NW Energy Coalition
for a clean and affordable energy future

RE: Rulemaking for Energy Independence Act (EIA), WAC 480-109, Docket UE- 190652

April 30, 2020

SENT VIA WEB PORTAL

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission 621 Woodland Square Loop SE
Lacey, Washington 98503

Dr. Mr. Johnson,

The NW Energy Coalition ("NWEC" or "Coalition") submits the following comments pursuant to the Notice of Opportunity to File Written Comments dated March 30, 2020 in UE-190652.

The Coalition is an alliance of approximately 100 organizations united around energy efficiency, renewable energy, fish and wildlife preservation and restoration in the Columbia basin, low-income and consumer protections, and informed public involvement in building a clean and affordable energy future.

Overall, we appreciate staff's time and diligence to detail in drafting limited changes where necessary in the EIA related to Clean Energy Transformation Act (CETA). In addition to the following comments, the Coalition submits a redline of the draft rules with our edits highlighted. Our comments follow the order of the proposed rules.

WAC 480-109-060 Definitions

(12)(f)(ii) incremental energy from qualified biomass – the draft rule left out part of the current rule, WAC 194-40-100(3)(b), which the Coalition recommends be added back in:

> (ii) Beginning January 1, 2007, the facility must demonstrate its baseline level of average net generation over a three-year period, excluding any periods in which operation of the qualified biomass facility was unrepresentative of normal operating conditions, prior to the capital investment in order to calculate the amount of incremental electricity produced;

(12)(g) federal incremental hydropower – the proposed new draft language omitted part of the description in the statute RCW 19.405.040(1)(d) from which it is derived:

(g) That portion of incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, attributable to a qualifying utility's share of the electricity output from hydroelectric generation projects whose energy output is marketed by the Bonneville Power Administration where the additional generation does not result in new water diversions, ~~or~~ impoundments, bypass reaches or expansion of existing reservoirs; or

(14) Energy Assistance need - the draft rule defines "energy burden" as being "equal to 6%". Nationally, 6% is a commonly used standard, as we pointed out in our previous comments. While Washington State's overall utility costs and average energy burden are lower compared to the rest of the United States[1], those lower costs are often offset by much higher housing and other living costs (such as rental rates, property/sales/other taxes, etc.) in several parts of the state. Utilities should be able to determine a threshold lower than 6% to determine bill affordability based on local economic conditions. Therefore, the Coalition recommends the following edit to the draft rule:

(14) "Energy assistance need" means the amount of assistance necessary to achieve an energy burden ~~equal to~~ not to exceed six percent for utility customers.

(17) "Greenhouse gas content calculation" – as currently formulated the rule is too narrow to capture the broader intent of the law; the Coalition urges the following edit to the draft rule:

(17)"GHG content calculation" "means a calculation expressed in carbon dioxide equivalents made by the department of ecology for the purposes of determining the complete lifecycle emissions attributable to a fuel, including emissions resulting from the extraction, production, transport, and ~~from~~ complete combustion or oxidation of fossil fuels and the greenhouse gas emissions in electricity for use in calculating the greenhouse gas emissions content in electricity."

(22) "Low-income" - As drafted, the current rules limit the definition to "household incomes that are two hundred percent of federal poverty level or less, adjusted for house- hold size". The statute directs the commission to define low income not to "exceed the higher of eighty percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size". The statutory language choice was intentional, to allow utilities to choose the standard that adjusts for circumstances in local jurisdictions. The original, statutory language provides more flexibility for utilities to adjust for local economic conditions, and will ensure that no existing programs are jeopardized to continue serving customers. For example, areas with a high median income often correlate to a higher cost of living and thus low-income earners in this jurisdiction may have a higher income relative to the federally set level, but less ability to afford higher than average costs of living. While we appreciate the staff's quest for simplicity,

[1]USDOE, Low-Income Energy Affordability Data Tool. https://www.energy.gov/eere/slsc/maps/lead- tool

CETA is explicit in its intent to improve the manner in which we serve low income and other highly impacted communities throughout the State; this will at times require less simplicity and more finely grained attempts to understand factors influencing poverty and vulnerability in utility service territories. The Coalition continues to support the following definition consistent with the statute:

> (22) Low-income means household incomes that may not exceed the higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size."

WAC 480-109-100, Energy Efficiency Resource Standard

In our initial comments regarding rulemaking for this section we stated:

> **"**The Laws of 2019, Chapter 288, § 14 (3) (a) require that '…An electric utility must incorporate the social cost of greenhouse gas emissions as a cost adder when: (i) evaluating and selecting *conservation* policies, programs and targets…' Consequently, WAC 480-109-100 must be updated to effectively ensure that utilities incorporate the social cost of greenhouse gas emissions in the energy efficiency resource standard setting process."

