconsider whether the rules adequately guide utility compliance with the 2030 mandate. Our proposal is that the rule reopener be set for 2032, which would 1) allow the Commission time to collect data on utility compliance pre- and post-effective date of the greenhouse gas neutrality standard and 2) enable rule course-correction to impact the compliance period beginning in 2034. **Thus, we recommend the following language be added to draft WAC 480-100-6XXa:**

(x) The [commission] shall commence a review of these rules no later than September 1, 2032, and, if determined to be necessary, recommend revisions to achieve the policy objectives set forth in chapter 19.405 RCW.

WAC 480-100-6XXb Portfolio planning requirements to comply with the greenhouse gas neutral standard

The draft rule on portfolio planning for compliance with RCW 19.405.040(1) requires a utility to demonstrate how its resource acquisition, retirement, and operation strategies will achieve a portfolio that serves retail electric customers with at least 80% renewable and nonemitting resources by 2030. We strongly encourage the Commission to maintain the language in draft WAC 480-100-6XXb that requires utility compliance with the primary obligation under RCW 19.405.040(1)(a) "or other minimum percentage of retail electric load established by the commission through an approved interim target…."[17] This will protect the integrity of the Commission's review and approval process of utility Clean Energy Implementation Plans ("CEIPs") and will support the statutory language requiring utilities to "demonstrate progress toward" meeting the clean energy standards.[18]

We also support subsection (2) of this draft rule, which requires a utility to conduct "an hourly analysis of the expected renewable or nonemitting output of the preferred resource portfolio, and how this is intended to meet its primary compliance obligation under RCW 19.405.404(1)(a)."[19] In the past there have been utility objections to this language, but we reject any pushback to an hourly planning requirement considering Washington integrated resource planning ("IRP") rules

[17] Draft WAC 480-100-6XXb(1).

[18] RCW 19.405.060(1)(b)(iii).

[19] Draft WAC 480-100-XXX(2) regarding Portfolio planning requirements to comply with the greenhouse gas neutral standard.

already require resource modeling to be informed by hourly data.[20] Per WAC 480-100-620(11), a utility's portfolio analysis and preferred portfolio must be able to:

> (b) Serve utility load, based on hourly data, with the output of the utility's owned resources, market purchases, and power purchase agreements, net of any off-system sales of such resource….[21]

Further, WAC 480-100-650(4) on data and contract reporting requirements for clean energy compliance reports which must be submitted to the Commission by July 1, 2026, and at least every four years thereafter, requires utilities to provide an analysis and supporting data in an hourly format for:

> (i) Total Washington retail sales.
> (ii) Retail sales for customers participating in a voluntary renewable energy purchase program in alignment with RCW 19.405.020 (36)(b).
> (iii) Total electricity production for all renewable and nonemitting generation owned, contracted, or controlled by the utility.
> (iv) Generation from qualifying facilities as described in RCW 19.405.020 (36)(a).
> (v) All electricity sold or transferred for all bundled sales of electricity from renewable and nonemitting sources. For the purposes of this subsection, bundled electricity is electricity that is sold with all its nonpower attributes in the same transaction.
> (vi) All electricity sales in which the electricity was sold by that utility in a wholesale market sale without its associated nonpower attributes.[22]

Because utilities' IRPs must be based on hourly analyses, and because the clean energy compliance report requirements require hourly data reporting, we feel it would be the most natural progression for the CETA compliance planning requirements to be based on hourly analyses.

We do however recommend additional language to draft 480-100-6XXb(2) that mirrors the "other minimum percentage" language in -6XXb(1):

> (2) Each utility must meet the requirement in subsection (1) of this section through, at minimum, an hourly analysis of the renewable or nonemitting output of the preferred resource portfolio, and how this is intended to meet its primary compliance obligation under RCW 19.405.040(1)(a), or other minimum percentage of retail electric load established by the commission through an approved interim target, under low and expected renewable output conditions.

[20] WAC 480-100-620.
[21] WAC 480-100-620(11)(b).
[22] WAC 480-100-650(4).

