

WSR 21-02-022
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Dockets UE-191023 and UE-190698, General Order 601—Filed December 28, 2020, 12:41 p.m., effective December 31, 2020]

In the matter of adopting rules relating to clean energy implementation plans (CEIPs) and compliance with the Clean Energy Transformation Act (CETA); and WAC 480-100-238, relating to integrated resource planning.

SYNOPSIS

The Washington utilities and transportation commission (commission) adopts rules implementing chapter 19.405 RCW, CETA, and revisions to chapters 19.280 and 80.28 RCW. The commission's goals in this rule making are to implement sections of this new legislation, incorporate changes to existing rules, identify commission decisions and preferred practices implementing CETA, and engage with stakeholders to address and resolve ambiguity where appropriate. The rules adopted here today include two primary sections addressing CETA's CEIPs and integrated resource plans (IRPs).

I. INTRODUCTION

1 STATUTORY OR OTHER AUTHORITY: The commission takes this action under Notice No. WSR 20-21-053, filed with the code reviser on October 14, 2020. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts these rules on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULES: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about adopted rules. The statement must identify the commission's reasons for adopting the rules, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 To avoid unnecessary duplication in the record of this docket, the commission designates the discussion in this order, including appendices, as its concise explanatory statement. This order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.

6 REFERENCE TO AFFECTED RULES: This order adopts the following sections of the Washington Administrative Code: Adopting WAC 480-100-600 Purpose, 480-100-605 Definitions, 480-100-610 Clean energy transformation standards, 480-100-620 Content of an IRP, 480-100-625 IRP development and timing, 480-100-630 IRP advisory groups, 480-100-640 CEIP, 480-100-645 Process for review of CEIP and updates, 480-100-650 Reporting and compliance, 480-100-655 Public participation in a CEIP, 480-100-660 Incremental cost of compliance, and 480-100-665 Enforcement.

II. PROCEDURAL HISTORY

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** On November 7, 2019, the commission filed in Docket UE-190698 a Preproposal statement of inquiry (CR-101) at WSR 19-23-005. The statement informed interested persons that the commission was initiating a rule making to incorporate statutory changes made to WAC 480-100-238, the commission's rule on IRP, since 2006, including CETA, and to consider policy and process changes to create more efficient rules that adapt to a changing energy landscape.¹ The commission served notice of the CR-101 and rule making on everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and the commission's lists of electric companies and utility attorneys.

¹ An emergency and expedited rule making was initiated to repeal WAC 480-100-238 prior to this order. This emergency rule making was necessary to avoid contradiction with these adopted rules.

8 On January 15, 2020, the commission filed in Docket UE-191023 a CR-101 at WSR 20-03-107, initiating a rule making to develop rules implementing chapter 19.405 RCW, in particular, rules for CEIP, demonstrating compliance with CETA; statutory revisions to RCW 80.84.010, and additions to chapter 80.28 RCW, as enacted in CETA. The commission served notice of the CR-101 and rule making on everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and the commission's lists of electric companies and utility attorneys.

9 **WRITTEN COMMENTS:** Pursuant to the notices, the commission received comments on December 20, 2019, in Docket UE-190698 and on February 28, June 2, and June 29, 2020, in Docket UE-191023. After consolidating Dockets UE-191023 and UE-190698 on August 18, 2020, the commission received comments on September 11, November 12, and December 3, 2020.

10 **MEETINGS OR WORKSHOPS:** The commission held workshops in Docket UE-190698 on January 6 and 28, 2020, and workshops in both Dockets UE-190698 and UE-191023 on February 5, May 5, May 22, and June 8, 2020. The commission held further workshops in Docket UE-191023 on March 17, June 16, and July 27, 2020.

11 **CONSOLIDATION:** On August 18, 2020, the commission filed a CR-101 at WSR 20-17-120 consolidating Dockets UE-191023 and UE-190698 into one rule making. The commission also informed persons of this consolidation by providing notice and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), the commission's lists of electric companies and utility attorneys, and all persons who had expressed interest in Dockets UE-190698 and UE-191023.

12 **SMALL BUSINESS ECONOMIC IMPACT:** On August 31, 2020, the commission issued a small business economic impact statement (SBEIS) questionnaire to all interested persons in the consolidated dockets. The commission received one response to this questionnaire on October 1, 2020, from Puget Sound Energy (PSE), which asserted in its response that it is likely to incur increased costs from the proposed rules. PSE, however, does not qualify as a small business under chapter 19.85 RCW, and the approximate costs of compliance, \$6 million, are minor in comparison to PSE's 2019 annual electric revenue of \$2.1 billion. In addition, PSE may recover a significant portion of the increased costs from its customers through general rate proceedings.

13 The commission's internal analysis shows that any cost incurred by small businesses in this rule making is either the result of implementing a statutory requirement or based on voluntary participa-

tion in a utility's IRP or CEIP public process, membership in a utility advisory group, providing public comment on a utility plan to the commission, or intervening in a commission adjudicatory proceeding. Additionally, a utility's small business customers are represented in commission proceedings by the public counsel unit of the Washington state attorney general's office (public counsel). Therefore, the commission finds that the best way to mitigate the cost impact on small businesses is to apply regulatory principles to ensure that rates are fair, just, reasonable, and sufficient.

14 The commission after full review and analysis finds that the proposed rules will only impose minor costs on electric utility companies and concludes that the proposed rules will not have a disproportionate impact on small businesses.

15 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of Proposed rule making (CR-102) on October 14, 2020, at WSR 20-21-053. The commission scheduled this matter for virtual oral comment and adoption under Notice No. WSR 20-21-053 at 9:30 a.m. on December 9, 2020. The notice provided interested persons the opportunity to submit written comments to the commission.

16 **WRITTEN COMMENTS:** The commission received written comments from twenty-four stakeholders. Commission staff's (staff) summary of and responses to those comments are contained in Appendix A, which is attached to, and made part of, this order. The commission adopts staff's responses as its own, subject to the modifications we make to the proposed rules and the rationale for those modifications explained in this order.² Additionally, we summarize and respond in greater detail to certain comments received during this rule-making proceeding in paragraphs 19-184, below.

² In the event of any discrepancy between the discussion in the body of this order and the responses contained in Appendix A, the body of this order will control.

17 **RULE-MAKING HEARING:** The commission considered the proposed rules for adoption at a rule-making hearing on Wednesday, December 9, 2020, before Chair David W. Danner, Commissioner Ann E. Rendahl, and Commissioner Jay M. Balasbas. The commission heard oral comments from Bradley Cebulko, representing staff; Avista Corporation, d/b/a Avista Utilities (Avista); PSE; PacifiCorp, d/b/a Pacific Power & Light Co. (PacifiCorp); public counsel; Sierra Club; Renewable Northwest; Climate Solutions; Alliance of Western Energy Consumers (AWEC); Court Olsen; Kevin Jones; Washington Environmental Council (WEC); NW Energy Coalition (NVEC); The Energy Project (TEP), and Elyette Weinstein. Those comments primarily emphasized or supplemented those commenters' written comments.

18 Court Olsen, who did not previously submit written comments, requested the commission explicitly include the social cost of greenhouse gases (SCGHG) in the lowest reasonable cost calculation and called for measures to hold utilities accountable when responding to customer comments and questions. Additionally, the commission accepted written comments in lieu of oral comments from Christine Grant due to a scheduling conflict during the public hearing. Grant expressed support for the proposed rules' implementation of public participation opportunities and community benefits.

III. DISCUSSION

19 CETA is a novel and complex statute that establishes many new requirements for utilities in pursuit of the legislature's overall objective of reducing and eventually eliminating carbon from the genera-

tion of electricity provided to Washington consumers. As many commenters expressed at the adoption hearing, the process of fully implementing CETA will be an iterative process, and the effort in this rule making is only the beginning. The rules we adopt here are the first step in implementing the statutory requirements applicable to investor-owned utilities. We expect to conduct additional rule makings to implement provisions of the law, and to modify and refine these rules as the commission, utilities, and stakeholders gain experience with the new law. In the meantime, we provide additional guidance in this order on our current interpretation of the statute and the rules we are adopting.

A. Streamlining: Interaction with current rules, orders, and practices.

20 RCW 19.405.100 directs the commission to find ways to streamline the implementation of CETA with the requirements of the Energy Independence Act (EIA). The commission worked closely with the Washington department of commerce (commerce) to find areas to coordinate implementation of CETA with the requirements of EIA, recognizing that each statute has distinct requirements and compliance intervals. In the following section we reduce, simplify, or combine existing and new reporting requirements and identify areas that can be streamlined in the future. Finally, we explain why we must adopt some duplicative requirements based on statutory differences that would require statutory changes.

1. Reducing administrative burden and aligning existing and new requirements: WAC 480-100-620(3), 480-100-650(3), 480-100-640(1), 480-100-625, and 480-100-655.

21 On May 20, 2016, in Docket UE-131883, the commission requested that electric utilities submit semi-annual reports disclosing the amount of distributed generation interconnected to investor-owned utilities in Washington. The reports contain datapoints such as distributed generation system adoption rates, distributed generation system counts, average system sizes, and total monthly and annual energy generated. Proposed WAC 480-100-620(3) and 480-100-650(3) require utilities to provide this type of information in the distributed energy resource (DER) assessment and reporting when preparing and submitting IRPs and CEIPs. The reporting we requested in Docket UE-131883 is therefore no longer necessary, and we withdraw our request for those semi-annual reports. We nevertheless encourage companies to include substantively similar datapoints within the DER assessments in their IRPs in consultation with interested stakeholders.

22 The commission proposes to establish an October 1 due date for the CEIP required by WAC 480-100-640(1) to align with the current requirement in chapter 480-109 WAC, rules implementing EIA, that utilities provide a draft biennial conservation plan (BCP) to their energy efficiency advisory group.³ To facilitate that coordination, the proposed rules do not require that the EIA target be final before it is included in the specific energy efficiency target within the CEIP. Commission approval of a utility's CEIP requires a review of the details of the BCP. Including a draft BCP as part of the CEIP, as an appendix or attachment, best serves the public interest because it allows the utility to adjust the BCP based on feedback from the commission and the utility's advisory group.

³ WAC 480-109-120 (1)(a) requires a November 1 filing date, and WAC 480-109-110(3) requires thirty days advance notice of filings to energy efficiency advisory groups. Additional conditions in each utility's current conservation dockets, Dockets UE-190905, UE-190908, and UE-190912, require each utility to "provide the following information to the Advisory Group: Draft ten-year conservation potential and two-year target by August 2, 2021; draft program details, including budgets, by September 1, 2021; and draft program tariffs by October 1, 2021."

23 Proposed WAC 480-100-625 states that utilities' IRPs must be filed with the commission by January 1, 2021, and on January 1 every four years thereafter, unless otherwise ordered by the commission. Given the changes in IRPs required by CETA, the commission ordered in Dockets UE-180259, UE-180738, UE-180607 that for each electric utility, the next draft IRP must be submitted by January 4, 2021, and its next final IRP must be submitted by April 1, 2021. To avoid last-minute changes to utility requirements as we adopt these rules, we waive the conflicting requirement in the proposed rule and retain the dates established in these three dockets for this upcoming set of IRPs.

24 Proposed WAC 480-100-650(3) requires utilities to file annual clean energy progress reports by July 1, beginning in 2023. Existing rules implementing EIA in chapter 480-109 WAC incorporate the June 1 reporting dates specified in RCW 19.285.070. EIA requires that the annual conservation report (included in WAC 480-109-120(3)) and the annual renewable portfolio standard report (included in WAC 480-109-210(1)) must be filed by June 1. A utility may satisfy these requirements in the annual informational filings under proposed WAC 480-100-650(3) by providing the references to the reports the utility filed in compliance with chapter 480-109 WAC. The utility need not duplicate the narrative from its June 1 filing when it provides its July 1 annual report filing.

25 Proposed WAC 480-100-655 does not require utilities to file a draft CEIP with the commission or the advisory group. This eliminates a potentially unnecessary regulatory burden over the long term. However, in the beginning the CEIP will involve a new and significant process and document, one that the utilities have never prepared, and that stakeholders, and this commission have never reviewed. And unlike the IRP, the CEIP will likely be subject to significant scrutiny in an adjudicative process. Therefore, the commission finds that it is appropriate to request that utilities file a draft of their first CEIP. Availability of a draft of a utility's initial CEIP will allow the utility, staff, and stakeholders to work through issues and concerns in a semi-formal process that provides transparency and record building with maximum flexibility. Utilities, therefore, should file a draft initial CEIP with the commission by August 15, 2021, which will be the initial filing in each utility's CEIP docket.⁴

⁴ The pending draft IRPs, to be filed in January 2021, and the final IRPs to be filed in April 2021, will help inform the shape and style of a CEIP. At a minimum, the draft CEIP must contain the utility's final proposed specific actions, specific targets, and interim targets.

2. Other requirements that can be reduced or eliminated in the future: *WAC 480-109-120, 480-109-300.*

26 In its written comments, PacifiCorp raised concerns about the apparent duplication of reporting under the CETA and EIA rules. In creating rules that fully implement CETA's requirements, we recognize that some of the reporting appears duplicative. However, as it is necessary to incorporate some elements of chapter 480-109 WAC, which implements EIA, into the rules we adopt in this order, some overlap is inevitable. While this is a necessary step in the transition to the new reporting requirements that will begin in 2023, we identify in Table One, below, how we plan to reduce the duplication in reporting over time. Table One shows how we will smoothly transition regulation under EIA into regulation under both EIA and CETA, with the goal of reducing administrative burden wherever possible. Most of the elements in the table below should stay in effect until at least June 1, 2022, thus maintaining utility reporting under EIA until the reporting under

CETA begins in 2023. This transition plan will avoid a reporting gap until the first CETA reports are due in 2023.

27 In our review of EIA, we note that chapter 480-109 WAC includes some planning and reporting elements that are not explicitly required by statute. Two examples are the annual conservation plan in WAC 480-109-120(2) and the final renewable portfolio standard compliance report in WAC 480-109-210(6), which we will address by amending provisions in chapter 480-100 WAC, and then repealing these provisions in chapter 480-109 WAC. As we transition, we will likely find other requirements that the commission can reduce or repeal. We expect to address these issues in a later rule making after we have had sufficient experience with the rules we adopt today to consider appropriate changes.

Table One: Requirements that can be reduced or repealed in the future

Proposed Chapter 480-100 WAC	Chapter 480-109 WAC	Commission Action
WAC 480-100-640 (3)(a)(i) energy efficiency 2022-2025 specific target filed by October 1, 2021.	WAC 480-109-120 (1)(a) conservation 2022-2023 target filed by November 1, 2021.	Accept draft biennial conservation plan as part of CEIP specific conservation target.
	WAC 480-109-120(2) annual 2023 conservation plan by November 15, 2022.	Repeal WAC 480-109-120(2) after June 1, 2022.
WAC 480-100-650 (1)(b) utility met its 2022-2025 specific target for energy efficiency filed by July 1, 2026.	WAC 480-109-120(4) biennial conservation report by June 1, 2022.	Repeal WAC 480-109-120(4) after June 1, 2022.
WAC 480-100-650 (1)(b) utility met its 2022-2025 specific target for renewable energy filed by July 1, 2026.	WAC 480-109-210(6) final 2022 compliance report by June 1, 2024.	Repeal WAC 480-109-210(6) after June 1, 2022.
WAC 480-100-650 (3)(e) renewable energy credits and the program or obligation for which they were used in 2022 filed by July 1, 2023.	WAC 480-109-210(6) final 2022 compliance report by June 1, 2024.	Repeal WAC 480-109-210(6) after June 1, 2022.
WAC 480-100-650 (3)(f) documentation of the retirement of renewable energy credits used in 2022 filed by July 1, 2023.	WAC 480-109-210(6) final 2022 compliance report by June 1, 2024.	Repeal WAC 480-109-210(6) after June 1, 2022.
WAC 480-100-650 (3)(h) greenhouse gas content calculation for 2022 filed by July 1, 2023.	WAC 480-109-300(1) by June 1, 2021.	Repeal WAC 480-109-300 after June 1, 2022.
WAC 480-100-650 (3)(j) total greenhouse gas emissions in metric tons CO2e for 2022 filed by July 1, 2023.	WAC 480-109-300 (3)(d) by June 1, 2021.	Repeal WAC 480-109-300 after June 1, 2022.
Did not include reporting on unspecified energy in WAC 480-100-650(3).	WAC 480-109-300(4) unspecified electricity by June 1, 2021.	Repeal WAC 480-109-300 after June 1, 2022. Amend WAC 480-100-650(3) before that date.
Did not include comparison of annual million metric tons of CO2e emissions to 1990 emissions in WAC 480-100-650(3).	WAC 480-109-300 (3)(e) by June 1, 2021.	Repeal WAC 480-109-300 after June 1, 2022. Amend WAC 480-100-650(3) before that date.

3. Streamlining that would require statutory change: WAC 480-100-645, 480-100-650.

28 During the development of the proposed rules, and our effort to streamline the reporting and compliance requirements of EIA and CETA as directed under RCW 19.405.100, we identified certain inconsistencies between the statutes. Because each statute has different requirements, some filing requirements cannot be streamlined or merged

and result in overlapping rules. The discussion that follows addresses changes the legislature could make to align the statutes and facilitate our ability to further streamline utility reporting and compliance.