Our comments went on to recommend explicit language requiring consideration of the social cost of greenhouse gas emissions in WAC 480-109-100 (2) Ten-year Conservation potential and WAC 480-109-100 (8) Cost-effectiveness. However, after discussing this issue with staff, we agree that the Integrated Resources Plan forms the basis for the conservation calculations and targets in this section and that addressing the social cost of greenhouse gas emissions, and other CETA requirements such as the explicit incorporation of non-energy benefits, in WAC 480-100-600 related rulemaking will provide a more holistic and coordinated approach. However, we reserve the right to suggest revisiting the rules of this section as the rulemaking for WAC 480-100-600 is undertaken, should it highlight a need to revisit additional changes to this section.

(10) **Low-income conservation**

The changes to this section overall are appropriate and needed for the adequate implementation of the CETA. In particular, we support the changes in subsections (b) and (c), which effectively capture needed elements of CETA to account for low-income conservation in an appropriate manner, acknowledging that these costs are not exclusively conservation costs, but also energy assistance costs, and therefore must be excluded from portfolio level cost-effectiveness calculations. In addition, this section importantly recognizes non-energy impacts as required by Laws of 2019, Chapter 288, §§1, 4(8), 14(1)(k).

We have two minor recommendations for changes to subsection (a) and one further comment for the rulemaking record regarding this subsection that we do not believe requires a language change.

I. In subsection (a) we recommend the addition of the word "either" as follows, to ensure that it is clear that the measures may be determined cost-effective by one or both methods set forth in the language.

II. Also in subsection (a), we recommend removing the phrase "when alternative funding sources are unavailable". This language is confusing and could be interpreted to mean that if alternative sources of funding are available, the utility has no obligation to provide funding for these purposes at all. We understand that currently several sources of funding, including utility funds, often are braided together to fund these purposes. Therefore, we recommend a simpler approach of reverting back to the former language utilizing the word "may" in this sentence rather than "must'. This will provide utilities and agencies flexibility to work together to determine the best manner in which to apply utility funds to the purposes of repairs, administrative costs and health and safety.:

> (a) A utility (~~(may)~~) must fully fund low-income conservation measures that are determined by the implementing agency to be cost-effective consistent with either the *Weatherization Manual* maintained by the department or when it is cost-effective to do so using utility-specific avoided costs. Measures identified through the priority list in the *Weatherization Manual* are considered cost-effective. In addition, ~~when alternate funding sources are unavailable,~~ a utility may (~~must)~~fully fund repairs, administrative costs, and health and safety improvements associated with cost-effective low-income conservation measures.

Additionally, we note for the record the change in this subsection that reads "or when it is cost-effective to do so using utility-specific avoided costs" is intended to refer to utility-specific avoided costs determined for energy conservation purposes. There are different uses and calculations for "avoided cost" and this term in not defined in this section of rules. However, NWEC believes that the context is clear that "avoided costs" is referencing that cost as determined for energy conservation programs and purposes.

WAC 480-109-200 Renewable portfolio standard.

(10) **Use of non-emitting electric generation.** To comply with the Laws of 2019, Chapter 288 § 4 with regard to renewable resources and 4(1)(f) non-emitting resources, the rules should be modified to ensure that it is clear that utilities utilizing this compliance option must comply with the requirement to surrender non-power attribute documentation for any non-emitting resources used to meet the laws standards. We suggest adding a reference to RCW 19.405.040 (1) (f) for this purpose.

> (10) **Use of non-emitting electric generation.** Beginning January 1, 2030, a qualifying utility is considered to be in compliance with an annual renewable energy target in RCW

19.285.040 (2)(a) if the utility meets one hundred percent of the utility's average annual retail electric load using any combination of electricity from:

(a) Renewable resources and renewable energy credits as defined in RCW 19.285.030; and

(b) Non-emitting electric generation, as defined in WAC 480-109-060(23) and consistent with RCW 19.405.040(1)(f).

WAC 480-109-300 Greenhouse gas content calculation and energy and emissions intensity metrics.

(2) greenhouse gas content calculation – in our original comments, we suggested the Commission might wish to reference RCW 19.405.060(22) in WAC 480-109-300; however, that RCW contained a typo. The correct reference should be to RCW 19.405.020 (22), Greenhouse Gas Content Calculation. We apologize for the error.

(2) ~~((The energy and emissions intensity report~~)) Each utility must perform its greenhouse gas content calculation in accordance with the rules enacted by the department of ecology, consistent with RCW 19.405.020(22).

Thank you for the opportunity to submit comments.

Sincerely,

Wendy Gerlitz, Policy Director

Joni Bosh, Senior Policy Associate