WAC 480-100-6XXc Use of RECs and NPAs to comply with the 100 percent renewable or nonemitting standard

The key factor differentiating the 2045 standard from the 2030 standard is that the energy a utility claims for compliance must not be used "for any purpose other than supplying electricity to [the utility's] Washington retail electric customers."[23] A hard stop on resource shuffling in 2045 is essential to upholding the plain language of RCW 19.405.050(1) requiring that "all sales of electricity to Washington retail electric customers" be supplied by renewable and nonemitting generation.[24]

However, the state of the region's expanded markets future is in flux, with the Southwest Power Pool ("SPP") having submitted GHG tariff language to the Federal Energy Regulatory Commission ("FERC") for review and with the California Independent System Operator ("CAISO") in early-stage consideration of GHG tracking and accounting for the forthcoming extended day-ahead market ("EDAM"). We are concerned that the draft rules go beyond the originally-intended use of "nonpower attributes" as a compliance tool, which was to capture those CETA-compliant resources that do not have an associated REC. It seems, though, that the direction of the current draft rules is to use RECs and NPAs interchangeably, allowing utilities to claim NPAs from electricity acquired through the organized market without the REC, even if there are RECs associated with that electricity that the utility does not own and retire. This would enable double counting, thereby violating draft WAC 480-100-6XXa(8) and existing policy that defines RECs as including all of the nonpower attributes associated with the generation.[25]

There is currently no industry acknowledgement of NPAs as an emissions or clean energy tracking tool, and we do not support CETA compliance rules that allow market-related NPAs to be separated from the associated RECs. **We recommend that NPAs only be considered for primary compliance with RCW 19.405.050(1) if they are associated with resources that are not REC-generating.** The market allocation frameworks under consideration in the West require RECs for renewable electricity allocation, and **we strongly recommend the Commission make the following change to draft WAC 480-100-6XXc(2)**:

> (2) A utility may use any REC or NPA to comply with the requirements of RCW 19.405.050(1) if the utility acquired the REC or NPA through participation in an organized electricity market with a ~~renewable~~ GHG attribution framework that has been approved by the Commission as having sufficient safeguards against the double-counting

[23] Draft WAC 480-100-6XXc(1)(b).

[24] RCW 19.405.050(1).

[25] RCW 19.405.020(30) states, "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes *all of the nonpower attributes* associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department" (emphasis added).

of RECs and nonpower attributes. NPAs acquired in this context are considered for compliance with RCW 19.405.050(1) only for resources that are not REC-generating.

We anticipate that NPAs as a compliance tool may lose relevance in the context of markets, or at least that there may be more effective means of tracking utility compliance that protect against double counting. Ongoing discussions at SPP regarding the future Markets+ day-ahead offering, and discussions at CAISO regarding the forthcoming EDAM do not consider any form of NPAs besides the underlying resource characteristics that permit a resource to be deemed deliverable to a carbon-pricing zone. And while the tracking and reporting requirements currently under consideration in these markets discussions are emissions-focused – tracking average entity GHG emissions, residual market mix emissions rate, regional average mix emissions rate, etc. – CETA is a load-based program with a REC-based accounting framework, RECs being the tool to 1) verify the "use" of electricity and 2) be retired to prevent double counting. The draft rules must treat market participation such that state policy is upheld, and we believe this can be done in a way that does not frustrate the robust market participation of Washington utilities.

To this point, we recommend that the Commission take special care to ensure that electricity from organized markets be considered for CETA compliance if 1) the generation is allocated to the utility by a Commission-approved GHG allocation framework and 2) associated RECs are required for a compliance demonstration. In our view, draft WAC 480-100-6XXa(6) enables REC matching with any renewable or nonemitting generation allocated in Washington, meaning renewable and nonemitting market purchases can be matched with either the associated RECs or equivalent RECs associated with system generation. This of course requires that the market share data with the Western Renewable Energy Generation Information System ("WREGIS"), which should be considered in the Commission's consideration of a GHG attribution framework that supports Washington policy. And because this flexibility protects utilities from REC price gouging, we support the inclusion of this flexibility in draft WAC 480-100-6XXc as well.

