



NW Energy Coalition

UE-210183

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

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 (“NWE”), and Climate Solutions thank the Washington Utilities and Transportation Commission (“the Commission”) for this opportunity to comment in response to the April 1, 2025, 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”). The draft rules create stronger protections against the double counting of clean power attributes, distinguish renewable energy certificates (“REC”) from nonpower attributes (“NPA”) for improved accounting, and establish compliance requirements for centralized wholesale market transactions that are sufficiently flexible while upholding the statute. Our organizations appreciate the revisions to these rules which protect the integrity of clean power claims, but we must acknowledge that these rules have been relaxed over the course of this rulemaking with the likely effect of extending the lifetimes of emitting

resources contributing to the significant environmental health disparities experienced by Washington ratepayers.¹

Our organizations have consistently advocated for these rules to strictly limit the practice of using retained RECs or NPAs for primary compliance with the 2030 standard, and we continue to support elements of a previous iteration of these rules which restricted utilities' ability to incorporate retained RECs or NPAs in compliance planning.² This essential planning restriction would require a utility to meet at least eighty percent of its load with renewable and nonemitting resources—not arrange clean power attributes over a four year period such that emitting generation contributes toward a greenwashed portfolio. Without utilities actually planning their portfolios to meet CETA's mandates, with no front-end consideration of banked RECs or NPAs, this compliance framework may perpetuate the concerns shared in the United Nations Emissions Gap Report 2024, which highlights “a massive gap between rhetoric and reality.”³ We are hopeful that the Commission will use its authority to revise these rules in the future, should it be clear that resource shuffling is delaying utilities' transition from emitting generation.

Our position on these rules is well documented in this docket, and though we continue to support tighter restrictions on retained RECs and NPAs for primary compliance, we focus these comments on the improvements made to the draft rules to protect against the double counting of clean power attributes and establish a compliance framework for transactions made in a centralized electricity market.

I. COMMENTS

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

In the Notice the Commission recognizes that “any utility claiming renewable energy for primary compliance must demonstrate ownership of Renewable Energy Certificates (RECs) or nonpower

¹ Washington Environmental Health Disparities Map, *available at* <https://doh.wa.gov/data-and-statistical-reports/washington-tracking-network-wtn/washington-environmental-health-disparities-map>.

² 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>. These draft rules would (1) require that a utility plan to meet at least 80% of its load with renewable and nonemitting resources, (2) support market optimization and strong market participation through a contract term exemption from the restriction on retained NPAs in economic decision making, and (3) allow a utility to use retained NPAs toward primary compliance at the end of a compliance period if necessary.

³ United Nations Environment Programme. (2024). *Emissions Gap Report 2024: No more hot air ... please!* Available at <https://www.unep.org/resources/emissions-gap-report-2024>.

attributes (NPAs).”⁴ To that end, the Commission has improved the rules such that RECs are required for any REC-generating resource while NPAs are limited to resources that are not REC-generating. Specifically, draft WAC 480-100-6XXa(4) and (9) consider NPAs for primary compliance only if the resource does not generate RECs. As highlighted in comments submitted by the Environmental Protection Agency, “[s]eparately accounting for NPAs from [energy attribute certificates] and RECs is likely to reduce the integrity of clean power claims, increase market uncertainty, and complicate clean energy markets that have effectively served regulatory compliance and voluntary customers.”⁵ We appreciate that the Commission has incorporated the EPA’s feedback such that Washington policy will uphold the industry’s well-established and growing clean attribute tracking systems.

Draft WAC 480-100-6XX(a)(6) allows utilities to use RECs or NPAs associated with resources participating in centralized wholesale markets when generation is allocated to a utility through the market’s resource allocation framework by (1) owning the RECs or NPAs or (2) separately acquiring them. This avoids the “single transaction” requirement which current market constructs cannot support, though we hope the markets do evolve to support this level of tracking in the future. Further, these rules create pressure on new market allocation frameworks to coordinate with REC tracking systems such as the Western Renewable Energy Generation Information System (“WREGIS”). Because these rules require the market allocation framework be paired with RECs for primary compliance, creating a bundled claim equivalent to a single transaction, utilities may push market operators to help facilitate coordination with REC systems, ultimately improving the transparency of market transactions across the footprint.

Draft WAC 480-100-6XX(a)(8) layers on additional protections against double counting, requiring utilities to explicitly demonstrate no double counting of clean energy attributes with “another load-based program in Washington or other jurisdictions.” The contract requirements for bilateral sales will bolster utility accountability, and the limitation on importing specified power to a centralized electricity market will ensure Washington ratepayers are benefiting from clean energy investments. We strongly support these provisions against double counting.

There is one issue we feel still needs to be addressed in these rules: how storage load and round-trip losses may affect primary compliance. The data and contract reporting requirements in WAC 480-100-650 state, “Except for storage resources located on the customer side of a retail meter, any electrical consumption or loss resulting from the charging, holding, and discharging of storage resources is not considered retail electric load as defined in RCW 19.405.020(36).”⁶ Excluding storage charging from retail electric load is reasonable as long as the RECs or NPAs associated with charging the storage resource remain associated with the electricity that is

⁴ Notice at 2.

