



**STATE OF WASHINGTON**  
**UTILITIES AND TRANSPORTATION COMMISSION**

*621 Woodland Square Loop S.E. • Lacey, Washington 98503*

*P.O. Box 47250 • Olympia, Washington 98504-7250*

*(360) 664-1160 • TTY (360) 586-8203*

August 13, 2020

**NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS**  
**(By 5 p.m., Friday, September 11, 2020)**

Re: Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act, Docket UE-191023, and In the Matter of Amending, Adopting, and Repealing WAC 480-100-238, Relating to Integrated Resource Planning, Docket UE-190698

**TO ALL INTERESTED PERSONS:**

On November 6, 2019, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to update its integrated resource plan (IRP) rules in WAC 480-100-238. The Commission filed the CR-101 under Docket UE-190698. The Commission also released a first discussion draft rules for comment.

On January 15, 2020, the 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),<sup>1</sup> centered on the implementation of Chapter 19.405 RCW and revisions to Chapter 80.28 RCW. The Commission filed the CR-101 under Docket UE-191023 and refers to this as the Clean Energy Implementation Plan (CEIP) rulemaking.

On May 5, 2020, the Commission issued a first set of draft rules in Docket UE-191023 for comment.

On June 12, 2020, the Commission issued a Notice of Opportunity to Comment in Docket UE-191023 on the appropriate interpretation of the term “use” in RCW 19.405.040(1)(a) as part of its process for revising its first draft of rules in the docket.

---

<sup>1</sup> E2SSB 5116, Laws of 2019, ch. 288.

## ISSUE DISCUSSION

This second draft includes both the IRP and CEIP rules to enable stakeholders and the public to better understand how the IRP informs the CEIP, and how utilities can fulfill the statutory requirements using both of these filings. Please note that the sections have been renumbered from previous discussion drafts to facilitate organization of the proposed rules. This Notice includes a clean copy of the draft rules as well as redline versions based on the first discussion drafts. The first discussion draft rules of the IRP were released on November 6, 2019, in Docket UE-190698. The first discussion draft of the CEIP were released on May 5, 2020, in Docket UE-191023.

In the first discussion draft of the CEIP rules, Commission staff (Staff) referred to renumbered rules beginning with WAC 480-100-610 as the Clean Energy Standards, which many commenters responded was inconsistent with the statutory usage of the term. Staff agrees. The revised draft rules refer to this collection of CETA requirements as the Clean Energy Transformation Standards. Although some commenters argued the section is not necessary, Staff believes it is a useful shorthand for referencing a collection of core statutory requirements.

Draft WAC 480-100-640(4)(f) requires the utility to demonstrate that it is planning to meet the Clean Energy Transformation Standards in draft WAC 480-100-610 at the lowest reasonable cost by including supporting documentation, including the business case, justifying each specific action identified in the CEIP. RCW 19.405.060(1)(c) requires the Commission to issue an order approving, rejecting, or approving with conditions a utility's CEIP. Commission Staff interprets this requirement to mean that approval of a CEIP depends on the utility justifying and supporting each specific action the utility takes or intends to take. Based on this interpretation, Staff and interested parties will need sufficient information to evaluate the merit of specific actions identified in the CEIP, including the business cases supporting each specific action. In the questions section, the Commission encourages all interested persons to comment on Staff's statutory interpretation and the draft disclosure requirements.

Energy storage of all forms is likely to be an important technology for meeting the utilities' statutory obligations, and the utilities should be actively investigating the place of energy storage in their resource portfolios. The draft rules' definition of "resource" includes storage, and draft WAC 480-100-620(3) and (4) require utilities to consider energy storage in their IRPs. However, this set of CEIP rules removes a sentence from the first draft that would have allowed utilities to use storage resources as part of their renewable energy target in draft WAC 480-100-640(3)(a)(iii). Staff believes that this issue needs more thorough discussion before the Commission adopts specific rules. Staff recommends that the Commission and the Department of Commerce initiate workshops to investigate the role of storage in meeting CETA requirements.

These draft rules do not address the issue of how to interpret the meaning of the term "used" in RCW 19.405.040(1)(a)(ii), or include rule language addressing the related compliance, verification, or documentation requirements. The Commission continues to receive and consider

comments on this subject and will provide additional opportunity for interested persons to comment on this issue.

### QUESTIONS FOR CONSIDERATION

The Commission requests comments on the entirety of this second set of discussion draft rules, but comments in response to the following questions would be particularly helpful. Stakeholders may submit suggested redline edits to the draft rules in an attachment to their comments.

- 1) Do you agree with Staff's interpretation of RCW 19.405.060(1)(c) that Commission approval is contingent upon the utility justifying and supporting each specific action it takes or intends to take, including providing the business cases supporting each specific action identified in the CEIP? Please explain your response.
- 2) Several comments submitted in response to the first draft CEIP rules proposed that the Commission require some form of funding to support equity-related public engagement. Specific proposals ranged from requiring utilities to provide funding support for participation in a utility's equity advisory group to utilities funding support for equity-focused intervenors.
  - a. Does the Commission have the authority to require utilities to provide funding to support equity participation such as intervenor funding or direct payments to advisory group members?
  - b. If so, what type(s) of funding should the Commission require, and how would utilities implement such funding? For example, if you advocate direct payments to advisory group members, how would the utilities structure those payments (e.g., based on an hourly rate, per diem, etc.)?
  - c. What other issues arise if the Commission were to require utilities to provide funding or direct payments to support equity advisory group members?
- 3) The Commission appreciates the value stakeholders have said they see in having commissioners and the agency participate in broad conversations about equity needs. Due to restrictions on commissioners taking part in ex parte conversations concerning items that are before the Commission to decide, the commissioners cannot engage in such conversations or otherwise participate in utility advisory groups to discuss issues related to particular CEIPs. However, the Commission will be involved in the process through workshops, special open-meetings, and other available proceedings with stakeholders to discuss important issues. The Commission additionally awaits guidance from the state Environmental Justice Task Force on agency engagement with equity issues and looks forward to addressing recommendations internally and throughout agency divisions as needed. The Commission is further committed to addressing agency awareness of equity issues and needs through continued agency-wide learning. The concerns stakeholders

raised through their comments are beyond what this single rulemaking can address and may be better addressed outside of this docket. In preparation for future process and discussions, please provide a list of CETA-related topics the Commission should address immediately following or concurrent with this rulemaking.