29 EIA requires a two-year conservation target, and CETA requires a four-year energy efficiency specific target.⁵ The commission can implement these statutes in concert, but to do so requires us to maintain the formal filing requirements and additional approval processes for the two-year conservation target found in WAC 480-109-120(5), and to adopt review, approval, and enforcement processes for the four-year energy efficiency target under WAC 480-100-645(2). The commission could significantly streamline the rules if the different statutory reporting periods were aligned prior to November 1, 2023, which is when the utility's next EIA two-year conservation target is due.

⁵ See RCW 19.285.040(1) and 19.405.060(1).

30 In addition, the fifteen percent eligible renewable energy standard under EIA does not include the same resources as the specific target for renewable energy under CETA. Specifically, CETA allows all generation from hydropower, while EIA limits the use of hydropower to new or expanded resources. These differences require the commission to retain the incremental hydropower methodology calculation in WAC 480-109-200(7) for inclusion in EIA report, rather than develop a methodology under CETA.

31 EIA also uses the average annual load from the prior two years to set an annual renewable portfolio standard target in megawatt hours (MWh). CETA uses a four-year average of the implementation period to meet a percent of retail sales target. A utility could comply with one standard and not the other because the same years will not be included in all of the average compliance calculations.⁶ Implementing both of these statutes requires the commission to adopt proposed WAC 480-100-650 (1) and (3) addressing CETA compliance, while retaining WAC 480-109-210, which covers annual formal reporting and approval for renewable portfolio standard compliance under EIA. The commission could significantly streamline reporting and compliance requirements if these two statutory requirements were aligned prior to January 1, 2023, which would assist with compliance requirements for 2022.

⁶ The 2022 renewable energy target in EIA is based on average of load from 2020 and 2021, while the 2022-2025 renewable energy target in CETA is the percent of retail sales met with renewable energy during that four-year period.

32 Further, EIA allows utilities to use renewable energy credits (RECs) to comply with statutory targets if those credits are generated in the year prior to the compliance year or the following two years.⁷ For example, RECs generated between 2021 and 2023 can be used for compliance in 2022. CETA allows banking of RECs within the four-year implementation period, so any RECs generated between 2022 and 2025 can be used for compliance in any of those years. These overlapping compliance periods between EIA and CETA require the commission to adopt reporting requirements in proposed WAC 480-100-650(3) that duplicate some of the substance of the existing reporting requirements we must retain in WAC 480-109-210. Reconciling these statutory compliance periods would allow the commission to simplify and streamline the reporting on renewable energy, preferably before January 1, 2022.

⁷ RCW 19.285.040 (2)(b).

Table Two: Streamlining that would require statutory change

Proposed Chapter 480-100 WAC	Chapter 480-109 WAC	Commission Action
WAC 480-100-640 (3)(a)(iii) renewable energy: 2022-2025 specific target as percent of retail sales filed by October 1, 2021.	WAC 480-109-210(1) renewable portfolio standard: 2022 annual report by June 1, 2023, target based on previous two years of average annual load.	Adopt WAC 480-100-640 (3)(a)(iii) and maintain WAC 480-109-210(1).
WAC 480-100-645(2) review, approval, and enforcement of 2022-2025 energy efficiency target.	WAC 480-109-120(5) review, approval, and enforcement of 2022-2023 conservation target.	Adopt WAC 480-100-645(2) and maintain WAC 480-109-120(5).
WAC 480-100-650 (1)(b) utility must meet its 2022-2025 specific target for renewable energy filed by July 1, 2026.	WAC 480-109-210(1) renewable portfolio standard: 2022 annual report by June 1, 2023, per RCW 19.285.070.	Adopt WAC 480-100-650 (1)(b) and maintain WAC 480-109-210(1).
WAC 480-100-650 (3)(b) annual conservation achievement for 2022 filed by July 1, 2023.	WAC 480-109-120 (3)(a) annual conservation report for 2022 by June 1, 2023, per RCW 19.285.070.	Adopt WAC 480-100-650 (3)(b) and maintain WAC 480-109-120 (3)(a).
WAC 480-100-650 (3)(d) annual renewable energy usage in megawatt-hours and as a percentage of electricity supplied by renewable energy for 2022 filed by July 1, 2023.	WAC 480-109-210(1) renewable portfolio standard 2022 annual report by June 1, 2023, per RCW 19.285.070.	Adopt WAC 480-100-650 (3)(d) and maintain WAC 480-109-210(1).

B. Resource adequacy.

33 CETA requires an electric utility's IRP to determine "resource adequacy metrics for the resource plan" and to identify "an appropriate resource adequacy requirement and measurement metric consistent with prudent utility practice."⁸ The rules we adopt reflect those requirements. Several commentors requested additional rule language to specify that certain elements be included in the resource adequacy (RA) modeling and assessment, including the evaluation of specific needs of load service and characteristics of resources such as energy, capacity, and flexibility, and modeling of specific resources such as demand-side, storage and wind resources, and batteries.⁹ CETA and proposed WAC 480-100-620(8) require an RA assessment be made "for the resource plan."¹⁰ The commenters' recommended additions to the rule are unnecessary, as an RA assessment is an assessment of the resource plan and the elements identified by the commenters are already required by the plan.¹¹ Further, the specific elements proposed for inclusion in the rule are already standard utility practice in an RA assessment.

⁸ See RCW 19.280.030 (1)(g) and (i).

⁹ NWECC Comments November 12, page 2 and NWECC Redlines UE-191023, page 16. Climate Solutions Comments November 12, page 4.

¹⁰ RCW 19.280.030 (1)(g) and (i).

¹¹ Proposed WAC 480-100-620(2) requires "...a range of forecasts of projected customer demand..." Subsection 620(7) requires evaluation of "all identified resources and potential changes to exiting [existing] resources." Subsection 620(6) requires the resource plan to assess "availability of regional generation and transmission capacity" that may serve customer's electricity needs. Subsection 620(3) requires assessment of distributed energy resources. Subsection 620(5) requires assessment of renewable resource integration. Subsection 620(17) also requires the utility to consider stakeholder input as it develops its resource plan and its RA assessment.

34 The commission recognizes stakeholders' concerns with the RA methodologies that may be used in the analysis of the contribution to RA by storage and variable energy resources. As discussed above, CETA requires utilities to identify RA metrics and standards "consistent with prudent utility practice,"¹² which we deem to be best practice in providing electric service. In this regard, the commission's application of WAC 480-100-620 is no different. The broad and comprehensive language in the rule is intended to encompass all aspects of load service, all available resources, and measurement and consideration of a resource's performance characteristics, which will enable advancements in utility RA assessment methodology. In light of several regional efforts to develop RA metrics and assessments,¹³ it is not nec-

essary at this time, and may be counter-productive to development of RA standards for the rule to be prescriptive at this time. Accordingly, in this period of transition to clean electricity, RA assessment is critical to assuring the "lights stay on" and rates remain stable. With the adoption of these rules, the commission expects utilities to act to fulfill their responsibility to identify appropriate RA metrics and methodologies in their IRPs in a timely and prudent manner.

¹² RCW 19.280.030 (1)(i).

¹³ These efforts include the Northwest Power Pool's Resource Adequacy group, the Northwest Power and Conservation Council's Resource Adequacy Advisory Committee, and the Western Electricity Coordinating Council's Resource Adequacy Forum.

C. Social cost of greenhouse gases and upstream emissions: WAC 480-100-620.

35 Proposed WAC 480-100-620 (11)(j) and (12)(j) outline how a utility must perform IRP portfolio analysis, including requirements to incorporate SCGHG emissions and develop a ten-year clean energy action plan (CEAP). Under RCW 19.280.030 (3)(a), each utility must incorporate SCGHG emissions as a cost adder when evaluating and selecting conservation policies, programs, and targets; developing IRPs and CEAPs, and evaluating and selecting intermediate and long-term resource options.

36 During the CR-101 process, stakeholders submitted various approaches to incorporating SCGHG into planning. PSE proposed using a modeling approach as a planning, or fixed cost adder. Climate Solutions also proposed utilities incorporate SCGHG as a fixed cost when they evaluate the comparative costs of resources and select a preferred portfolio. Climate Solutions asserted that accounting for SCGHG alternatively in dispatch in utility IRP modeling is appropriate only if utilities plan to incorporate these costs in real time into operational decisions. Invenergy, Sierra Club, and Vashon Climate Action Group proposed incorporating SCGHG as a variable cost in dispatch for greenhouse gas emitting resources. NWECC proposed incorporating SCGHG as a variable cost that should be applied to all emitting resources, including market purchases, in modeling stages that determine utility resource selection.

37 The variety of proposals demonstrates the lack of statutory direction concerning the incorporation, or modeling, of SCGHG emissions in IRPs. Accordingly, the rules we adopt by this order do not require a specific modeling approach at this time. Rather, as we discuss further below in Section III.F.2, the proposed rules require that the utility include SCGHG emissions in the alternative lowest reasonable cost and reasonably available portfolio for calculating the incremental cost of compliance in the CEIP. How the utility chooses to model SCGHG emissions in its preferred portfolio in the IRP will inform its CEAP and ultimately its CEIP. The utility must provide a description in its CEIP of how SCGHG emissions are modelled and incorporated in its preferred portfolio.

38 Utilities should also consult with their advisory groups regarding how to model SCGHG in their IRP, CEAP, and CEIP. If a utility treats SCGHG as a planning or fixed cost adder in its determination of the optimal portfolio, including retirements and new plant builds, we expect the utility to model at least one other scenario or sensitivity in which SCGHG is reflected in dispatch. Similarly, if a utility incorporates SCGHG in modeling dispatch costs, we expect the utility to provide an alternative scenario or sensitivity analysis, such as the planning adder approach, to determine the optimal portfolio, including retirements and new builds. Such modelling will help to inform how

best to implement CETA's requirement to include SCGHG emissions as a cost adder.

39 Similar to our approach, commerce's draft rules do not adopt one method, but outline several methodologies utilities may use to incorporate SCGHG, which are useful examples of how a utility may describe its IRP modeling approach to incorporate SCGHG as a cost adder. The utility and advisory groups may find this list helpful. These methodologies include:

- Performing a resource analysis in which it increases the input cost of each fossil fuel by an amount equal to the SCGHG emissions into the value of that fuel;
- Conducting a resource analysis in which the alternative resource portfolios are compared across multiple scenarios on the basis of cost, risk, and other relevant factors, and the aggregate SCGHG emissions is added to the cost of each resource portfolio; or
- Using another analytical approach that includes a comprehensive accounting of the difference in greenhouse gas emissions and the SCGHG emissions between resource alternatives.¹⁴

¹⁴ Draft WAC 194-40-110 Methodologies to incorporate SCGHG emissions. We address in Section III.F.2., below, the inclusion of SCGHG in the alternative lowest reasonable cost and reasonably available portfolio.

40 Next, we turn to the consideration of the accounting of upstream emissions. During the CR-102 comment period, NWECA, Climate Solutions, and Robert Briggs all expressed general concerns that the proposed rules should require consideration of upstream emissions within the application of SCGHG. NWECA proposed including upstream emissions in the SCGHG cost adder in CETA, arguing that nothing in *Association of Washington Business v. Department of Ecology*, 195 Wn.2d 1 (2020), undermines this approach. Climate Solutions suggested the commission adopt requirements similar to the department of ecology's (ecology) greenhouse gas assessment for projects proceeding.¹⁵ Finally, Briggs proposed clarifying that the requirement to account for SCGHG applies to costs associated with direct CO₂ emissions and the social cost of upstream fugitive methane emissions. Briggs also proposed that the rules require reporting of the assumptions used in IRP analyses for upstream emissions.

¹⁵ Chapter 173-445 WAC. <https://ecology.wa.gov/Regulations-Permits/Laws-rules-rulemaking/Rulemaking/WAC-173-445>.

41 We recognize that modeling environmental cost and compliance scenarios will likely have a significant impact on portfolio development. In fact, since the passage of CETA, utilities have begun to apply upstream emissions in IRP modeling. However, requiring the inclusion of upstream emissions, by rule, may exceed our statutory authority. Recently, the Washington supreme court found that ecology exceeded its statutory authority when promulgating the clean air rule. Ecology's rule included the impacts of third-party emissions (e.g., upstream emissions) in its emissions standards regulating direct emitters. The court found this exceeded the statutory scheme and that regulations for *emission standards* were limited to those *directly* creating the emission. While we recognize that the commission's and ecology's statutory authority is different, we do not interpret the legislature's requirement to include SCGHG emissions as clearly requiring the commission to consider upstream emissions.

42 In enacting CETA, the legislature stated its intent to address climate change by moving to a clean energy economy through "transforming its energy supply, [and] modernizing its electricity system." RCW 19.405.010(1). CETA further measures compliance by looking at a utili-

ty's retail electric load RCW 19.405.040 (1)(a), implying that regulation is focused on emissions directly attributed to load and electric energy supply.

43 Thus, while we support the current utility practice of including upstream emissions in IRP modeling, it is not a current requirement of these rules. The public participation process created by these rules is the appropriate venue to address utility assumptions and various scenarios, including upstream emissions and SCGHG emissions, used in IRP modeling analyses. We anticipate that this issue may come before the commission when it reviews regulated utilities' initial CEIPs, but decline to be more prescriptive on this issue at this time.

D. Customer Benefit: WAC 480-100-610, 480-100-605, 480-100-620, 480-100-640.

44 RCW 19.405.040(8) provides:

In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.140, ensure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

We interpret this requirement as an affirmative mandate, as indicated by (1) the phrase "in complying with this section, an electricity utility *must ... ensure* that all customers are benefiting"¹⁶ and (2) the location of this requirement within the greenhouse gas neutrality section. To reflect the affirmative nature of the customer benefit requirement, the three components of RCW 19.405.040(8) are included in the clean energy transformation standards section of the proposed rules in WAC 480-100-610 (4)(c)(i)-(iii).

¹⁶ RCW 19.405.040(8) (emphasis added).

45 Further, we received several comments regarding the term "indicator" and how it would be applied in evaluating customer benefit. To provide additional clarity regarding this term, the commission has modified the term "indicator" in the proposed rules to "customer benefit indicator." This change does not alter the function of the definition but highlights that the definition is specifically related to tracking and measuring compliance with RCW 19.405.040(8). This definition sets minimum requirements and does not limit the commission's authority to order (or the ability of stakeholders to request) the use of additional indicators or metrics.

46 Proposed WAC 480-100-610 (4)(c)(i) incorporates this statutory mandate by requiring that customers benefit from "the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities."

47 Proposed WAC 480-100-605 defines an equitable distribution as a "fair, just, but not necessarily equal allocation of benefits and burdens from a utility's transition to clean energy." The location of the customer benefit requirements within RCW 19.405.040 indicates that the benefits and burdens that must be equitably distributed are the specific actions a utility takes to comply with RCW 19.405.040. To inform the commission's decisions related to fair and just allocation, proposed WAC 480-100-620(9) requires, among other things, the assessment of certain current conditions to determine equitable distribution of benefits and burdens. The commission agrees with the observations of multiple stakeholders that current conditions should include con-

sideration of cumulative and legacy conditions. Similarly, we concur with Front and Centered's comments that the purpose of equitable distribution in the statute is to prioritize vulnerable populations and highly impacted communities that experience the greatest inequities and disproportionate impacts, and that have the greatest unmet needs. Finally, the commission agrees with Avista's interpretation that both the distribution of benefits and the reduction of burdens must be equitable.

48 The definition of "vulnerable populations" in proposed WAC 480-100-605 is the same as provided in RCW 19.405.020(40). The definition includes a non-exhaustive list of factors (e.g., unemployment, linguistic isolation, low birth weight) associated with adverse socioeconomic conditions and sensitivity factors. Commenters proposed to include additional factors, but the commission declines to modify the statutory definition. Any additional factors used to designate vulnerable populations should reflect public input, as required by WAC 480-100-640 (4) (c).¹⁷

¹⁷ Sierra Club also recommended including higher climate impact zone as a sensitivity factor, which related to a community's exposure to climate change. We decline to adopt this recommendation, as the factors used to designate vulnerable communities must be associated with vulnerability rather than exposure. Exposure to climate change is a factor in the highly impacted community designation, not the vulnerable population designation.

49 Proposed WAC 480-100-610 (4) (c) (ii) requires that customers benefit from long-term and short-term public health and environmental benefits and reduction of costs and risks.

50 Proposed WAC 480-100-610 (4) (c) (iii) requires that customers benefit from energy security and resiliency. NWECC and Front and Centered recommended that "energy security" and "resiliency" be defined in rule. The commission declines to define these terms at this time, but will review and determine issues concerning specific customer benefit indicators associated with energy security and resiliency when considering utility CEIPs, as required in WAC 480-100-640 (4) (c), following significant work on these issues by the utilities and customers. As with all customer benefit indicators, the application of these terms must reflect customer input to ensure that all customers are benefiting from the transition to clean energy.