⁵ Dec. 9, 2024, comments of U.S. Environmental Protection Agency (UE-210183), Clean Air & Power Division, at 2.

⁶ WAC 480-100-650(4)(d)(ii).

discharged. Excluding storage round-trip losses from retail electric load is a bit more tricky and likely requires active monitoring by the Commission. As more storage resources come online in the region, efficiency losses could create a compliance gap that allows utilities to use GHG-intensive generation to meet load.

Using a hypothetical, if in a given hour a utility charges 1 GW of storage resources using eligible renewable resources, but the storage resources operate with an 80% round-trip efficiency, then the utility will end up with 1000 RECs but only 800 MWh of electricity discharged from storage; this would leave a gap of 200 MWh for which the utility holds CETA-eligible RECs but could in practice be using generation from fossil resources.

Importantly, the Department of Commerce (“the Department”) also flagged in its CR-102 adopting rules implementing CETA the need to revisit this issue. In response to RNW’s comment that battery storage should only fall under the renewable energy target when charged with renewable resources, the Department noted, “Accounting for storage resources in CETA needs further discussion.”⁷ To our understanding, this supplemental discussion has not kicked off, and we recommend the joint agencies collaborate to find a solution to this potential compliance gap.

Storage resources will become increasingly important for meeting the region’s capacity needs across the energy transition, and it is essential to protect against compliance loopholes related to the deployment of these key resources.

Draft 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 eighty percent renewable and nonemitting resources by 2030. We strongly support the language in draft WAC 480-100-6XXb that requires utility compliance with the primary obligation under RCW 19.405.040(1)(a) “in addition to any other minimum percentage of retail electric load established by the commission through an approved interim target...”⁸ 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.⁹

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

⁷ Department of Commerce CR-102 implementing Chapter 194-40 WAC – Clean Energy Transformation Act, at 32.

⁸ Draft WAC 480-100-6XXb(1).

⁹ RCW 19.405.060(1)(b)(iii).

how this is intended to meet its primary compliance obligation under RCW 19.405.404(1)(a),” and we appreciate the addition of “or other minimum percentage of retail electric load established by the commission through an approved interim target,”¹⁰ —a recommendation from our November 27, 2024, comments.

Draft WAC 480-100-6XXb(3) addresses the Commission’s expectation that “utilities will be prepared to demonstrate why discrepancies exist between previously submitted plans and actuals when assessments are made.”¹¹ This draft provision requires utilities to model their portfolios in low renewable output conditions. We hope this provision, which is simply an element of risk assessment utilities should already be incorporating, results in dynamic operational solutions to compensate for potential low output events as opposed to complacency with elevated emissions during these periods. Early planning for low renewable output conditions should be in efforts to create more dynamic systems that can maintain reduced emissions despite low renewable output. We hope this addition to the modeling requirements results in utility efforts to diversify their energy mix, optimize transmission capacity (*e.g.*, via deployment of grid enhancing technologies), invest in storage solutions, and strengthen demand response and energy efficiency programs.

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

Again, we appreciate that the draft provision for the 2045 standard preserves the integrity of clean power claims by distinguishing between resources that are and are not REC-generating for the purposes of compliance demonstrations. Draft 480-100-6XXc(1)(b) states 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.”¹² A firm 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.¹³

Draft 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. In our November 27

¹⁰ Draft WAC 480-100-XXX(2) regarding Portfolio planning requirements to comply with the greenhouse gas neutral standard.

¹¹ Notice at 2.

¹² Draft WAC 480-100-6XXc(1)(b).

¹³ RCW 19.405.050(1).

comments we recommended the following addition to the monthly reporting requirements in draft WAC 480-100-650(3)(1):

(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;

Our aim was to create a complete picture of a utility's compliance accounting that includes any sort of compliance arbitrage strategies. This would help the Commission to understand how effectively a utility's portfolio meets its load requirements with renewable and nonemitting resources on a monthly basis. We hope that in the absence of this additional information, the Commission has a plan for tracking the extent to which utilities are engaging in resource shuffling to meet primary compliance requirements. This oversight may become increasingly important in the lead up to 2045 when REC accounting will no longer provide a viable means for compliance.

We also appreciate that the Commission “maintains the authority to consider changes to its rules at any time....”¹⁴ We hope the Commission will assess the effectiveness of this compliance framework to transition utilities away from dirty generation—faster than pure economics would deliver—and after a series of clean energy progress reports have been filed, assess the extent to which utilities are engaging in resource shuffling rather than decarbonizing their systems. We hope the extensive history of this docket, which includes multiple sets of proposed draft rules minimizing resource shuffling and many stakeholder suggestions, will serve as a resource in a future scenario in which a rule adjustment may be necessary.

III. CONCLUSION

RNW, NWECA, 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 appreciate the considerable effort by Commission Staff to develop rules that uphold CETA's intent while maintaining sufficient flexibility for utilities to consider rate impacts to customers. We look forward to continued engagement in this issue as it unfolds beyond the 2030 mandate.

¹⁴ Notice at 3.

Sincerely,

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