The renewable attribution frameworks for SPP Markets+ and CAISO EDAM remain incomplete, leaving their final structure and effectiveness uncertain. As these frameworks play a critical role in aligning regional market operations with state policy goals, it is essential to carefully evaluate their robustness during the rule reopening process. This evaluation should ensure the frameworks are well-designed to support state renewable energy policies and adapt to evolving market and regulatory landscapes. And considering Washington has announced plans to link its cap-and-invest program with the programs in California and Quebec, there will be many more discussions about how Washington state policy must be considered in that transition, which is projected to occur sometime in 2025. For that reason we recommend a rule reopener upon finalization of the program linkage:[26]

[26] Cap-and-invest linkage, State of Washington Dept. of Ecology. *Available at* https://ecology.wa.gov/air-climate/climate-commitment-act/cap-and-invest/linkage.

(x) The [commission] shall commence a review of these rules no later than September 1, 2032, and, if determined to be necessary, recommend revisions to achieve the policy objectives set forth in chapter 19.405 RCW.

WAC 480-100-650 Reporting and Compliance

We support the additional reporting requirements to utilities' annual clean energy progress reports, and we look forward to finally understanding the extent to which utilities will be serving Washington customers with renewable and nonemitting generation. However, it seems there is a missing piece to the additional draft reporting requirements which would enable a complete reflection of utilities' compliance practices – a MWh value for the amount of renewable or nonemitting energy that the utility generated or purchased in the month. Alongside the other draft reporting requirements, this addition would enable the Commission and stakeholders to assess how much renewable and nonemitting energy a utility generated or purchased *and* counted toward primary compliance. Without this additional metric, it would be overly burdensome, if at all possible, to obtain the full picture of utilities' compliance accounting. Thus, we recommend the addition of the following language to WAC 480-100-650(3)(l):

(x) The amount of renewable or nonemitting energy that the utility generated or purchased, justified by the vintage of the associated RECs or NPAs for resources that do not generate RECs;

As noted above, we only support the reporting of NPAs for resources that do not generate RECs, which is reflected in our Appendix A redlines of the draft rules. And we hope the Commission will consider our recommendation for a rule reopener to assess the effectiveness of the compliance framework after a series of clean energy progress reports have been filed, revealing the extent to which utilities are engaging in resource shuffling rather than meaningfully decarbonizing their systems.

III. CONCLUSION

RNW, NWEC, and Climate Solutions again thank the Commission for its consideration of this feedback on the issue of "use" and compliance with RCW 19.405.040(1) and -.050(1). We hope the Commission will reconsider its latest decision to relax the compliance rules, and we look forward to continued engagement in this docket.
Sincerely,

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APPENDIX A

The following definition to be changed in WAC 480-100-605

"Nonpower attributes" or “NPA” means all environmentally related characteristics, exclusive of energy, capacity reliability, and other electrical power service attributes, that are associated with the generation of electricity including, but not limited to, the facility's fuel type, geographic location, vintage, qualification as a renewable resource, and avoided emissions of pollutants to the air, soil, or water, and avoided emissions of carbon dioxide and other greenhouse gases. Nonpower attributes does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other greenhouse gases at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as greenhouse gas emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing greenhouse gas emissions to the electricity.

The following definitions to be added to WAC 480-100-605

(#) "Primary compliance” means the portion of the greenhouse gas neutrality standard contained in RCW 19.405.040(1)(a) that cannot be met through the alternative compliance options under RCW 19.405.040(1)(b).

(#) “Western Renewable Energy Generation Information System” (“WREGIS”) is the renewable energy credit tracking system for purposes of verification of renewable energy credits under chapter 19.405 RCW.

(#) “Organized electricity market” means a centralized wholesale electricity market that facilitates the purchase and sale of electricity between multiple participants.