51 Front and Centered commented that proposed WAC 480-100-610 (4) (c) (ii) and (iii) should reference highly impacted communities and vulnerable populations to support the law's intent of centering the most impacted and vulnerable. The commission declines to alter WAC 480-100-610 (4) (c) (ii) and (iii), which currently reflect the separate and distinct customer benefit requirements identified in RCW 19.405.040(8). Additionally, WAC 480-100-610 (4) (c) (i) reflects additional distinct customer benefit requirements in the statute and requires the equitable distribution of energy and nonenergy benefits. However, we interpret the statute such that WAC 480-100-610 (4) (c) (ii) and (iii) would not supersede a utility's requirement to equitably distribute those benefits under WAC 480-100-610 (4) (c) (i).

52 In addition to broad applicability as part of the clean energy transformation standards, the rules include specific requirements for utilities to address the customer benefits requirements in their IRPs (including the CEAPs), CEIPs, and compliance reports. These plans and reports are discussed in turn below.

1. IRPs and CEAPs: WAC 480-100-620, 480-100-605.

53 Proposed WAC 480-100-620(9) requires utilities to include an assessment of economic, health, and environmental burdens and benefits in their IRPs. This assessment is a required input to IRPs pursuant to RCW 19.280.030 (1) (k).¹⁸ The definition of "equitable distribution" in

WAC 480-100-605 provides that this assessment, among other information, will inform the "current conditions" within a utility's service territory. These current conditions are the basis for determining whether the allocation of benefits and burdens from the utility's transition to clean energy results in equitable distribution.

¹⁸ RCW 19.280.030 (1)(k) provides: "An assessment, informed by the cumulative impact analysis conducted under RCW 19.405.140, of: Energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security and risk."

54 Proposed WAC 480-100-620(9) requires that a utility's assessment be informed by the cumulative impact analysis (CIA) conducted by the department of health. RCW 19.405.140 requires the CIA to be completed by December 31, 2020, and include impacts from fossil fuel pollution and climate change. Because the CIA includes impacts associated with fossil fuels and climate change, the CIA may provide relevant information pertaining to nonenergy benefits and burdens as well as long-term and short-term public health and environmental benefits, costs, and risk. Utilities must consider the information in the CIA in developing their IRPs, but the requirement that the assessment be informed by the CIA neither waives the requirement for an assessment if the CIA is unavailable nor relieves the utility of its obligation to consider other sources of information relevant to the assessment.

55 Proposed WAC 480-100-620 (10) (c) requires utilities to include at least one sensitivity that reflects a maximum customer benefit scenario. In its written and verbal comments, Avista requested clarification on the purpose and characteristics of a maximum customer benefit scenario. A utility's resource portfolio reflects the lowest-reasonable cost portfolio that meets all operational and regulatory standards. While all scenarios should be consistent with the customer benefit requirements in RCW 19.405.040(8), this sensitivity should meet load with resources that result in the highest possible values for customer benefit indicators regardless of cost or other competing considerations. The specific resources that should be maximized within this scenario will depend on the customer benefit indicators and associated weighting factors developed pursuant to proposed WAC 480-100-640 (4) (c). As with all IRP sensitivities, the goal of this requirement is to provide information to inform highly discretionary decisions by understanding the tradeoff between different resource decisions. The commission's intent in requiring such a sensitivity in WAC 480-100-620 (10) (c) is to promote creative thinking and ensure broad consideration of customer benefit opportunities freely and without any competing considerations.

56 Proposed WAC 480-100-620 (11) (g) requires utilities to describe how their long-range IRPs expect to achieve the customer benefit requirements. This obligation is consistent with RCW 19.280.030 (1) (j), which requires the IRP to "imple[ment] RCW 19.405.030 through 19.405.050," which includes RCW 19.405.040(8). PacifiCorp commented that the IRP does not represent actual procurement decisions nor acquisitions and, as such, is not the appropriate place to comment on customer benefit requirements. As noted previously, however, RCW 19.280.030 (1) (j) requires IRPs to implement CETA requirements, including the customer benefit requirements. Additionally, the commission expects companies to consider different potential bundles of procurement that have different amounts and combinations of customer benefits to ensure least cost planning. While PacifiCorp also commented that IRP is not a rate-making plan nor does it contemplate impacts on specific customer rates, the customer benefit requirements in RCW 19.405.040(8) are more broad than the impact of rates, and concern the

benefits and burdens of a utility's specific actions to transition to clean energy, including resource selection.

57 This rule also specifically requires a utility to describe its long-term strategy, interim steps, and the estimated degree to which benefits will be equitably distributed and burdens reduced over the planning horizon. PSE recommended deleting these specific requirements, contending that they are too broad. The commission finds that the information required in WAC 480-100-620 (11)(g) provides necessary context for the commission's consideration of utility compliance with RCW 19.405.040(8). RCW 19.405.040(8) requires a contextual determination. First, as discussed above, a determination regarding equitable distribution requires a consideration of current conditions, which will change over time. Second, the quantity and type of benefits and burdens associated with a utility's transition to clean energy are not currently known and will change over time based on technological developments and new load forecasts, among other things. Including a long-term view of customer benefit requirements in the IRP provides a necessary estimate of the benefits of the transition to clean energy at a point in time, while ensuring that the information is not static but can adapt to changing conditions.

58 Proposed WAC 480-100-620 (12)(c) requires a utility to describe how its specific actions in the CEAP are expected to meet the customer benefit requirement. PSE recommended deleting this requirement, commenting that it does not believe CETA requires the CEAP to address equity considerations and that it is not reasonable to require the CEAP to describe specific actions. However, the requirements in WAC 480-100-620 (12)(c) are consistent with RCW 19.280.030 (1)(l), which requires the CEAP to "imple[ment] RCW 19.405.030 through 19.405.050," which, as we note above, includes RCW 19.405.040(8). Further, the statute requires the CEAP to "identify the specific actions to be taken by the utility consistent with the long-range integrated resource plan." PacifiCorp commented that the requirements for the CEAP in WAC 480-100-620 (12)(c) appear redundant with the requirements for IRPs in WAC 480-100-620 (11)(g). RCW 19.280.030 (1)(j) and 19.280.030 (1)(l), however, require both the IRP and CEAP to address the requirements in RCW 19.405.030 *through* 19.405.050, including 19.405.040(8). Therefore, the rules reflect the structure of the statute and ensure that utilities address the customer benefit requirements at a high-level in long-term plans, as well as providing more detail over the ten-year planning horizon of the CEAPs.

2. CEIPs: WAC 480-100-640, 480-100-605, 480-100-610.

59 Proposed WAC 480-100-640, which addresses CEIPs, includes multiple provisions related to the customer benefit requirements. Several stakeholders commented that they do not believe customer benefit requirements should be included in the CEIPs because RCW 19.405.040(8) is not referenced in RCW 19.405.060. Under RCW 19.405.060 (1)(ii)(b), a CEIP must be informed both by a utility's CEAP and the long-term IRP, which as described above, requires a demonstration of the implementation of RCW 19.405.040(8). Additionally, under RCW 19.405.060 (1)(c)(iii), the commission may adjust targets and timelines proposed in the CEIP if doing so can be achieved in a manner consistent with the equity requirement. To evaluate whether a utility can make these adjustments, the commission needs an understanding of how the initial targets and timelines in the proposed CEIP are consistent with the customer benefit requirements. Finally, because RCW 19.405.090(9) requires the commission to determine investor-owned utilities' compliance with chapter 19.405 RCW, the commission must make a regular de-

termination of a utility's compliance with RCW 19.405.040(8). It would be inefficient for the commission to approve a CEIP, only to determine later that a utility has not complied with RCW 19.405.040(8).

60 Proposed WAC 480-100-640(4) requires utilities to provide foundational information in the CEIP related to the customer benefit requirements. WAC 480-100-640 (4)(a) and (b) require utilities to identify highly impacted communities and vulnerable populations for which equitable distribution of benefits and reductions of burdens must be achieved pursuant to WAC 480-100-610 (4)(c)(i).

61 Proposed WAC 480-100-640 (4)(c) requires utilities to propose or update customer benefit indicators and associated weighting factors. As defined in WAC 480-100-605, a customer benefit indicator is an attribute of a resource or related distribution system investment (i.e., a specific action) associated with RCW 19.405.040(8), and is included in the clean energy transformation standards in WAC 480-100-610 (4)(c). Specifically, WAC 480-100-640(c) requires that utilities propose at least one indicator for each element of customer benefits listed in the rule as outlined below:

- Proposed WAC 480-100-610 (4)(c)(i):
 - Energy benefits,
 - Non-energy benefits, and
 - Reduction of burdens.
- Proposed WAC 480-100-610 (4)(c)(ii):
 - Public health,
 - Environment,
 - Reduction in cost, and
 - Reduction in risk.
- Proposed WAC 480-100-610 (4)(c)(iii):
 - Energy security, and
 - Resilience.

62 We require utilities to develop customer benefit indicators and weighting factors consistent with the advisory group process and public participation in proposed WAC 480-100-655. Customer and stakeholder input is necessary in developing customer benefit indicators. First, customer and stakeholder input is necessary to determine whether an attribute is an indicator of customer benefit, and whether it reflects a reduction of a burden. Second, customer and stakeholder input regarding weighting factors is necessary to understand the degree to which benefits can be equitably [equitably] distributed when considered in light of appropriate factors, such as current conditions and the estimated amount of benefits over the whole transition.

63 PSE commented that the rules should not reference updated customer benefit indicators. However, as customer preferences and impacts may change over time, we find that the rules should allow for updated customer benefit indicators.

64 Proposed WAC 480-100-640(5) addresses specific actions a utility plans to take under its CEIP to meet the requirements of RCW 19.405.060 (1)(b)(iii), including operational and regulatory requirements, and requires utilities to provide, among other details, information related to customer benefits for each specific action. This information includes the general location of the specific action, if applicable, and a designation of whether the specific action is located within a highly impacted community or will be governed by, serve, or otherwise benefit highly impacted communities or vulnerable populations in part or in whole. We intend to review the customer benefits

on a portfolio-level. Therefore, it is important for the utility to identify which specific actions provide customer benefits.

65 Subsection (5)(c) also requires the utility to provide the customer benefit indicator values for each specific action, or designate the customer benefit indicator as nonapplicable, to establish the amount of customer benefit provided by each specific action. The rule provides flexibility for recognizing benefits in subsection (5)(b) because some benefits will be associated with the project location (e.g., local job creation), while other benefits may be associated with the governance structure of the specific action or other non-co locational benefits (e.g., community ownership of resources). For example, highly impacted communities and vulnerable populations may benefit from a specific action if it is governed by those communities. Such governance might include majority community ownership (e.g., more than 50 percent equity interest), indirect ownership through a cooperative, nonprofit, or LLC, or majority control (e.g., voting power or decision-making interest outlined in bylaws).

66 Proposed WAC 480-100-640(6), among other provisions, requires utilities to describe narratively how the portfolio of specific actions (i.e., all the specific actions included in a utility's CEIP) are consistent with the customer benefit requirements. This narrative is necessary because a utility must provide context for the customer benefits included in WAC 480-100-640(5). Based on this information, the commission may determine whether the customer benefits are sufficient and will result in an equitable distribution, based on a consideration of current conditions and the estimated amount of benefits across the transition. The rule requires utilities to provide a narrative that assesses the current benefits and burdens on customers, including the benefits and burdens associated with specific actions the utility has taken since CETA's effective date, and after the utility has implemented a CEIP, the changes in benefits and burdens resulting from the utility's specific actions in the prior implementation period.

67 Additionally, proposed WAC 480-100-640(6) requires the utility to describe in the narrative how the specific actions are consistent with its most recent IRP and CEAP. These two elements of the narrative are necessary because the commission's compliance determination may require an evaluation of the timing and quantity of benefits throughout the transition to clean energy, both as the utility begins implementation and over the trajectory of implementation. As noted above, an equitable distribution of benefits will depend on the total benefits of the transition to clean energy, which will occur over time. An evaluation of the equitable distribution of benefits must consider when the benefits will begin accruing to customers and reflect whether the benefits will continue into future implementation periods. The narrative we require in subsection (6) provides an opportunity for utilities to describe how the CEIP, as a whole and through specific actions, will meet the customer benefit requirements.

68 Proposed WAC 480-100-640(11) allows utilities to update a CEIP based upon any changes included in an IRP progress report. Utilities should include in their updates any resulting changes to customer benefits.

3. Compliance Report: WAC 480-100-650, 480-100-655.

69 Proposed WAC 480-100-650 (1)(d) requires utilities to demonstrate that the specific actions they took in implementing the CEIP met the customer benefit requirements under RCW 19.405.040(8). The demonstration must include updated customer benefit indicator values,

as well as analysis that the benefits and reduction of burdens have or will reasonably accrue to intended customers. PSE recommends removing the requirement to analyze whether benefits and reduction of burdens have or will reasonably accrue to customers. We find that the requirements in subsection (1)(d)(ii) are necessary. The distribution of benefits may vary greatly during implementation, based on numerous factors such as the specifics of the resource acquired or otherwise implemented, including project ownership, outreach to customers, and customer-specific information (e.g., benefits of a rooftop solar project must be carefully and intentionally shared or they will only reasonably accrue to customers who own their own home).

70 Proposed WAC 480-100-650 (1)(e) requires utilities to describe in the compliance report their equity advisory group process, as well as customer engagement and outcomes. Additionally, this subsection requires utilities to demonstrate that they complied with the requirements in proposed WAC 480-100-655 to engage customers in the development or update of customer benefit indicators. As noted previously, customers must be meaningfully engaged both to ensure that the specific actions taken by utilities reflect actual customer benefits and that the utility captures relevant changes in customer experiences and preferences. As required in subsection 655 (2)(a), input from designated highly-impacted communities or vulnerable populations should inform the customer benefit indicators associated with the equitable distribution of benefits and reduction of burdens to those populations, while input from all customers should inform the customer benefit indicators for public health, environmental health, cost reduction, risk reduction, energy security, and resilience.

E. Penalties.

71 The proposed rules include a section addressing the various options available to the commission for enforcing both the statutory provisions of CETA and commission orders implementing CETA. The potential penalties identified in the proposed rules include the specific penalty described in RCW 19.405.090, the administrative penalties the commission may assess for failure to comply with a commission order or rule under RCW 80.04.380 and 80.04.405, and the penalty that may be assessed under EIA in RCW 19.285.060.¹⁹ In adopting these rules, the commission retains its discretion to determine, on a case-by-case basis, if it should issue a penalty for violating a commission order based on the specific circumstances. Commissioner Balasbas opposes adopting proposed WAC 480-100-665 because, in his view, "Although many of the enforcement tools listed in the rule are restatements of existing commission authority, by including explicit provisions in this package of rules, right out of the gate the commission is taking an aggressive and unnecessary adversarial stance on utility compliance with CETA." Dissent ¶ 19. We disagree that this provision is adversarial. The commission, however, received comments early in this rule making questioning the commission's authority to enforce CETA provisions beyond the administrative penalties authorized in RCW 19.405.090. Proposed WAC 480-100-665 clarifies the commission's statutory interpretation that all of its statutory enforcement authority is available, if necessary, to ensure compliance with CETA, just as such authority extends to ensuring compliance with every statute within the commission's jurisdiction.

¹⁹ RCW 19.405.020(39).

72 The proposed rules largely do not detail how the commission would apply the penalties the legislature adopted in RCW 19.405.090.

Rather, we provide guidance below on how the commission may apply those penalties in the different scenarios envisioned in the statute.

1. Application of the penalty under RCW 19.405.090: WAC 480-100-650.

73 RCW 19.405.090(1) provides that an electric utility that fails to meet the standards established under RCW 19.405.030(1) and 19.405.040(1) must pay an administrative penalty. The requirement in RCW 19.405.030(1) that a utility must eliminate coal-fired resources from its allocation of electricity begins no later than December 31, 2025. Utilities must demonstrate compliance with the obligation in RCW 19.405.040(1) that all retail sales of electricity be greenhouse gas neutral by January 1, 2030. The administrative penalty established in RCW 19.405.090 is \$100 per megawatt-hour for each megawatt-hour of electric generation used to meet load that is not renewable or non-emitting and includes multipliers for coal- and gas-fired resources.²⁰

²⁰ RCW 19.405.090 (1)(a) provides, an electric utility or an affected market customer that fails to meet the standards established under RCW 19.405.030(1) and 19.405.040(1) must pay an administrative penalty to the state of Washington in the amount of one hundred dollars, times the following multipliers, for each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or non-emitting electric generation:

- (i) 1.5 for coal-fired resources;
- (ii) 0.84 for gas-fired peaking power plants; and
- (iii) 0.60 for gas-fired combined-cycle power plants.

74 *Application of the penalty in RCW 19.405.090 to standard in RCW 19.405.030(1)*: RCW 19.405.090 establishes a \$150 per megawatt-hour penalty for each megawatt-hour of electric generation from a coal-fired resource used to meet load.²¹ However, the definition of coal-fired resource is limited to resources owned or under a contract longer than one month.²² Therefore, if a utility fails to remove its allocation of electricity, i.e., all costs and benefits related to coal-fired resources owned or associated with contracts longer than one month to serve load from rates between January 1, 2026, and December 31, 2029, it is subject to the \$150 penalty in RCW 19.405.090(1) for each megawatt-hour of coal-fired electric generation used to meet load during the implementation period.²³

²¹ RCW 19.405.090 (1)(a)(i).