- 4) Draft WAC 480-100-610(6) requires each utility to adaptively manage its portfolio of activities to achieve the requirements in the section. Some commenters recommended that this section belongs in the section that describes the CEIP. Staff proposes to place this provision in section 610 because adaptive management is an expectation of all the utility's investments and operations for achieving the requirements of CETA. Please state whether you agree that this adaptive management requirement is appropriately placed in section 610 and explain your response.
- 5) When a utility files its CEIP, it will include an estimate of its incremental cost of compliance, which is the difference between the portfolio of actions it will take to comply with RCW 19.405.040 and RCW 19.405.050 and the portfolio of the alternative lowest reasonable cost and reasonably available actions (the baseline portfolio). At this stage, both portfolios will estimate inputs, such as natural gas prices, over the four-year period. When the utility files its CEIP compliance report and calculates the actual incremental cost at the end of the four years, the utility will use the actual costs for the portfolio of actions it took. However, for purposes of determining if the utility may rely on the incremental cost provision, the Commission must determine whether the utility should update the inputs to the baseline portfolio as well. If the utility does not update the inputs to the baseline portfolio, then it is not measuring the true incremental cost between the two portfolios because they use different input assumptions. However, updating the assumptions may leave the utilities exposed to unknowable changes in circumstances for which they could not reasonably plan, such as a rapid increase or decrease to natural gas prices.

In draft WAC 480-100-660(4)(c), Staff proposes to require the utility to update the verifiable inputs of the alternative lowest reasonable cost and reasonably available portfolio (baseline portfolio). Please respond if the utility should be required to update the assumptions in its baseline portfolio when reporting its actual incremental costs, or if it should not.

- 6) The Commission is considering two alternative interpretations of the incremental cost of compliance option in RCW 19.405.060. First, both interpretations find the Directly Attributable Costs of compliance by finding the difference between the RCW 19.405.040 and RCW 19.405.050 Compliant Portfolio and the Baseline Portfolio.

$$\begin{aligned}
 & .040 \text{ \& .050 Compliant Portfolio} - \text{Baseline portfolio} \\
 & \quad = \text{Directly Attributable Costs}
 \end{aligned}$$

To determine whether the utility can exercise the incremental cost compliance option, the Commission is considering two alternative interpretations. One interpretation calculates incremental cost as the directly attributable cost in any given year, and the other interpretation calculates incremental cost as the year-over-year change in directly attributable cost. The Department of Commerce's draft rule, WAC 194-40-230(1)(b) – Compliance using 2% incremental cost of compliance, takes the second approach.

Interpretation 1: 
$$\frac{\text{Directly Attributable Costs}}{\text{Weather Adjusted Sales Revenue}}$$

Interpretation 2: 
$$\frac{\text{Change in Directly Attributable Costs from Previous Year}}{\text{Weather Adjusted Sales Revenue}}$$

Please respond with a recommendation for the appropriate calculation. See attachment C to the Notice for sample calculations of these two interpretations.

- 7) Commenters have raised additional concerns about how utilities should demonstrate the elimination of coal from the allocation of electricity. Current draft rule language relies on attestations or audits and e-tags. Some commenters suggest waiting for the work of the markets workgroup to finish before developing rules for compliance with RCW 19.405.030(1)(a). Do stakeholders have concerns about whether e-tags are capable of tracking all electricity generated from coal-fired resources? Should the commission wait for recommendations or comments from the markets workgroup before addressing this issue in rule?

## WRITTEN COMMENTS

The Commission gives notice of the opportunity to submit written comments no later than **5 p.m., Friday September 11, 2020.**

Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in WAC 480-07-140(5), those comments must be submitted via the Commission's web portal at [www.utc.wa.gov/e-filing](http://www.utc.wa.gov/e-filing). If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at [records@utc.wa.gov](mailto: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 these proceedings (Docket UE-190698 and Docket UE-191023).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.utc.wa.gov/191023> and <http://www.utc.wa.gov/190698>.

If you are unable to file your comments electronically the Commission will accept a paper document.

### **FUTURE STAKEHOLDER WORKSHOPS AND COMMENTING PERIODS**

Stakeholders will have further opportunity for comment at future workshops. Information about the workshop schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's website as it becomes available. Persons filing comments in response to this Notice will receive future communications the Commission issues in this docket. If you do not file comments but wish to receive such information you may contact the Commission's Records Center by telephone at (360) 664-1139 or by email [records@utc.wa.gov](mailto:records@utc.wa.gov) and ask to be included on the mailing list for Docket UE-191023 or UE-190698.

When contacting the Commission, please refer to Docket UE-191023 and UE-190698 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE, Lacey, WA 98503.  
P.O. Box 47250  
Olympia, WA 98504-7250

If you have questions regarding this rulemaking, you may contact staff lead Brad Cebulko at (360) 259-5315, or by email at [bradley.cebulko@utc.wa.gov](mailto:bradley.cebulko@utc.wa.gov).

MARK L. JOHNSON  
Executive Director and Secretary