(#) “Greenhouse Gas ~~Renewable Attribution~~ Allocation Framework” means, within the context of an organized electricity market, a system or protocol that allows for the attribution or allocation of renewable or nonemitting nonpower attributes that has been approved by the Commission as having sufficient safeguards ~~with protections~~ against the double counting of nonpower attributes.

(#) “Vintage” means the month and year in which electricity and its associated RECs or NPAs is generated.

WAC 480-100-6XXa Use of RECs or NPAs other than unbundled RECs to comply with the greenhouse gas neutral standard.

(1) In order to designate a REC or NPA for primary compliance under RCW 19.405.040(1)(a) or to demonstrate performance compared to an interim target established under RCW 19.405.060(1), a utility must comply with the requirements of this section. The requirements of this section apply to all RECs that are retired and NPAs from nonemitting resources that are presented to meet primary compliance. NPAs are considered for resources that are not REC-generating.

(2) Each electric utility must retire any RECs associated with renewable or nonemitting electricity used for compliance. The vintage of the RECs being retired must be dated within the four-year compliance period that the RECs are being claimed, whether for primary or alternative compliance.

(3) WREGIS registration. If WREGIS registers RECs for a resource that falls under the definition of nonemitting electric generation in RCW 19.405.020(28), a utility must verify, track, and retire those RECs in the same manner as RECs from renewable resources.

(4) For resources that do not generate RECs, a utility must demonstrate sole ownership of all NPAs associated with the electricity claimed towards primary compliance. The vintage of the NPAs must be dated within the four-year compliance period that the RECs are being claimed, whether for primary or alternative compliance.

(5) Unless a REC or NPA is compliant with subsection (6) of this section, the utility must acquire the RECs or NPAs with the electricity associated with the RECs or NPAs in a single transaction-through ownership or control of the generating facility or through a contract for purchase or exchange.

(6) RECs or NPAs associated with electricity generated by a renewable or nonemitting resource dispatched in an organized electricity market are eligible to count towards a utility's primary compliance if the electricity is ~~attributed~~ allocated to the utility by the organized electricity market's ~~renewable attribution~~ GHG allocation framework in the same time period (e.g. monthly); or the utility separately acquires the RECs or NPAs associated with the renewable or nonemitting electricity from the resource ~~or system~~ that was ~~acquired~~ allocated in the organized electricity market; or the utility separately acquires RECs or NPAs associated with any renewable or nonemitting generation allocated to Washington by a GHG allocation framework in the same time period.

(7) The electricity associated with the RECs or NPAs must be consistent with WAC 480-100-650 (1)(d).

(8) A utility may retire a REC or NPA for primary compliance only if the utility demonstrates that there is no double counting of that REC, NPA, or the associated clean energy within another load-based program in Washington or other jurisdictions. At a minimum, this requires that any bilateral sale of electricity without its associated RECs or NPAs must include terms stating that the sale is of unspecified electricity, and the utility must not offer for sale in any organized electricity market the electricity without its associated RECs or NPAs characterized as a zero or non-GHG resource unless it is reported as null power.

(9) The [commission] shall commence a review of these rules no later than September 1, 2032, and, if determined to be necessary, recommend revisions to achieve the policy objectives set forth in chapter 19.405 RCW.

NEW SECTION

WAC 480-100-6XXb Portfolio planning requirements to comply with the greenhouse gas neutral standard.

(1) When submitting an Integrated Resource Plan, Clean Energy Implementation Plan, Clean Energy Action Plan, or Integrated System Plan required by statute to the commission, a utility must demonstrate how its resource acquisition, resource retirement, and continued investment in and operation of existing resources meet its primary compliance obligation under RCW 19.405.040(1)(a), or other minimum percentage of retail electric load established by the commission through an approved interim target, with renewable or nonemitting electricity in each compliance period beginning January 1, 2030.

(2) Each utility must meet the requirement in subsection (1) of this section through, at a minimum, an hourly analysis of the renewable or nonemitting output of the preferred resource portfolio, and how this is intended to meet its primary compliance obligation under RCW 19.405.040(1)(a), or other minimum percentage of retail electric load established by the commission through an approved interim target, under low and expected renewable output conditions.