²² RCW 19.405.020 and WAC 480-100-605.

²³ RCW 19.405.020(1).

75 Aspects of this compliance obligation and its measurement hinge on the question of how to define the "use" of electricity more generally because the penalty under RCW 19.405.090 (1)(a) is based upon "each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or non-emitting electric generation" (emphasis added). As comments throughout this rule making reflect, this is a complicated issue which the commission, commerce, utilities and stakeholders will continue to discuss. Prior to the December 31, 2025, deadline in RCW 19.405.030(1), utilities and stakeholders will need to determine which megawatt-hours of generation are subject to the penalty, and how the utility will document compliance. Here, the commission clarifies only the more basic question of whether the penalty applies to "using" coal-fired resources to serve load, however that may be defined in the future, or if penalties apply only to the inclusion of the costs of coal-fired resources in customer rates.

76 PacifiCorp and AWEC have objected that the definition of "allocation of electricity" under RCW 19.405.020(1) indicates that utilities are not required to stop using coal-fired resources to meet retail customer load by 2026, but must only stop including these costs

in rates.²⁴ The crux of this argument is that RCW 19.405.030(1) requires the elimination of coal-fired resources from the utility's "allocation of electricity," which, for rate setting purposes, the statute defines as "the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state." While we agree that inclusion of coal-fired resources in rates is prohibited beyond 2025, we disagree that CETA only prohibits the inclusion of these resources in rates.

²⁴ Note however that RCW 19.405.030 contains exceptions for certain costs, such as decommissioning and remediation costs. For the purpose of this section, discussion of coal-fired resource costs and benefits refers to those costs and benefits not exempted under RCW 19.405.030.

77 First, the "ratemaking only" interpretation contradicts the plain language of RCW 19.405.090 (1)(a), which sets penalties based on the use of coal-fired resources to serve load, not for the inclusion of those resources in rates. As we noted above, RCW 19.405.090 (1)(a) creates a penalty for failure "to meet the standards established under RCW 19.405.030(1) and 19.405.040(1)" based upon "each megawatt-hour of *electric generation used to meet load* that is not electricity from a renewable resource or nonemitting electric generation" (emphasis added). That description of the penalty applies to RCW 19.405.030(1) specifically. Subsection RCW 19.405.090 (1)(b) states that "[b]eginning in 2027" the penalty is adjusted for inflation, and the only applicable standard at that point in time is RCW 19.405.030(1). If the "ratemaking only" interpretation were correct, RCW 19.405.090 (1)(a) would not set a penalty for -.030 based on whether coal-fired resources were used to serve load because, under this interpretation, RCW 19.405.030(1) does not prohibit using coal to meet load, it only prohibits including those resources in rates.

78 Second, the early action coal credit option outlined in RCW 19.405.040(11) further undermines the "ratemaking only" interpretation. That subsection allows utilities that meet certain qualifications to receive credit for early compliance with RCW 19.405.030(1), but *only* if the utility demonstrates "that for every megawatt-hour of early action compliance credit there is a real, permanent reduction in greenhouse gas emissions in the western interconnection directly associated with that credit."²⁵ This indicates that RCW 19.405.030(1) requires actual elimination of the use [of] coal-fired resources,²⁶ since receiving early credit for compliance with RCW 19.405.030(1) also requires it.

²⁵ RCW 19.405.040(11).

²⁶ The statutory definition of coal-fired resources does not include use of all coal-fired resources. See RCW 19.405.020(7).

79 Third, it is important to recognize the overall legislative intent.²⁷ RCW 19.405.010(2) states: "It is the policy of the state to eliminate coal-fired electricity." Under the "ratemaking only" interpretation, however, eliminating coal-fired electricity would not be required by law until 2045 because RCW 19.405.040(1) allows an offset for up to twenty percent through alternative compliance options between 2030 and 2045. This outcome appears to be contrary to the legislative intent behind CETA as the larger statutory context demonstrates. Furthermore, under the "ratemaking only" interpretation, between 2026 and 2029 a utility would incur the penalty for coal-fired resources under RCW 19.405.090(1) only if the commission first authorized recovery of those resources in a ratemaking case, because that is all that RCW 19.405.030(1) prohibits. This reading would mean that the legislature intended a utility to be penalized if the commission (in violation of RCW 19.405.030(1)) authorized the inclusion of coal-fired

resources into rates. In other words, the commission would be authorized to penalize a utility for including the costs and benefits of these resources in rates, which only the commission pursuant to WAC 480-100-620(9) could have approved. These absurd results, as well as the statutory support for a different interpretation discussed above, lead us to reject the "ratemaking only" interpretation of RCW 19.405.030(1) and the proposed "allocation of electricity" definition.

²⁷ See *State v. Reis*, 183 Wn.2d 197, 212, 351 P.3d 127 (2015) ("Declarations of intent are not controlling; instead, they serve only as an important guide in determining the intended effect of the operative sections.")

80 Finally, the definition of "allocation of electricity" does not signal that RCW 19.405.030(1) allows a utility to continue using coal-fired resources to serve load beyond 2025. The definition requires the elimination of costs *and benefits*, and the primary benefit of these resources is the supply and sale of electricity to consumers. The benefits of these resources cannot be eliminated from rates unless coal-fired resources are *in fact* no longer used to serve load, since the utility would still be receiving compensation from ratepayers for that coal-fired electricity through current rates. Again, the early action coal credit option in RCW 19.405.040(11) supports this reading of the definition. A utility receives credit for removing these resources from "the utility's allocation of electricity before December 31, 2025" but the subsection specifies that doing so requires more than simply demonstrating that customer rates no longer include the costs of those resources, it requires "a real, permanent reduction" in emissions.²⁸ Additionally, while the definition states that it is "for the purpose of setting electricity rates," as the legislature was well aware, the commission sets rates based (in part) on the resources that are used and useful to provide service to customers.²⁹ We adopt a reading of the "allocation of electricity" that does not conflict with requirements of RCW 80.40.250, as amended by CETA.

²⁸ RCW 19.405.040(11).

²⁹ See RCW 80.04.250(2).

81 All of these compliance obligations and determinations hinge on the question of how to define the "use" of electricity more generally. As we note above, prior to December 31, 2025, utilities, stakeholders, commerce and the commission will need to determine how a utility will document its compliance with the requirements regarding the "use" of electricity. We intend to initiate proceedings regarding the definition of "use" in 2021.

82 If a utility elects to rely on the alternative compliance option in its compliance report under RCW 19.405.090(2), it must calculate the alternative compliance payment based on the actual load of the full implementation period, based upon documentation of reliance on coal-fired, gas-fired, and unspecified electricity.

83 In calculating the alternative compliance payment after January 1, 2030, even if the utility successfully removes all costs and benefits related to coal-fired resources owned or associated with contracts longer than one month from rates, it is still subject to the \$150 per megawatt-hour penalty for each megawatt-hour of coal-fired electric generation used to meet load after that date. Under RCW 19.405.040(7), a utility that fails to comply with RCW 19.405.040 must pay the penalty under RCW 19.405.090(1).

84 *Application of the penalty in RCW 19.405.090 to nonrenewable and emitting resources:* Multiple commenters expressed concerns about how to address serial contracts of less than one month that would seem to allow the utility to use coal-fired resources without incurring

penalties after 2030. Other commenters expressed concern about how to address electricity from unspecified sources, regardless of contract length.

85 RCW 19.405.090(1) states that the \$100 penalty applies to "each megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation." Thus, to avoid the application of the penalty, the electricity used to meet load must affirmatively be generated from renewable or nonemitting resources. There are two situations that require additional consideration in the application of the penalty: (1) Electricity from coal-fired resources under contracts of one month or less, and (2) unspecified electricity.

86 Under RCW 19.405.030, the utility is not required to remove the costs and benefits associated with coal-fired resources purchased under contracts of one month or less from its requests for rate recovery. However, electricity from coal-fired resources supplied under contracts of one month or less, while excluded from the definition of coal-fired resources, are not renewable or nonemitting. Thus, after 2030, instead of the \$150 penalty for coal-fired resources, the utility will be subject to the \$100 penalty for each megawatt-hour of coal-fired electric generation used to meet load that is provided under contracts of one month or less. The statute provides this remedy to prevent serial contracts of one month or less from sidestepping the requirement to achieve 100 percent renewable and nonemitting electricity by 2045.

87 "Unspecified electricity" is "an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers."³⁰ Under this definition, unspecified electricity is not affirmatively renewable or nonemitting.³¹ We do not believe that the legislature intended to allow a utility to avoid compliance with applicable standards by purchasing unspecified electricity. Accordingly, we conclude that the \$100 penalty applies to any unspecified electricity. This conclusion aligns the utility's incentive to identify the source of the electricity with the requirement to achieve one hundred percent renewable or nonemitting electricity by 2045.

³⁰ RCW 19.405.020(39).

³¹ *Id.* "Unspecified electricity" means an electricity source for which the fuel attribute is unknown or has been separated from the energy delivered to retail electric customers.

2. Penalties on specific and interim targets: *WAC 480-100-640, 480-100-645.*

88 Proposed WAC 480-100-640 (1)-(3) require a utility to file, by October 1, 2021, and every four years thereafter, a CEIP with specific and interim targets for each implementation period as described in RCW 19.405.060(1). RCW 19.405.060 (1)(c), as reflected in proposed WAC 480-100-645(2), requires the commission to issue an order approving a utility's CEIP.

89 Utilities argue in their comments that the commission either may not or should not issue penalties associated with the specific and interim targets identified in the CEIP and approved by order prior to 2030. PacifiCorp asks the commission for flexibility in meeting the interim targets, and PSE requests the commission reconsider its interpretation of the application of the CETA penalty to the interim targets. We do not adopt either of these positions.

90 *Specific targets:* The statutory penalty in RCW 19.405.090 applies to electric generation from resources that are *not* renewable or

nonemitting. We thus conclude that the statutory penalty does not apply to the specific targets, which concern energy efficiency, demand response, and renewable energy. However, the commission must by order approve, reject, or approve with conditions the utility's CEIP, and the CEIP must contain specific targets.³² As described in RCW 80.04.380 and 80.04.405, the commission has discretion to issue penalties for failure to comply with a commission order. The rules adopted by the commission in no way limit this discretion. Accordingly, the commission retains discretion to penalize a utility, as a violation of the commission's order, for failure to comply with specific targets the commission has approved in the utility's CEIP.³³

³² RCW 19.405.060 (1)(c).

³³ Any failure to meet EIA targets for renewable energy and conservation are subject to the \$50 per megawatt-hour penalty in RCW 19.285.060. (Move fn. up to para. 70.)

91 Interim targets: Proposed WAC 480-100-640(2) requires a utility's CEIP to include a series of interim targets in the form of the percent of forecasted retail sales of electricity supplied by non-emitting and renewable resources prior to 2030 and from 2030 through 2045. RCW 19.405.060 (1)(c) requires that the commission approve these interim targets. Interim targets are a critical part of demonstrating progress toward meeting the standards in the law, and utilities must design a reasonable transition to achieve the standard. When the commission approves the interim targets by order, the commission retains the discretion to issue penalties for failure to comply with the commission's order, specifically if a utility fails to meet its interim target for any implementation period.³⁴

³⁴ In his dissent, Commissioner Balasbas contends, "The enforcement language (in proposed WAC 480-100-665) also implies the interim targets proposed in utility CEIPs are binding," which "is not consistent with the specific statutory enforcement provisions in CETA and limits utility flexibility to achieve the clean energy goals at the lowest reasonable cost to ratepayers." Dissent ¶ 19. Interim targets, however, would be largely meaningless if the utility does not in good faith establish and comply with those targets. We expect the commission to use discretion, as opposed to rote adherence, in enforcing the interim targets.

3. Attestation of no coal in rates: WAC 480-100-650.

92 Beginning in 2027, proposed WAC 480-100-650 (3)(a) requires utilities to provide an attestation for the previous calendar year specifying that the utility did not use any coal-fired resource owned or under contracts longer than one month to serve Washington retail electric customer load. This requirement begins in 2027 because each "utility must eliminate coal-fired resources from its allocation of electricity" by December 31, 2025.³⁵ For rate-making purposes, allocation of electricity is defined as the costs and benefits associated with the resources used to provide electricity to a utility's Washington retail electricity consumers.³⁶ These statutory requirements, taken together with the definition of coal-fired resource in RCW 19.405.020 and the administrative penalties in RCW 19.405.090 (1)(a), mean that if a utility owns a coal-fired resource or buys electricity under a contract longer than one month that is generated by coal-fired resources, the utility may not pass on the costs of that power to consumers, or use those resources to meet load.³⁷

³⁵ RCW 19.405.030 (1)(a). For a discussion of the definition of "allocation of electricity," see Section III.E.1., *supra*.

³⁶ RCW 19.405.020(1).

³⁷ RCW 19.405.090 (1)(a).

93 The coal attestation requirement begins in 2027. As discussed above, the commission expects to provide additional guidance on the specifics of this requirement before that time through the rule making required by RCW 19.405.130. That rule making will also provide guidance on the issue of the "use" of electricity under RCW 19.405.040(1).

94 PacifiCorp and AWEC both argue that the attestation described in the rule goes beyond the requirement in RCW 19.405.030. As we have discussed in Section III.E.1., we disagree with the view that RCW 19.405.030, or chapter 19.405 RCW generally, require *only* the exclusion of these resources from rates. Public counsel, NWECA, and Renewable Northwest all support attestation, either as is, or with small changes.

95 We further clarify that the attestation required in the proposed rule does not address electricity generated by coal-fired resources purchased under contracts of one month or less. The exclusion in the definition of coal-fired resource recognizes that the source of the power can be known *after* the time of purchase through the utility's fuel mix report.³⁸ The utility must exercise due diligence to discover after the fact whether coal-fired resources under contracts of any length generated the electricity used to meet load.³⁹ The attestation must affirm that the utility did not knowingly purchase any electricity from coal-fired resources.⁴⁰ The commission expects that enforcement of the removal of coal owned or under contract for longer than one month will also be addressed in general or power-cost-only rate cases. The detailed work needed to resolve this issue will also occur in the rule making required under RCW 19.405.130.

³⁸ See RCW 19.405.020 (7)(b)(i) ("Coal-fired resource" does not include an electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electric customers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity.")

³⁹ Washington investor-owned utilities rely on bilateral contracts of less than one month for as much as twenty-five percent of their power. In addition, deliveries under most wholesale contracts, even those longer than one month, typically do not specify the source of the power. This is because the Western Electricity Coordinating Council allows utilities to buy and sell a system mix similar to the offering from Bonneville Power Administration. Under the status quo, utilities do not know ahead of time whether they are receiving coal-fired electricity on an hourly, daily, monthly, or even annual basis. Nevertheless, they can calculate a system mix, apply the resulting percentages to the power they purchase as system mix, and arrive at an answer after the year end.

⁴⁰ The utility cannot knowingly purchase coal-fired resources in any circumstance and recover the costs from consumers. The exclusion in the definition of coal-fired resource is two-pronged. The purchase must be less than one month, *and* the source must be unknown at the time of entry into the transaction to procure the electricity.

96 Stakeholder comments on the elimination of coal from utility rates illustrate the complexity of this issue. The commission must continue to consider and revise as necessary the best way to implement the requirement in RCW 19.405.030 to eliminate coal from the allocation of electricity. The attestation in the proposed rule is an important step toward accomplishing that goal.

F. Relief from Statutory Penalties - Electric System Integrity and Incremental Cost.

97 In CETA's finding and intent section, the legislature stated that Washington can achieve the goals in the bill while "maintaining safe and reliable electricity to all customers at stable and affordable rates."⁴¹ The legislature included provisions in CETA that ensure both the integrity of the electric grid and the affordability of customer rates. We will address each in turn.

⁴¹ RCW 19.405.010(4).

1. Electric system integrity.

98 RCW 19.405.090 (3) and (6) describe circumstances under which the commission may relieve an investor-owned utility of an administrative penalty. One basis for relief is if the utility's compliance with CETA would have compromised or resulted in conflicts with the integrity of the electric grid. The administrative process for making this determination is straightforward - subsection (3)(a) allows the commission, after a hearing, to relieve a utility of an administrative penalty. The commission may take this action on its own motion or a utility may request relief.

99 Specifically, a utility may seek relief under RCW 19.405.090 (3)(a)(i) and (ii), if, after taking all reasonable measures, compliance with the statute is likely to result in conflicts or compromises to its obligation to comply with mandatory reliability standards, violate prudent resource adequacy standards, compromise the integrity of the electric grid, or if the utility is unable to comply due to reasons beyond its control. Subsections (3)(b) and (c) describe the length of time the commission may relieve the utility of its compliance obligation and what type of guidance the commission may provide the utility. Subsection (6) describes some of the conditions that are outside the utility's control.

100 We conclude that the proposed rules do not need to expand on this procedure for seeking relief from CETA penalties as the meaning and application of statutory terms relating to system integrity will depend on the specific facts of each case. We find that the statutory language is sufficient given the wide range of circumstances in which relief from an administrative penalty could be justified. Thus, we do not prescribe specific standards on reliability relief in the proposed rules.

2. Incremental Cost: WAC 480-100-660.

101 The legislature's intent in CETA is that electric utilities should transition to one hundred percent clean electricity while maintaining affordable, stable rates.⁴² To that end, RCW 19.405.060(3) provides that a utility should be considered compliant with RCW 19.405.040(1) and 19.405.050(1) [19.405.050(1)] if it meets a certain cost threshold or the annual incremental cost of compliance. The statute does not define "incremental cost" but provides guidance and requires the commission to establish by rule a methodology for determining the annual incremental cost of compliance. Proposed WAC 480-100-660 incorporates this statutory requirement. A utility's incremental cost of compliance is a calculation that determines which annual costs the utility incurred for the purpose of complying with RCW 19.405.040 and 19.405.050.

⁴² See RCW 19.405.010(4) ("The legislature finds that Washington can accomplish the goals of chapter 288, Laws of 2019, while ... maintaining safe and reliable electricity to all customers at stable and affordable rates.")

102 CETA obligates utilities to meet the requirements of the law at the lowest reasonable cost.⁴³ A utility's reliance on the incremental cost of compliance to satisfy its obligations is an alternative pathway. Accordingly, we do not expect incremental cost to be the default for compliance through 2045 and beyond. The commission expects utilities to immediately begin making investments to achieve their future statutory obligations and discourages utilities from using the incremental cost compliance pathway to delay investment in the early years of implementation or from waiting until deadlines approach before making investments. The commission will review the utility's progress of compliance during the approval of each CEIP and clean energy compliance report.

⁴³ See RCW 19.405.010, 19.405.040 (6)(a)(i), 19.405.050 (3)(a), 19.405.060 (1)(c)(ii).

103 In future proceedings, the commission will base its decisions regarding incremental cost on the specific facts in the record, as well as our wealth of experience enforcing similar statutory requirements. Through enforcement of similar statutory requirements, the commission has acquired expertise in determining the proper methods, rules, and enforcement of statutes that require us to measure different types of incremental changes.

104 *The statutory context of the incremental cost alternative compliance pathway:* The incremental cost alternative compliance pathway is an integral part of the entire statutory scheme.

105 Generally, commenters that objected to the calculation of the annual threshold amount in proposed WAC 480-100-660 and Commissioner Balasbas in his dissent, state this calculation will result in significant rate increases. This objection assumes that utilities will be unable to meet their interim targets (which the utilities themselves propose, and the commission reviews for either approval or modification),⁴⁴ or the statutory standards (which the legislature found achievable while maintaining affordable rates), without reliance on the alternative incremental cost pathway.⁴⁵ The implicit argument appears to be that: (a) Utilities will regularly fail to meet their proposed targets; (b) utilities accordingly will need to rely on the incremental cost alternative compliance pathway; and (c) the annual threshold amount calculation will therefore have a substantial impact on customer rates. The commission disagrees with these assumptions. The primary and expected method of compliance with CETA is that utilities will meet their interim targets and the statutory standards in RCW 19.405.040(1) and 19.405.050(1) under CETA's lowest reasonable cost standard. We expect utilities to propose reasonable interim targets and meet the statutory standards of RCW 19.405.040(1) and 19.405.050(1) in a cost-effective manner. Like the legislature,⁴⁶ we believe this is achievable without imposing unreasonable costs on customers. In most cases, the actual costs of achieving those targets, not the annual incremental cost threshold amount, will determine the real cost impact of CETA on customer rates. We believe those actual amounts will be less than the incremental cost threshold amount calculated under WAC 480-100-660.

⁴⁴ RCW 19.405.060 (1)(c).

⁴⁵ See RCW 19.405.010(4).

⁴⁶ See RCW 19.405.010(4).

106 Avista, PacificCorp, and AWEC raised concerns that the incremental cost calculation creates uncertainty and saddles the utility with responsibility for events outside of its control. This objection ignores the statutory authority granted to the commission to determine whether it should relieve the utility of any administrative penalties. As noted above, the commission has that authority in such circumstances.

107 *Compliance pathway:* Contrary to arguments raised by our colleague in his dissent, the incremental cost of compliance option is not a strict cost cap nor is it a floor, but, as stated above, an alternative compliance pathway. The statute does not prohibit a utility from spending, on average over four years, more than the incremental cost threshold on compliance.⁴⁷ However, the legislature intended to restrain the amount of spending a utility must invest to meet the statutory requirements.⁴⁸ If a utility relies on the incremental cost of compliance pathway, the utility should restrain and target its spending to just over the compliance threshold. We understand that holding costs to "just over" the compliance threshold is challenging, and we will allow for flexibility when reviewing the utility's costs for recovery in rates. Rather than requiring utilities to precisely spend a certain amount of money to use this compliance pathway, our intent is to signal that the utility should not spend any amount seeking compliance with the statutory requirements if it has met or excee-

ded the incremental cost of compliance threshold, barring other considerations.⁴⁹

⁴⁷ We note that because the commission determines the directly attributable costs of compliance with RCW 19.405.040 and 19.405.050 using the "alternative lowest reasonable cost portfolio of investments that are reasonably available" as required under RCW 19.405.060(5), limiting directly attributable costs to a specific amount would be functionally impossible. The costs of the baseline portfolio will, by necessity, not be known until the end of the implementation period, and thus whether directly attributable costs have exceeded the compliance threshold will not be known until after the implementation period.

⁴⁸ RCW 19.405.010(2).

⁴⁹ For example, a utility may have a time-limited opportunity for an investment that may be large, such as a generation asset, that would cause the utility to greatly exceed the compliance threshold. The commission would likely look favorably on such an investment if the utility can demonstrate that the investment is beneficial to the company and its ratepayers over the long run.

108 Incremental cost methodology: RCW 19.405.060(5) requires the commission and commerce to establish the "methodology for calculating the incremental cost of compliance ... as compared to the cost of an alternative lowest reasonable cost portfolio of investments that are reasonably available." We interpret this to mean that the incremental cost methodology is a comparison of two portfolios. The first portfolio contains the specific actions and resources that the utility is taking. The second portfolio contains the counterfactual, *i.e.*, what the utility would have done but for the requirements in RCW 19.405.040 and 19.405.050. This second portfolio is referred to as the alternative lowest reasonable cost and reasonably available portfolio in the statute and in these rules,⁵⁰ but we refer to it in this order as the baseline portfolio.

⁵⁰ RCW 19.405.060(5).

109 Determining which actions a utility would have taken in the baseline portfolio is an inherently difficult task because it requires imagining what the utility would have done in a timeline that does not exist. Parties may reasonably disagree on what would have happened. Nevertheless, we expect to resolve these disagreements during our review of each utility's CEIP.

110 Incremental cost calculation: The commission and commerce are adopting the same incremental cost calculation, and an approach that was supported by parties including PSE, Climate Solutions, NWECA, and Renewable Northwest. RCW 19.405.060 (3) (a) states that:

"An investor-owned utility must be considered to be in compliance with the standards under RCW 19.405.040(1) and 19.405.050(1) if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section *equals a two percent increase* of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations *above the previous year*, as reported by the investor-owned utility in its most recent commission basis report ..."⁵¹

⁵¹ Emphasis added.

As we explain below, the statute unambiguously directs us to adopt a calculation in which the annual threshold increases two percent above the previous year's spending. The legislature also found that the state can achieve the goals of CETA while maintaining stable and affordable rates,⁵² directing commission and commerce to balance the pursuit of CETA's goals while moderating the rate impact.⁵³ The incremental cost calculation appropriately strikes the balance between giving the utilities enough room to make the required changes while restraining unfettered spending, as directed by the statute. Indeed, to adopt a lower calculation would not only be inconsistent with statute, but could restrain investment to a level that would undermine the statute's very purpose - to eliminate carbon emissions in the electricity sector. The commission and commerce adopt an approach that was

advocated by parties including PSE, Climate Solutions, NWECA, and Renewable Northwest, and is consistent with the legislative direction.

⁵² RCW 19.405.010(4).

⁵³ "In ascertaining intent, we must look to the whole statute, rather than the single phrase at issue." In re Sehome Park Care Ctr., Inc., 127 Wn.2d 774, 778, 903 P.2d 443 (1995).

111 Avista suggests that the law requires only a flat two percent rate increase over the implementation period. We disagree. RCW 19.405.060 (3) (a) requires that the average annual incremental cost of meeting the standards or interim targets equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue (WASR) to customers for electric operations as reported in the commission basis report above the previous year. The statute describes a calculation that is used for determining compliance - it does not reference a customer rate impact. Moreover, as we have noted, the statute requires a 2 percent increase of the investor-owned utility's revenue above the *previous year*, not over the implementation period.

112 PacifiCorp argues that the commission is misinterpreting the term "the previous year," which the company believes means the single year immediately preceding the CEIP. We disagree. We interpret the term "the previous year" to mean the year prior to each year within the implementation period. In other words, for each year within the implementation period, the WASR from the previous year's commission basis report applies. PacifiCorp's argument that the meaning of "the previous year" should be the year prior to the filing of the CEIP ignores that the calculation solves for the "average annual incremental cost," and therefore an "increase ... above the previous year" is a reference to the prior year *for each year within the implementation period*, not the year before the implementation period began.⁵⁴

⁵⁴ RCW 19.405.060 (3)(a).

113 Public counsel argues that the statute does not require CETA-related cost increases from one year to be carried over into the following years. Furthermore, public counsel argues that "[i]f the statute intended the incremental cost calculation to carry cost increases over to the next year, it could have unambiguously stated that requirement."⁵⁵ In fact, as we have discussed above, the legislature did unambiguously state that requirement in requiring the calculation to reflect the utility's revenue "above the previous year." However, even assuming there is ambiguity, the converse of public counsel's argument is equally true, i.e., that the legislature would have unambiguously stated that the cost of investments only be considered during the first year the investment is made.

⁵⁵ Public counsel comments at 3 (Nov. 12, 2020).

114 Utilities do not typically pay for large investments in a lump sum up front. Rather, the standard practice is for large investments to be financed over the period in which the asset is in service. Public counsel appears to take the position that ongoing costs incurred during subsequent years of an implementation period should not be counted as a directly attributable cost. This would severely undercount the actual directly attributable costs of implementation due to the way utilities pay for large investments.

115 We find that the calculation and methodology in the proposed rule is consistent with the statutory language and legislative intent, more so than the proposed alternatives. RCW 19.405.060 (3) (a) states that "the average annual incremental cost ... equals a two percent increase ... above the previous year." We interpret each word to have

meaning; none are superfluous.⁵⁶ Here, the words "increase" and "above" do not make sense if the interpretation is that the average annual incremental cost equals two percent of the year prior to filing the CEIP. We agree with the comments of PSE, Climate Solutions, NWECC, and Renewable Northwest that the legislature intended for the amount that the utility spends *each* year toward compliance to increase.⁵⁷

⁵⁶ See e.g., *Spokane Cty. v. Dep't of Fish & Wildlife*, 192 Wn.2d 453, 458, 430 P.3d 655 (2018) ("Statutes must be interpreted and construed so that all the language used is given effect, with no portion rendered meaningless or superfluous.")

⁵⁷ In his dissent, Commissioner Balasbas states that PSE's comments in the December 9, 2020, Adoption Hearing audio recording at approximately 28:10, support the alternative statutory interpretation of incremental cost. In fact, PSE's statement at the adoption hearing contains support for the proposed rule stating, "[W]hile PSE questions the viability of the incremental cost provision as a compliance rule, we believe the compounding assumptions in the incremental cost calculation rule language *is consistent with the legislative intent. At the very least it is consistent with PSE's recollection of the discussions that occurred during the development of CETA regarding how this two percent cost cap would work.*" at 22:34. (emphasis added)

116 Our colleague's interpretation, and the respective alternative calculations proposed by public counsel, Avista, and PacifiCorp, not only misinterpret the statute, but focus on the least amount of spending feasible at the expense of pursuing the statutory requirements.⁵⁸ The inconsistency with the statute should not be understated. Public counsel's and Commissioner Balasbas's proposal results in a one-time two percent increase over the WASR for the year preceding the CEIP, followed by small annual increases that equal 0.04 percent of the WASR in each of the following years. Further, Avista's and PacifiCorp's proposals do not allow for these smaller annual increases – they argue for a one-time two percent increase over the four-year period. These calculations do not increase the incremental cost threshold by two percent per year, despite our colleague's claims to the contrary in his dissent.⁵⁹ We do not believe that these interpretations reflect the legislative requirement for annual two percent increases in the spending threshold above the previous year, which build year over year. Next, PacifiCorp contends that the commission's calculation is incorrect because the utility cannot know what that exact "cost cap" is until several months after the CEIP period. PacifiCorp argues this is inconsistent with the statute and erodes the value of the "cap" as a customer protective measure. PacifiCorp further asserts that the draft rules ignore CETA's requirement that the CEIP be "consistent" with the "cost cap" by relying on a projection of WASR.

⁵⁸ To illustrate this point, we refer to our colleague's dissent. Using his proposed calculation and his hypothetical cost estimate for PSE, that utility would spend only half of what it annually spends on its conservation programs to transform its generation fleet to be one hundred percent clean. This hardly seems to be aligned with the statutory direction.

⁵⁹ Dissent, paragraph 12.

117 We disagree with each of PacifiCorp's points. First, as previous[ly] stated, the incremental cost of compliance is a compliance pathway, not a strict cap.

118 Second, PacifiCorp's interpretation is tied to its argument that the commission should determine that a utility may use the compliance pathway when it files its CEIP. PacifiCorp's argument assumes, incorrectly, that the statute implies that the calculation is based upon "projected" revenues. As outlined above, the statutory language is based upon actual, directly attributable costs used to determine compliance, not projections. The calculation for determining the compliance pathway should use actual WASRs. We thus require utilities to use the WASR for each year of the CEIP when each utility files its compliance report, at which time the utility may seek to use the compliance pathway.

119 Relying on projections from the beginning of the implementation period to determine compliance would not be consistent with statute. RCW 19.405.060 (3) (a) states: "All costs included in the determi-

nation of cost impact must be directly attributable to actions necessary to comply with the requirements of RCW 19.405.040 and 19.405.050." Reliance on a projected cost that the utility may never actually incur would not be consistent with this requirement. The same is true for the baseline portfolio. The baseline portfolio is described as "an alternative lowest reasonable cost portfolio of investments that are reasonably available."⁶⁰ Again, relying on a projected cost of an investment that in fact may not be reasonably available during the implementation period would be inconsistent with the statutory description of the baseline portfolio.

⁶⁰ RCW 19.405.060(5) (emphasis added).

120 Third, the proposed rules ensure the CEIP is consistent with the incremental cost of compliance pathway. The commission will not determine if the utility may use the incremental cost of compliance pathway until the company has filed its clean energy compliance report and demonstrated that its spending equaled or exceeded the threshold. Proposed WAC 480-100-660(4) requires utilities to file a projected incremental cost with their CEIPs. When a utility files its CEIP it will not have perfect foresight for the next four years, but the utility should rely on reasonable assumptions of key underlying inputs (revenue, load growth, capex spending, power costs) to make appropriate estimates. Planning for a future with some risk is a fundamental condition of any business, nonprofit, or government. The commission expects that a utility's incremental cost of compliance estimate would be consistent with its recommended specific actions, specific targets, and interim targets that it submits to the commission for approval. Accordingly, the specific actions, specific targets, and interim targets should not require the utility to spend an amount that approaches its incremental cost estimate; to the contrary, as we stated above, CETA requires utilities to meet the statutory requirements at the lowest reasonable cost. However, the commission will not determine if the utility equaled or exceeded the incremental cost of compliance based on "projected" costs, but rather on the actual costs filed in the utility's compliance report.

121 We share the concerns expressed by Avista, AWEC, PacifiCorp, and public counsel related to the potential rate impacts to customers should a utility rely on the incremental cost compliance pathway. However, as we note above, the incremental cost is an alternative, not the primary, pathway for compliance, and is not a strict cost cap. Utilities should be planning to meet the statutory requirements at the lowest reasonable cost, not relying on the incremental cost of compliance pathway as the default method of compliance. The legislature found that meeting those requirements would be feasible while maintaining stable and affordable rates.⁶¹

⁶¹ See RCW 19.405.010(4): "The legislature finds that Washington can accomplish the goals of chapter 288, Laws of 2019 while ... maintaining safe and reliable electricity to all customers at stable and affordable rates."

122 Fourth, proposed WAC 480-100-660 (5)(c) requires each utility to update its verifiable and material inputs in the alternative reasonable cost and reasonably available portfolio when it files its clean energy compliance report. PSE contends that requiring utilities to update the baseline using the portfolio optimization model has numerous flaws, including requiring the commission to make periodic and successive determinations of what the utility would have implemented absent CETA. AWEC, Avista, and PacifiCorp argue that a retrospective review puts too much risk on the utilities. AWEC asks the commission to judge if "the utility's forecasts and assumptions were reasonable

at the time it made them in the CEIP, just as a utility's prudence is determined based on what it knew when it made the investment decision."⁶²

⁶² AWEC Comments ¶ 8 (Nov. 12, 2020).