NEW SECTION

WAC 480-100-6XXc Use of RECs and NPAs to comply with the 100 percent renewable or nonemitting standard.

(1) Except as provided in subsection (2) of this section, a utility may not use a REC or NPA to comply with the requirements of RCW 19.405.050(1) unless:

(a) The utility acquired the REC or NPA and the electricity associated with the REC or NPA in a single transaction through 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 its Washington retail electric customers.

(2) A utility may use any REC or NPA to comply with the requirements of RCW 19.405.050(1) if the utility acquired the REC or NPA through participation in an organized electricity market with a ~~renewable~~ GHG attribution framework that has been approved by the Commission as having sufficient safeguards against the double-counting of RECs and nonpower attributes. NPAs acquired in this context are considered for compliance with RCW 19.405.050(1) only for resources that are not REC-generating.

(3) The [commission] shall commence a review of these rules no later than September 1, 2032, and, if determined to be necessary, recommend revisions to achieve the policy objectives set forth in chapter 19.405 RCW.

EDITING EXISTING SECTION

WAC 480-100-650 Reporting and compliance

(3) Annual clean energy progress reports. On or before July 1st of each year beginning in 2023, other than in a year in which the utility files a clean energy compliance report, the utility must file with the commission, in the same docket as its most recently filed CEIP, an informational annual clean energy progress report regarding its progress in meeting its targets during the preceding year. The annual clean energy progress report must include, but is not limited to:

(a) Beginning July 1, 2027, and each year thereafter, an attestation for the previous calendar year that the utility did not use any coal-fired resource as defined in this chapter to serve Washington retail electric customer load.
(b) Conservation achievement in megawatts, first-year megawatt-hour savings, and projected cumulative lifetime megawatt-hour savings.
(c) Demand response program achievement and demand response capability in megawatts and megawatt hours.
(d) Renewable resource capacity in megawatts, and renewable energy usage in megawatt hours and as a percentage of electricity supplied by renewable resources.
(e) All renewable energy credits and the program or obligation for which they were used (e.g., voluntary renewable programs, renewable portfolio standard, clean energy transformation standards).
(f) Verification and documentation of the retirement of renewable energy credits for all electricity from renewable resources used to comply with the requirements of RCW

19.405.040, 19.405.050, a specific target, or an interim target, except for electricity purchased from Bonneville Power Administration, which may be used to comply with these requirements without a renewable energy credit until January 1, 2029, as long as the nonpower attributes of the renewable energy are tracked through contract language.
(g) Nonemitting resource capacity in megawatts, and nonemitting energy usage in megawatt hours and as a percentage of total electricity supplied by nonemitting energy.
(h) The utility's greenhouse gas content calculation pursuant to RCW 19.405.070.
(i) An electronic link to the utility's most recently filed fuel mix disclosure report as required by RCW 19.29A.140.
(j) Total greenhouse gas emissions in metric tons of CO2e.
(k) Demonstration of ownership of nonpower attributes for nonemitting generation using attestations of ownership and transfer by properly authorized representatives of the generating facility, all intermediate owners of the nonemitting electric generation, and an appropriate company executive of the utility; the utility may not transfer ownership of the nonpower attributes after claiming them in any compliance report.
(l) The following information on at least a monthly basis, in MWh;

(x) The amount of renewable or nonemitting energy that the utility generated or purchased, justified by the vintage of the associated RECs or NPAs for resources that do not generate RECs;

(i) The amount of renewable or nonemitting energy that the utility counts towards primary compliance, justified by the vintage of the associated RECs or NPAs for resources that do not generate RECs;

(ii) The total load served by the utility before line losses;

(iii) The retail load served by the utility; and

(iv) The total amount of energy storage resource charging, for resources owned or contracted by the utility, that the utility fulfilled.

(m) The storage efficiency of the resources reported in subsection (l) of this section.
(n) Other information the company agreed to or was ordered to report in the most recently approved CEIP or biennial CEIP update.