123 We disagree that requiring the utility to update its inputs is a flaw. Utilities regularly update inputs of previous analysis within a commission proceeding, such as when a utility refiles its power cost baseline during a general rate case.

124 Additionally, although an after-the-fact review creates uncertainty for the utilities, the commission cannot remove all uncertainty. Rather, the commission must strive to balance the needs of the utility and the public, and we believe this decision strikes an appropriate balance. The commission can only determine whether a utility actually met the spending requirements to use the incremental cost compliance pathway with a baseline portfolio that includes, to the extent possible, an accurate representation of what the utility's portfolio would have cost.

125 Although calculating the incremental cost of compliance is not a prudence finding, many of the same facts will be at issue when the commission reviews prudence. In both prudency review and the incremental cost calculation, sensible regulatory oversight demands that we evaluate the utility's actual actions - not its plan.

126 As stated above, CETA requires a cost to be actually incurred in order to be considered directly attributable. The reasonableness of the decision to make the investment is not evaluated when determining incremental cost. Because the utility will be reporting its actual costs based on observed inputs (such as the price of natural gas) to identify the actual incremental cost most closely, the utility should update the inputs and assumptions it made in the baseline when it filed its CEIP. The rules require the updates to be both verifiable and material. The commission, of course, retains its discretion to determine if an input is both verifiable and material during its review of the clean energy compliance report.

127 *Directly attributable costs:* The commission received comments on if and how SCGHG should be used for calculating the incremental cost of compliance. Avista, PacifiCorp, and PSE argued throughout the rule making that the inclusion of SCGHG in the baseline portfolio inflates the rate impact to customers. Climate Solutions, NWEA, and Renewable Northwest have countered that the inclusion of SCGHG in the law is in sections outside of RCW 19.405.040 and 19.405.050, and therefore should be included in the alternative portfolio used as the counterfactual in the incremental cost.

128 We require the utilities to include SCGHG in the baseline portfolio for calculating the incremental cost of compliance in RCW 19.405.060(3). CETA uses the phrase "lowest reasonable cost" throughout chapter 19.405 RCW but does not define it. That term is defined in the IRP statute, RCW 19.280.020(11), which requires utilities to include "the cost of risks associated with environmental effects including emissions of carbon dioxide."⁶³

⁶³ In the 2017 IRP acknowledgment letters to the three utilities, the commission wrote that the utilities should incorporate the cost of risk of future greenhouse gas regulation in addition to known regulations when they develop the preferred portfolio, and suggested the utilities use a SCGHG from the same source as used in the law.

129 We find that including SCGHG in the baseline portfolio is required by statute.⁶⁴ Under RCW 19.280.030 (a) (i) and (iii), a utility is required to include SCGHG as a cost adder when "selecting and evaluating" intermediate and long-term resource options, as well as con-

servation policies, programs, and targets. Because these subsections would still be statutory requirements but for RCW 19.405.040 and 19.405.050, SCGHG must be included in the baseline portfolio.

⁶⁴ In his dissent, Commissioner Balasbas takes issue with the inclusion of SCGHG in the baseline portfolio, stating it, "artificially inflates the baseline portfolio and the costs of non-renewable resources," because SCGHG should be, "a 'directly attributable' cost of complying with CETA." Dissent at ¶ 5-6. We disagree and note that emissions are not artificial – they are real. SCGHG recognizes those costs by correctly internalizing externalities in the baseline portfolio.

¹³⁰ We do note that the requirement for utilities to ensure all customers are benefiting from the transition to clean energy, as well as the other requirements set out in RCW 19.405.040(8), are explicitly part of the costs to implement RCW 19.405.040 and should be considered a directly attributable cost of compliance. Accordingly, these costs are not included in the baseline portfolio.

¹³¹ While the phrase "selecting and evaluating" in RCW 19.280.030 (a) (i) and (iii) could be read to mean selection only within IRP and not in actual investment decisions, RCW 19.280.030 (a) (ii), which states that SCGHG should be included when developing IRPs and CEIPs, contradicts that interpretation. Given that context, if RCW 19.280.030 (a) (i) and (iii) were in fact merely intended as planning requirements, not required for actual investing decisions, then RCW 19.280.030 (a) (ii) is redundant. We decline to so construe the statute. Consistent with our interpretation of the legislature's intent, we include SCGHG in the baseline portfolio's definition.

¹³² In enacting CETA, the legislature both amended chapter 19.280 RCW and created chapter 19.405 RCW. The IRP and CEIP processes are closely interrelated. The most reasonable statutory interpretation is that the term "lowest reasonable cost" has the same general meaning in both statutes.⁶⁵ Finally, although the phrase "social cost of greenhouse gas emissions" appears only in RCW 19.280.030, the calculation of cost for greenhouse gas emissions, including the effect of emissions, applies throughout CETA.⁶⁶ This is yet another indication that SCGHG was intended to have implications outside of IRP. The proposed rules, therefore, define the baseline portfolio's reference to "lowest reasonable cost" to include SCGHG in the same manner required under chapter 19.280 RCW.⁶⁷

⁶⁵ See *Am. Legion Post No. 149 v. Dep't of Health*, 164 Wn.2d 570, 588, 192 P.3d 306 (2008) ("This court assumes the legislature does not intend to create inconsistent statutes. Statutes are to be read together, whenever possible, to achieve a harmonious total statutory scheme which maintains the integrity of the respective statutes."); see also *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, 423, 259 P.3d 190 (2011) ("Statutes *in pari materia* should be harmonized so as to give force and effect to each and this rule applies with peculiar force to statutes passed at the same session of the Legislature") (emphasis added).

⁶⁶ RCW 80.28.405.

⁶⁷ See *Cornu-Labat v. Hosp. Dist. No. 2*, 177 Wn.2d 221, 232, 298 P.3d 741 (2013) ("If, after looking to the dictionary, the meaning of a term is still unclear, its meaning may be gleaned from related statutes which disclose legislative intent about the provision in question."); see also *Phillips v. City of Seattle*, 111 Wn.2d 903, 908, 766 P.2d 1099 (1989) ("An agency's definition of an undefined statutory term should be given great weight where that agency has the duty to administer the statutory provisions."); *Taylor v. Burlington N. R.R. Holdings, Inc.*, 193 Wn.2d 611, 627, 444 P.3d 606 (2019) ("A court must give great weight to the statute's interpretation by the agency which is charged with its administration, absent a compelling indication that such interpretation conflicts with the legislative intent") (quoting *Marquis v. City of Spokane*, 130 Wn.2d 97, 111, 922 P.2d 43 (1996)).

133

G. Public Participation.

¹³⁴ A utility's consultations with staff and advisory groups, and opportunities for public participation, are essential to the development of effective IRPs, two-year progress reports, CEIPs, and biennial updates. As a matter of policy, the commission prefers that utilities engage the public in the resource planning processes currently reflected in WAC 480-100-238, adopted in 2006, and prior versions of IRP rules, which these rules replace.⁶⁸ Meeting the standards of RCW 19.405.040(8)⁶⁹ requires community engagement to determine how utilities will ensure that all customers are benefiting from the transition

to clean energy, with particular emphasis on the needs of highly impacted communities and vulnerable populations.

⁶⁸ Docket UE-030311.

⁶⁹ RCW 19.405.040(8) states: "In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.140, ensure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency."

135 We recognize that utilities have different service territories, varied customer needs, and particular public involvement processes, and that the administrative aspects of utilities' public involvement efforts will be different from company to company. However, the rules we adopt in this order are intended to ensure that utilities administer their individual processes with a similar overarching ethos—one of accessibility, transparency, responsiveness, and clarity. It is in the best interests of utilities, customers, and stakeholders to work collaboratively and proactively through the difficult challenges ahead in implementing CETA. The proposed rules provide a framework for utilities to apply those processes while offering flexibility to fit their particular needs and circumstances.

1. Advisory groups: *WAC 480-100-630, 480-100-655.*

136 Proposed *WAC 480-100-630, 480-100-625* and *480-100-655* rely on the use of advisory group input in the development of, and reporting on, IRPs and CEIPs, as well as associated updates. As previously stated, this process is designed to meet the standards for customer benefit established in RCW 19.405.040(8) in addition to existing expectations for public participation in IRP planning. Throughout this rule making, the commission heard from utilities and stakeholders alike on the benefits and challenges associated with advisory group structures.

137 The benefits of advisory groups include opportunities for deeper conversations with a variety of interested stakeholders on important topics. This provides opportunities to address potential issues and concerns with a plan prior to the utility submitting it to the commission, potentially reducing the need for future adjudication. The challenges include, but are not limited to, the administration of groups; gatekeeping membership to advisory groups; the lack of sincere engagement some group members may see in utilities' efforts; the lack of sincere engagement some utilities may see in some group members' efforts; arguments about how much advisory group input should be reflected in final decisions presented in plans; and lack of trust and transparency in the advisory group process.

138 The comments reflect such challenges, which stakeholders and utilities have experienced in varying degrees. But these challenges do not discount the benefits that can be realized by meaningful and inclusive public engagement through an advisory group process.

139 Utilities and advisory group members alike will need to work on and through these challenges as we implement CETA.

2. International Association for Public Participation Framework: *WAC 480-100-630, 480-100-655, 480-100-610, 480-100-625.*

140 In efforts to address the challenges of advisory groups, some commenters, including Western Grid Group, Sierra Club, Vashon Climate Action Group, NVEC, and WEC, have advocated that the commission include in its rules all or parts of a public participation framework developed by the International Association for Public Participation (IAP2). For example, commenters have recommended adopting IAP2-specific definitions for the words "inform," "consult," "involve," and "collaborate." Some commenters have also suggested requiring utilities to

orient their planning practices to one of the IAP2-defined planning levels, such as "involve" or "collaborate."

141 We appreciate commenters' desire for clarity around minimum expectations for utility and public interaction, as well as clarification regarding how public input can or should influence a utility's decision. We nevertheless decline to adopt the IAP2 framework and definitions in the proposed rules. The commission views IAP2 guidance as one of a number of tools utilities can use to advance their efforts in public involvement.

142 IAP2 can provide helpful guidance to utilities in determining public involvement needs for individual decision points in their planning processes. However, IAP2 definitions should not be used as blanket promises of participation levels without considering the specific decisions that the responsible entity must make. Selecting an appropriate level of participation for a particular decision requires careful consideration by the decision-maker. Further, IAP2 guidance is not the only public participation framework available, and we decline to elevate one framework over others without a thorough evaluation of all options. Finally, direct adoption of IAP2's definitions of words such as "inform," "consult," "involve," and "collaborate" would unnecessarily affect the meaning of these otherwise common terms and restrict the commission's ability to use them in other parts of the rules.

143 Proposed WAC 480-100-630(1) and 480-100-655(1) provide the minimum expectations for a utility's public involvement with its advisory groups. Utilities must consider public input, for example, through modeling scenarios and sensitivities suggested by advisory group members. Additionally, utilities must document how they use public input, which means communicating how public input was considered and addressed both to the commission and to those who provided it. Utilities may use this specific advisory group guidance as a starting point for other types of public participation.

144 The decisions regarding how, where, and when to incorporate public input in plan development are largely the prerogative of the utility, with the exception of developing customer benefit indicators around, for example, energy and non-energy benefits as discussed in proposed WAC 480-100-610 (4)(c). Utilities are ultimately responsible for defending a plan's reasonableness before the commission. Given the commission's strong preference that utilities engage the public in the plan development process, we expect that plans will demonstrate that a utility took appropriate actions to sufficiently solicit, document, and consider public input. To a large extent, we view advisory groups as an appropriate venue for early resolution of issues that later come before the commission in adjudicated proceedings.

145 Utilities are required in proposed WAC 480-100-630(2) to provide advisory group members with completed presentation materials no less than three business days in advance of each advisory group meeting discussing an IRP. This requirement ensures advisory group members, some of whom may participate in a nonprofessional capacity, have sufficient time to digest meeting materials and can participate effectively in meetings. We recognize that advisory group members may have differing levels of experience with utility planning and may have different barriers to participating in the planning process. Utilities should strive to provide members of their advisory groups with informational materials as far in advance of meetings as necessary to allow for meaningful discussion of those materials.⁷⁰

⁷⁰ TEP pointed out that provisions for providing meeting materials in advance to advisory groups were not included in proposed WAC 480-100-655 regarding CEIPs, even though this provision had been included in previous iterations of the draft rules. This was an oversight due to a clerical error made during a reorganization of the rule's public participation sections. The commission's intent in the proposed rules was to require utilities to provide completed presentation materials for each advisory group meeting, including those discussing a CEIP, at least three business days in advance. The commission modifies proposed WAC 480-100-655 (1)(g) to clarify and reflect this intent.

146 The commission offers the public involvement process in proposed WAC 480-100-625, 480-100-630, and 480-100-655 as a guiding flexible framework for utilities to use in outlining their own plans. With the exceptions noted in this order, the commission generally declines to adopt prescriptive requirements in the proposed rules for the administration of public involvement, methods of consensus building, or requirements for how public involvement impacts final decision-making. These decisions are for the utilities to make and to defend. However, in these rules, we require utilities to clearly document and communicate decision-making on these issues to both those participating in the advisory group process and the commission.

3. "Public" vs "advisory group member": WAC 480-100-630, 480-100-655.

147 Several participants in this rule making have responded to the proposed rules with concerns about a perceived reduction in public participation elements, particularly where those rules have substituted the term "advisory group member" for "public" in prior drafts. We clarify that these rules do not reduce the role of public participation in either the CEIP or IRP. Rather, the proposed rules clarify the roles of advisory group processes and other forms of public engagement. Additionally, the proposed rules set expectations regarding how utilities consider input from advisory groups and communicate utility consideration of that input.

148 We understand a utility's primary method of engaging the public and stakeholders in IRP development is through the utility's advisory groups. Proposed WAC 480-100-625 and 480-100-630 clarify our expectations of utility engagement with IRP advisory groups. Proposed WAC 480-100-655(1) extends those expectations to advisory groups required for the CEIP development process. These clarifications in no way prohibit utilities from engaging the public in different, additional ways, which the commission encourages.

149 Advisory group public input processes, such as those in proposed WAC 480-100-625, 480-100-630, and 480-100-655, are inherently limited to selected or self-selected representative members of the public. Loosely termed as "advisory group members," these representatives are differentiated from the wider public made up of all utility customers, community members, and others who may be interested in a utility's business. Advisory groups often include representation from stakeholders who regularly engage with the utility, such as public counsel and staff, but the distinction between the wider public and members of an advisory group is otherwise fluid. Participation in an advisory group is predicated largely on a group or individual's interest and willingness to commit time and effort to an advisory group process.

150 The proposed rules focus on advisory groups through the outline of an IRP's public process in proposed WAC 480-100-630; the creation of an equity group to advise utilities on equity issues in proposed WAC 480-100-655 (1)(b); and the inclusion of existing and new advisory groups in the CEIP process in proposed WAC 480-100-655

(1)(a). These provisions, however, do not discount the importance of involvement from the wider public. Nor do the proposed rules indicate a preference for gatekeeping the membership of an advisory group. Advisory group membership should be broadly available to the public-at-

large. The general public should always have the ability to watch and listen to conversations taking place in advisory groups, if not directly participate in them.⁷¹

⁷¹ Under Docket UE-011571, *Agreed Modifications to Electric Settlement Terms for Conservation*, paragraph 8, filed September 3, 2010, which was first developed in 2002, *membership* in PSE's conservation advisory group is "by invitation." However, any interested party may attend PSE's conservation advisory group meetings. PSE's conservation advisory group is unique; other utilities do not limit membership.

151 Utilities will ultimately determine the membership, agenda, and workplan for an advisory group, but we direct utilities to ensure they are responsive to outside input. Membership of the advisory group must be broad and representative of the various individuals and formal and informal organizations interested in utilities' plans. We expect utilities and stakeholders to manage issues within the advisory group without commission intervention. This includes matters regarding access to information, the behavior of the utility or stakeholders, obstruction of conversation on the part of a utility or stakeholder, incivility or disruptiveness, and participation by unrepresented groups or individuals with an interest in plan development. The commission expects all participants to work together cordially and constructively.

4. Public participation plan: WAC 480-100-655, 480-100-625.

152 Utilities' efforts to encourage and facilitate broader public engagement must be outlined in their public participation plans required in proposed WAC 480-100-655(2) and may be included in the IRP workplan described in proposed WAC 480-100-625 if specific to the IRP process.

153 The commission anticipates that engagement in IRPs and CEIPs will likely begin to overlap as public involvement in planning continues. The CEIP public participation plan covers a two-year period for CEIP development and implementation, during which time utilities will also be engaged in IRP development. In time, the CEIP public participation plan may begin to include elements for integrated resource planning, particularly as they relate to equity needs. We view the public participation plan as inherently flexible—it will both document work conducted during the period before submission of the plan and outline forward-thinking efforts for public involvement through the period. We expect the utilities and stakeholders to work together in the coming years to further refine public participation plans.

5. Comment summaries: WAC 480-100-625, 480-100-630, 480-100-655.

154 Proposed WAC 480-100-625, 480-100-630, and 480-100-655(1) establish minimum expectations for utilities to work with the members of their advisory groups. This order and the proposed rules promote advisory group access to the public-at-large. A key element of engagement is communicating and responding to public inquiries or suggestions.

155 We expect utilities to respect advisory group members' investment of time and resources to IRP and CEIP development by fully responding to the merits of group member suggestions, but we also understand the need for efficiency. When responding to comments identified in form letters or emails on a particular topic, it is reasonable for utilities to respond with a single, complete response, identifying the number of such contacts. Similarly, it is reasonable for utilities to respond to similar, nonform suggestions with single, complete responses to each topical element as provided in proposed WAC 480-100-620(17), 480-100-625 (5) (d), and 480-100-655 (1) (i), but identifying the groups or individual providing comments.

156 Maintaining advisory group input and responses for integrated resource planning on a public website, as proposed WAC 480-100-625 (5) (d) requires and as some utilities already do, will provide stake-

holders and the public-at-large with a clear understanding of decisions the utility has made or topics the advisory group considered. We understand this is how PacifiCorp typically handles its communication of public input on integrated resource planning, and we find this model reasonable for all investor-owned electric utilities to track and respond to public input on integrated resource planning. In keeping these records in a condensed and organized space throughout the process, utilities will have done a large part of the administrative work needed to submit comment summaries with their IRPs, as required by proposed WAC 480-100-620(17). While final plans are utility documents and it is up to utilities to demonstrate their reasonableness, the effort of tracking and responding to public input will assist the commission in determining whether and how a utility's plans meet requirements of the rules and promote the public interest. We find that documentation demonstrating how a utility plans to meet or respond to customer needs, including numerical counts of form letters, will aid the commission in determining whether to acknowledge or approve final plans.

157 In total, the efficient management of documenting and considering public input is a reasonable expectation of any public involvement opportunity, especially one involving utility customers.

158 While proposed WAC 480-100-655 (1)(i) requires utilities to submit with their CEIPs and biennial updates a summary of advisory group comments and utility responses, that proposed rule does not require utilities to track and respond to CEIP public input on their websites. CEIP development may become more complicated, with multiple public input processes beyond just the advisory group structure. For example, WAC 480-100-655 (2)(a)(i) requires engagement specifically with vulnerable populations and highly impacted communities for the creation of and updates to customer benefit indicators and weighting factors for compliance with RCW 19.405.040(8). This type of engagement has a specific focus and will be targeted to specific communities with differing communication needs. While the commission does not require this input and engagement to be recorded on a utility's website, the utility may choose to use its website as the appropriate forum, and we expect utilities to clearly communicate to customers engaged in these efforts how their input was or was not used.

6. Equity advisory group: WAC 480-100-655, 480-100-625.

159 The commission has supported and continues to support public engagement in utility planning on topics ranging from low-income issues to conservation planning.⁷² Equity concerns addressed by RCW 19.405.040(8) are cross-cutting, complicated issues that will require specific focus and attention by the commission, utilities, their customers, and stakeholders. Because compliance with RCW 19.405.040(8) is context-dependent, it requires engagement with communities, including highly-impacted communities and vulnerable populations, so that utilities are ensuring an equitable distribution of benefits. Therefore, the commission finds it reasonable that utilities create and engage with an advisory group on the equity components of implementing CETA in IRPs and CEIPs.

⁷² *In re Rejecting Tariff Sheets; Approving and Adopting Settlement Stipulation; Resolving Contested Issues; and Authorizing and Requiring Compliance Filing*. Dockets UE-170033 and UG-170034, Final Order 08, (Dec. 5, 2017); *In re Granting Joint Petition and Approving Modifications and Additions to Avista's Low-Income Rate Assistance Program Compliance Filing*, Docket UE-140188, Order 07, (June 25, 2015); *In re Authorizing Approval of Changes to the Company's Low-Income Rate Assistance Program*, Dockets UE-190646 and UG-190648, Order 01, (Aug. 29, 2019); *In re Approving and Adopting Settlement Stipulation; Requiring Subsequent Filing*, Docket UE-051090, Order 07, ¶ 25 (Feb. 22, 2006). See also WAC 480-109-110.

160 *Creation of group*: An early discussion in this rule making centered around whether the equity advisory group discussed in pro-

posed WAC 480-100-655 (1)(b) should exist at a state-wide level to discuss compliance with RCW 19.405.040(8), whether individual utilities should create their own groups, or whether equity should instead be represented across all existing, individual utility advisory groups without the creation of a new standalone group. The commission has determined that individual utility equity advisory groups would best address the varying issues and needs across utility service territories.

161 We understand that utilities are continuing to discuss whether they can comply with the requirements to create an equity group by merging the equity group with existing groups or otherwise incorporating equity across existing groups. A key consideration of the commission's approval of any proposal is representation: The requirements of developing an equity group or incorporating equity in existing groups would not be appropriately met if the representation of equity interests is diluted in such a proposed merged group. We encourage utilities and stakeholders to establish equity advisory groups to focus specifically on equity concerns, and to include equitable considerations in the work of utilities' other advisory groups. The work of the advisory groups should not be exclusive, but complementary, and utilities may find that holding meetings with all of a utility's advisory groups together to discuss interrelated or general issues is appropriate.

162 Some stakeholders, including Front and Centered and Climate Solutions, expressed concerns about placing the mandate for the creation of equity groups in the CEIP rules, saying that this placement might hamstring the usefulness of the group if, for example, it delayed its creation or engagement until the end of a planning cycle. To the contrary, we clarify that the creation of an advisory group is only a starting point for the group's work. Proposed WAC 480-100-625 (2)(b) pulls the new equity group into a role for IRP planning. Further, we encourage utilities to approach the role of equity groups broadly and to quickly begin forming and engaging with equity groups. We anticipate that the work of the newly established equity groups will be significant as utilities, customers, stakeholders, and the commission begin to implement CETA's equity mandates.

163 *Invite versus encourage and include:* In CR-101 comments, PSE recommended that the commission change the phrase "encourage and include" to "invite" related to the process of utility outreach in establishing equity advisory groups in draft WAC 480-100-655 (1)(b). The commission declines to make this change in the proposed rule. The decision to use the words "encourage and include" in the rule language was deliberate. Throughout the course of this rule making, we have heard from stakeholders regarding the important role community participation plays in the development of outcomes meant to address specific community needs, as well as certain social and economic barriers that, in the past, have limited the engagement of highly impacted communities and vulnerable populations. The word "invite" implies that only those organizations or individuals that a utility specifically requests may participate in the advisory group, implying that the utility may exclude others. Further, if a utility invites a group or individual to participate in an equity advisory group and the utility's invitation is declined or unanswered, the utility will need to reorient its efforts to develop community-specific guidance. By using the words "encourage and include" to describe the process of forming an equity advisory group, we intend that utilities will proactively reach out to a variety of community voices and reduce barriers to participation.

164 *Equity group or intervenor funding*: Public counsel and several other commentors have requested various funding mechanisms to ensure individuals or groups representing vulnerable populations and highly-impacted communities have the financial resources to engage in commission or utility processes. Most recently in its CR-102 comments, public counsel urged the inclusion of "basic requirement language in rule" as we adopt these rules with details of funding mechanisms and program design to be discussed with more deliberation among stakeholders and a commission policy statement. Public counsel's specific recommendation in its CR-101 comments suggested the commission require utilities to provide funding for both community-based organizations and individuals to participate in the equity advisory group process and that the commission administer this program. Other commenters including NWECC, Climate Solutions, Front and Centered, One America, Puget Sound Sage, Spark Northwest, Sierra Club, Audubon et. al., El Centro de la Raza, and Washington environmental council have recommended similar equity-focused funding or spending requirements such as requirements for intervenor funding, requirements for utilities to contract with community-based organizations, and requirements for funding mechanisms specifically focused on equity-related public participation, including advisory groups. At the outset, we have questions [about] whether the commission has authority to require such funding. We also have questions about how to determine levels of funding, which organizations would be eligible, which organizations would be excluded if funding is limited, and how any funding mechanism would be administered. We remain interested in additional conversations on these issues, but we decline to require any specific funding mechanism in these proposed rules.

165 Proposed WAC 480-100-655 (2) (b) requires utilities to reduce barriers to participation in utility processes, including those related to economic needs. In the future, as additional information comes forward during rule implementation and as conversations on these issues evolve, the commission may consider issuing additional guidance.

7. Draft IRP and progress report as part of public engagement: WAC 480-100-610, 480-100-620, 480-100-625, 480-100-630, 480-100-655.

166 Providing a draft IRP plan is a critical part of the public participation processes set forth in proposed WAC 480-100-625, 480-100-630, and 480-100-655. To ensure transparency, it is also important that the modeling and portfolio analysis leading to the draft IRP be as complete as practicable before filing to allow the public to comment on the company's presentation and provide meaningful public input on the draft IRP.⁷³ Advisory group participation during the IRP development process, where specific issues are often discussed individually, does not substitute for a thorough review of a substantially completed draft. Only once the plan is substantially complete can advisory group members understand the interactions between the different inputs to the IRP, and determine whether certain elements of the IRP are not sufficiently addressed. Thus, we expect the draft IRP will be substantially complete, containing to the extent practicable the preferred portfolio, CEAP and supporting analysis, and all scenarios, sensitivities, appendices, and attachments. We also find it reasonable to expect the draft plan and modeling to provide an accessible, clear, and transparent view of a utility's plans. A substantially complete draft will allow the public to effectively comment on the long-range IRP solution.

⁷³ Requiring a mostly complete draft to be filed prior to the issuance of a final document is common regulatory practice. For example, the Northwest Power and Conservation Council's power plan development process includes a two-stage process of issuing a draft plan, taking public comment, conducting the appropriate analysis to respond to public comment, and issuing a final plan. Further, 40 C.F.R. § 1502.9 governs the environmental impact statement (EIS), which occurs in a similar two stages. To the fullest extent practicable, a draft EIS must meet the requirements established for the final. Similarly, proposed WAC 480-100-625(3) outlines a two-stage process for the development of a utility's IRP, where the draft IRP should be substantially complete. The commission then hears comment at an open meeting, and the utility responds to comments in the final IRP.

167 As outlined in proposed WAC 480-100-620(17), the final IRP should address appropriate points and public input received after the utility files its draft IRP, including those received through the commission's open meeting public comment process.

168 In its comments related to the 2021 IRP cycle, PSE asserts the IRP is being developed on a schedule that does not allow for all IRP analyses to be completed in time for the draft submittal, with certain modeling components still in development. As outlined in proposed WAC 480-100-620 (11)(a), for the utility to determine its preferred portfolio, the utility must complete the modeling necessary to meet the clean energy transformation standards in WAC 480-100-610 (1)-(3) at the lowest reasonable cost. Lowest reasonable cost is defined in RCW 19.280.020(11), but in its essence, it addresses the utility's obligation to balance cost and risk. The utility must complete modeling and analysis to properly address market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its customers, public policies regarding resource preference adopted by Washington or the federal government, and the cost of risks associated with environmental effects, including emissions of carbon dioxide. We understand the 2021 cycle is unique and the first under CETA directives, with accompanying modeling and timing challenges. We will provide flexibility in the first round of submissions. Looking ahead to future IRP cycles, the utility must consider the risks outlined in the statutory definition of lowest reasonable cost in its portfolio analysis and selection of the utility's preferred portfolio identified in its draft IRP. Further, after the 2021 cycle, the utility will have a few years to adjust its internal timelines to meet the new IRP schedule, including the draft IRP.

169 *Two-year progress report.* WAC 480-100-625(4). In response to the first discussion draft of the IRP rules released in November 2019, NWEA, Front and Centered, Climate Solutions, WEC, Vashon Climate Action Group, Sierra Club, Invenergy, and Northwest and Intermountain Power Producers Coalition (NIPPC), signaled opposition to the requirement of waiting four years in the utility planning process for the utility to file an updated IRP. Stakeholders voiced concerns that utility data may lag behind the best available technology and pricing.

170 In response to these concerns, proposed WAC 480-100-625 requires each electric utility to file an IRP every four years after the 2021 IRP, with a two-year progress report updating key inputs and outputs and accounting for significant changes to economic or market forces. However, the commission elects to retain the proposal to lengthen the time from two years to four years in between full IRPs. First, the IRP and CEAP inform the CEIP, necessitating alignment of the various plans. Second, the IRP will be a key input dictating the direction of the utility's CEIP, which is an action plan with greater significance than any such plan utilities have previously provided to the commission. Providing additional time between IRPs will allow utilities to continue to refine analyses and gain additional modeling expertise. We thus find it reasonable to reduce the regulatory burden on utilities by requiring less frequent filings. However, to address the parties' concern that resource cost data will become stale, pro-

posed WAC 480-100-625 (4) (a) (iii) requires the utility to update its resource costs during the two-year progress report.⁷⁴

⁷⁴ This commission addressed this concern with a change to the proposed rules in the second discussion draft rules filed on August 13, 2020.

171 Proposed WAC 480-100-625(2) outlines requirements for utilities to file workplans that include any expectations of work for a two-year progress report. Utilities are not required to file full workplans for two-year progress reports. Instead, utilities are directed to update their workplans, as discussed in WAC 480-100-625 (2)(g), if they anticipate significant changes. Utilities, staff, and stakeholders should work together to refine the two-year advisory group process as these proposed rules are implemented and as any issues arise with this process.

8. Data availability: WAC 480-100-630, 480-100-655, 480-100-620, 480-100-640, 480-100-650.

172 *In plan and report filing*: A utility is required to include appendices containing its data input files in native format when it files its IRP, two-year progress report, CEIP, and clean energy compliance report.⁷⁵ This requirement increases the transparency of the utility's plans and reports. RCW 19.280.030(10) supports increased transparency in the IRP process,⁷⁶ and these sections of proposed rules closely match the statute as well as the commission's current rules regarding confidential information.⁷⁷

⁷⁵ WAC 480-100-620(14), 480-100-640 (3)(b), 480-100-650 (1)(k).

⁷⁶ RCW 19.280.030(a) provides, in part: "To maximize transparency, the commission, for investor-owned utilities, or the governing body, for consumer-owned utilities, may require an electric utility to make the utility's data input files available in a native format. Each electric utility shall publish its final plan either as part of an annual report or as a separate document available to the public. The report may be in an electronic form."

⁷⁷ WAC 480-07-160; RCW 19.280.030(b) provides: "Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095."

173 A basic requirement of utility regulation is that the utility make available the inputs, data, and assumptions it uses when making its decisions or submitting proposals to the regulator. The commission, staff, public counsel, and other parties with a substantial interest must be able to understand why a utility took the actions it did, or proposed to take certain actions, and to determine independently whether those actions are in the public interest and represent the lowest reasonable cost option.

174 When a utility marks certain information as confidential under RCW 80.04.095, initially that information is only available to the commission and the attorney general's office. During an adjudicated case, other parties to which the commission has granted intervention also may gain access to that information through protective orders. RCW 19.280.030(9), however, authorizes the commission to acknowledge, but not approve, a utility's IRP, meaning the IRP is not subject to adjudication. Accordingly, the commission lacks the legal authority in the IRP process to compel a utility to share confidential information with interested persons other than staff and public counsel.

175 A utility may also designate as confidential certain information contained in its CEIP and clean energy compliance report. Again, only the commission and attorney general's office have immediate access to that information. Unlike an IRP, however, the commission may adjudicate a CEIP or clean energy compliance report. In any such adjudication, parties the commission allows to intervene may gain access to the confidential information under the terms of a commission protective order.

176 The commission strongly encourages utilities to minimize the amount of information designated as confidential in a IRP, CEIP, and

clean energy compliance report to allow interested persons access to as much information as possible related to those filings.

177 *During plan development:* Proposed WAC 480-100-630(3) and 480-100-655 (1)(h) lay out expectations for data availability to advisory groups during the development of IRPs, CEIPs, and their associated updates.

178 All nonconfidential information relevant to these plans and updates must be available to advisory groups, in an easily accessible format, on request and provided expeditiously throughout the advisory group process.

179 If a utility relies on confidential information during the plan development process, the utility must make this information, including data inputs and files, available to the commission in both native file format and in an easily accessible format.⁷⁸ Compliance with this element requires that the utility ensure that the commission can manipulate the data and the modeling files in analyzing the utility's actions. This may require the utility to provide cloud access to data and discuss access to modeling software, similar to prior arrangements.

⁷⁸ Proposed WAC 480-100-630(3); proposed WAC 480-100-655 (1)(h).

180 During this rule making, stakeholders including Sierra Club and Vashon Climate Action Group asked the commission to require utilities to offer non-disclosure agreements (NDAs) with parties and advisory groups to share confidential information during the development of the IRP and after its submission to the commission.⁷⁹

⁷⁹ Coalition of Eastside Neighbors for Sensible Energy comments, page 5, September 11, 2020; Sierra Club comments, page 3, June 2, 2020; and Sierra Club comments, page 2, September 11, 2020.

181 While the commission does not compel utilities to sign NDAs, we recognize that this is an option for utilities to consider. The designation of confidential information is governed by statute.⁸⁰ Regardless, these provisions do not preclude utilities from volunteering NDAs to parties or advisory groups to facilitate discussions on sensitive issues in a timely manner, and the commission would support utilities in their choice to use such agreements as a tool to facilitate discussion with interested persons.

⁸⁰ RCW 42.56.270, 80.04.095. These provisions are implemented in current commission rules WAC 480-07-160.

182 While plans are utility documents, it is in both the public interest and the utility's interest for the utility to be as transparent as possible. An IRP may not be adjudicated, but the inputs and assumptions used in the IRP will likely be key inputs and assumptions in a CEIP. A utility may elect not to share confidential information with advisory groups or parties in the IRP process that may have a substantial interest in the CEIP, update, and clean energy compliance report. However, utilities should recognize that withholding that information increases the likelihood that the subsequent filing will be adjudicated because parties to an adjudication have access to confidential information under the terms of a commission protective order.

183 We view the public involvement efforts contained in this rule as a minimum standard. Utilities can and, in certain circumstances should, make efforts to incorporate customer and stakeholder input that go beyond these requirements.

184 The commission anticipates the need for additional, flexible guidance as utilities navigate public involvement, the creation of new advisory groups on equity issues, and the iterative, cross-topical nature of resource planning under CETA. This guidance may be developed

in the coming months as specific issues are further discussed and addressed in upcoming workshops.

COMMISSION ACTION

185 CHANGES FROM PROPOSAL: The commission makes the following changes to the proposed rules in the text noticed at WSR 20-21-053:

WAC 480-100-605 "Indicator" definition and all uses of "indicator" in the rule: WAC 480-100-640 (4) (c) and (5) (c), 480-100-650 (1) (d) (i) and (1) (e), 480-100-655 (1) (b), 480-100-665 (2) (a) (i) and (2) (a) (ii), before indicator add "Customer benefit." Note that change in term requires moving the definition due to alphabetical order.

WAC 480-100-620 (11) (b), add "power" after "purchases, and" and delete "power" after "purchase."

WAC 480-100-620 (12) (h), insert citation "RCW 19.405.040 (1) (b)" after "under" and delete "RCW 19.405.090."

WAC 480-100-620 (14), insert "and in an easily accessible format" after "RCW 19.280.030 (10) (a) and (b)" and before "as an appendix."

WAC 480-100-625 (2) (f), move (f) (i)-(iv) to a new subsection (5) titled "Publicly available information"; delete "a website managed by the utility" after "a link to" and before ", updated in a timely manner"; insert "the utility's website" after "a link to" and before ", updated in a timely manner"; delete "the following information:" after "makes publicly available"; insert "information related to the IRP, including information outlined in WAC 480-100-625(5)." after "makes publicly available."

WAC 480-100-630 (1), insert citation "WAC 480-100-625(5)" after "and consistent with" and before ", the utility must communicate with advisory groups"; delete "WAC 480-100-625 (2) (f)" after "and consistent with" and before "the utility must communicate with advisory groups."

WAC 480-100-630 (3), insert "used to develop its IRP" after "all of its data inputs and files" and before "available to the commission"; insert "nonconfidential" after "supporting documentation as well as" and before "data inputs and files"; insert "in an easily accessible format" after "advisory group member review" and before "upon request."

WAC 480-100-640, rename section as "Content of Clean Energy Implementation Plan."

WAC 480-100-640 (3) (b), insert "and in an easily accessible format" after "native format" and before "as an appendix"; delete ", as required in WAC 480-100-655 (1) (h)," after "native format" and before "as an appendix."

WAC 480-100-640 (4) (c), after "reduction of cost," add "reduction of risk."

WAC 480-100-640 (5), after "must meet" add "and be consistent with."

WAC 480-100-650 (1) (k), insert "and in an easily accessible format" after "native format" and before "as an appendix"; delete "per WAC 480-100-655 (1) (h)" after "native format" and before "as an appendix."

WAC 480-100-650 (3) (e), insert "(e.g.," after "they were used" before "voluntary renewable programs"; delete "(i.e.," after "they were used" before "voluntary renewable programs"; delete "(, etc.)."

WAC 480-100-655 (1) (g), insert "(g) The utility must make available completed presentation materials for each advisory group meeting at least three business days prior to the meeting. The utility may up-

date materials as needed." after "CEIP filings before the commission," and before "The utility must make all of."

WAC 480-100-655 (1)(h), substitute "(g)" for "(h)"; insert "used to develop its CEIP" after "data inputs and files" and before "available to the commission"; insert "as well as non-confidential data inputs and files" after "supporting documentation" and before "must be available for advisory group review"; insert "in an easily accessible format" after "advisory group member review" and before "upon request."

WAC 480-100-655 (1)(i), substitute "(h)" for "(i)."

WAC 480-100-660 (6)(b), insert citation "RCW 19.405.040 (1)(b)" after "under" and delete "RCW 19.405.060 (3)(a)."

186 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the commission finds and concludes that it should adopt the rules as proposed in the CR-102 at WSR 20-21-053 with the nonsubstantive revisions listed above. We accept staff's explanations for changes as stated in Appendix A of this order. The following explains the remaining revisions.

187 The commission modifies proposed WAC 480-100-605 "Indicator" definition and all uses of indicator in the rule: WAC 480-100-640 (4)(c) and (5)(c), 480-100-650 (1)(d)(i) and (1)(e), 480-100-655 (1)(b), 480-100-665 (2)(a)(i) and (ii). General comments regarding confusion around the definition of "indicator" generated the change to further clarify the use of the term and allows for other types of indicators to be easily understood in the future.

188 The commission modifies proposed WAC 480-100-620 (11)(b) as a clarifying edit.

189 The commission modifies proposed WAC 480-100-620 (12)(h) to correct a statutory citation.

190 The commission modifies proposed WAC 480-100-620(14) to clarify the requirements and to make all data disclosure requirements consistent within the rule.

191 The commission modifies proposed WAC 480-100-640 to clarify the content of the section and to provide consistency with WAC 480-100-620 Content of an integrated resource plan.

192 The commission modifies proposed WAC 480-100-640 (4)(c) to correct an oversight of statutory requirements. The modifications require at least one customer benefit indicator for each element in RCW 19.405.040(8).

193 The commission modifies proposed WAC 480-100-640(5) to integrate "consistent with" CETA language found in multiple parts of the IRP and CEIP rules.

194 The commission modifies proposed WAC 480-100-650 (3)(e) to clarify examples.

195 The commission modifies proposed WAC 480-100-655 (1)(i) to accommodate rule reorganization of WAC 480-100-655 (1)(g).

196 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that WAC 480-100-600, 480-100-605, 480-100-610, 480-100-620, 480-100-625, 480-100-630, 480-100-640, 480-100-645, 480-100-650, 480-100-655, 480-100-660, and 480-100-665 should be adopted to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect on December 31, 2020, as required in RCW 19.405.100(9).⁸¹

⁸¹ These rules, in part, replace current WAC 480-100-238. Through administrative oversight, the CR-102 did not include repeal of that rule as part of this rule making. Accordingly, the commission is initiating an emergency rule making concurrent with adopting the final rules to provisionally repeal WAC 480-100-238, to be followed by an expedited rule making to finalize that repeal. The commission will undertake both of these rule makings in this docket.

IV. ORDER

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 12, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 12, amended 0, repealed 0.

THE COMMISSION ORDERS:

197 The commission adopts WAC 480-100-600, 480-100-605, 480-100-610, 480-100-620, 480-100-625, 480-100-630, 480-100-640, 480-100-645, 480-100-650, 480-100-655, 480-100-660, and 480-100-665 to read as set forth in Appendix B, as rules of the Washington utilities and transportation commission, to take effect on December 31, 2020.

198 This order and the rule set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

DATED at Lacey, Washington, December 28, 2020.

Washington Utilities and Transportation Commission
David W. Danner, Chair
Ann E. Rendahl, Commissioner

**SEPARATE STATEMENT OF COMMISSIONER BALASBAS
CONCURRING IN PART AND DISSENTING IN PART**

1 Today's order concludes a nearly eighteen-month process focused on implementation of CETA. I agree with my colleagues that the commission has fulfilled its statutory obligation under RCW 19.405.100 by adopting rules prior to January 1, 2021. I also support several provisions of the rules. However, I respectfully disagree with my colleagues and oppose adoption of one part of proposed WAC 480-100-605 Definitions, the entirety of proposed WAC 480-100-660 Incremental cost of compliance, and the entirety of proposed WAC 480-100-665 Enforcement. These sections of the rules run contrary to the legislature's intent and explicit direction to simplify utility compliance with CETA,¹ as well as accomplishing the goals of the law while maintaining safe and reliable electricity to all customers at stable and affordable rates.²

¹ RCW 19.405.100(1).

² RCW 19.405.010(4).

2 A new addition to the rules, proposed WAC 480-100-605 defines the "Alternative lowest reasonable cost and reasonably available portfolio."³ Further defining this term beyond the statute is a necessary part of developing a methodology for calculating the incremental cost of compliance.⁴ The term enables utilities to show a comparison of a CETA compliant resource portfolio and a non-CETA compliant resource portfolio (baseline portfolio). However, the definition in the rules (and therefore the portfolio comparison) becomes meaningless by including the social cost of greenhouse gases (SCGHG) in the baseline portfolio.

- ³ Proposed WAC 480-100-605 "'Alternative lowest reasonable cost and reasonably available portfolio' means, for purposes of calculating the incremental cost of compliance in RCW 19.405.060(3), the portfolio of investments the utility would have made and the expenses the utility would have incurred if not for the requirement to comply with RCW 19.405.040 and 19.405.050. The alternative lowest reasonable cost and reasonably available portfolio must include the social cost of greenhouse gasses in the resource acquisition decision in accordance with RCW 19.280.030 (3)(a)."
- ⁴ RCW 19.405.060 (3)(a).

³ Statute now requires utilities to use SCGHG as a cost adder for evaluating conservation strategies, developing the IRP and CEAP as well as evaluating and selecting intermediate and long-term resource options.⁵ What is not clear, is whether the legislature intended to include SCGHG in the baseline portfolio. All three utilities and AWEC persuasively argued in their comments throughout this rule making that including SCGHG in the baseline portfolio lacks statutory support and will needlessly lead to higher costs for ratepayers.⁶

⁵ RCW 19.280.030 (3)(a).

⁶ Avista and PacifiCorp comments November 12, 2020, PSE and AWEC comments June 2, 2020.

⁴ The term "lowest reasonable cost" is not defined anywhere in chapter 19.405 RCW and is only defined in RCW 19.280.020(11) and again in proposed WAC 480-100-605. The language in both places requires a utility IRP analysis to consider in part "the cost of risks associated with environmental effects including emissions of carbon dioxide." While my colleagues used this language to justify a requirement for utilities to model SCGHG in their preferred portfolios in 2017 IRP acknowledgment letters, the plain words of the statute are not the same as SCGHG, which is a specific calculation outlined in RCW 80.28.405 enacted in 2019. Even the references to SCGHG in RCW 19.280.030 (3) (a) do not list the incremental cost calculation as an area where a utility must incorporate it as a cost adder.

⁵ Aside from the lack of statutory support, I believe the correct interpretation of statute shows that SCGHG is a "directly attributable" cost of complying with CETA. When using the incremental cost of compliance pathway, utilities must demonstrate that any costs be "directly attributable" to compliance with RCW 19.405.040 and 19.405.050.⁷ SCGHG is a component of the 2045 planning standard in RCW 19.405.050 as demonstrated by AWEC's analysis of reading the requirements of RCW 19.280.030 (3) (a) and 19.405.050 together.⁸ Including SCGHG in the baseline portfolio thus contradicts the intent and meaning of the statute and the first step toward weakening the incremental cost of compliance mechanism.

⁷ RCW 19.405.060(5).

⁸ AWEC comment on Draft Clean Energy Implementation Plan Rules, ¶ 11-15, June 2, 2020.

⁶ The current commission calculated SCGHG shows a cost of \$68 per ton in 2020, increasing to \$102 per ton in 2040.⁹ This cost artificially inflates the baseline portfolio and the costs of non-renewable resources. Requiring inclusion of SCGHG in the baseline portfolio will ultimately lead to higher than necessary costs for ratepayers through the selection of more expensive resources. The inclusion of SCGHG in the baseline portfolio also makes a comparison to a CETA compliant portfolio meaningless, as the only real difference in the two portfolios is whether equitable distribution of benefits is included or not.

⁹ <https://www.utc.wa.gov/regulatedIndustries/utilities/Pages/SocialCostofCarbon.aspx>.

⁷ Turning to proposed WAC 480-100-660 Incremental cost of compliance, I am extremely disappointed and frustrated by the commission's action with this section of the rules. The sole purpose of the incremental cost provisions of CETA is to protect ratepayers from large cost increases to achieve CETA's goals of one hundred percent clean

energy by 2045. Specifically, the incremental cost of compliance statutory language says:

"An investor-owned utility must be considered to be in compliance with the standards under RCW 19.405.040(1) and 19.405.050(1) if, over the four-year compliance period, the average annual incremental cost of meeting the standards or the interim targets established under subsection (1) of this section equals a two percent increase of the investor-owned utility's weather-adjusted sales revenue to customers for electric operations above the previous year, as reported by the investor-owned utility in its most recent commission basis report."¹⁰

¹⁰ RCW 19.405.060 (3)(a) (emphasis added).

⁸ The legislative sponsors of CETA referenced the incremental cost provision several times in floor speeches during legislative debate in 2019. The incremental cost provision was also described as a "cost cap" to protect customers from unreasonable rate increases to achieve the policy goals of the bill. A sampling of floor speeches from 2019 shows the importance of the incremental cost provision to the legislature and bill proponents:

"In doing so we want to be extremely cautious about the potential of any modest increase in rates."¹¹

¹¹ <https://www.tvw.org/watch/?eventID=2019021584> February 28, 2019, Sen. Reuven Carlyle speaking in support of Amendment 89 lowering the incremental cost cap from 3% to 2% in the legislation beginning at 1:29:54.

"... the second challenge we took on is protecting our customers, our constituents, our ratepayers, to make sure that they were not bearing the brunt of transitioning off of coal, transitioning off of gas, and moving into a renewable clean energy grid and so we have protections in this policy to ensure that cost caps are in place that we are protecting ratepayers from shots to the system."¹²

¹² <https://www.tvw.org/watch/?eventID=2019041113> April 11, 2019, Rep. Gael Tarleton beginning at 53:36.

"... we wanted to be sure that whatever law that we passed could be implemented without cost to ratepayers and that's why there's a strong cost cap in the bill ..." ¹³

¹³ <https://www.tvw.org/watch/?eventID=2019041113> April 11, 2019, Rep. Joe Fitzgibbon beginning at 1:06:59.

⁹ Clearly, the legislature intended the incremental cost provision to protect ratepayers from unnecessarily large rate increases and provide rate stability due to enactment of CETA. When read in the full context of CETA's goals, the incremental cost of compliance pathway directly implicates customer rates. Further bolstering this conclusion is the highly unlikely circumstance that the commission would exclude from rates utility spending on CETA compliance.

¹⁰ The commission and commerce were charged with the task of adopting a methodology for calculating the incremental cost and thus implementing the legislature's intent to protect ratepayers.¹⁴ I fail to understand how the methodology specified in proposed WAC 480-100-660 reflects legislative intent and therefore a correct interpretation of the statute.

¹⁴ RCW 19.405.060(5).

¹¹ Sadly, the commission's methodology in these rules makes neither logical nor mathematical sense. The methodology in the rules incorrectly compounds the two percent WASR by adding an extraneous multiplier. I agree that the language implies some level of compounding, but the formula in the rules defies any method of compounding that I was taught in school. There is no mathematical way to justify this kind of compounding formula.

12 The math yields a spending threshold of over five percent per year instead of two percent per year. In other words, to claim compliance with the clean energy goals using the incremental cost pathway, a utility must increase CETA related spending (and therefore rates) by five percent per year to claim that it spent two percent per year. I struggle to understand how requiring utilities to spend more than double what the legislature specified makes any sense. Public counsel also correctly observed in their comments this methodology improperly inflates the incremental cost calculation.¹⁵

¹⁵ Public Counsel comments, ¶ 7, November 12, 2020.

13 On one hand this methodology may make sense to those who want to see as much utility spending as possible on clean energy. On the other hand, the typical utility ratepayer could now see rate increases of more than five percent per year on top of normal utility spending for safety and reliability of existing electric service infrastructure before the commission would entertain any kind of rate relief to achieve the clean energy goals in statute. This is not only irresponsible, but it renders the incremental cost of compliance pathway useless to the utilities and ratepayers. My colleagues believe utilities will end up spending less than the threshold amount for CETA.¹⁶ I hope they are correct, but I am not optimistic that will be reality.

¹⁶ General Order 601, ¶ 105.

14 To illustrate the magnitude of the likely rate increases due to this methodology, Table 3 below shows a hypothetical calculation of PSE's incremental cost threshold under a straight two percent formula and the calculation in proposed WAC 480-100-660 using the company's 2019 commission basis report weather adjusted sales revenue (Year 0):

Table 3: PSE Comparison

	Weather-Adjusted Sales	2% of WASR	WAC 480-100-660
Year 0	\$2,128,158,697	\$42,563,174	\$114,071,349
Year 1	\$2,298,411,393	\$42,563,174	\$114,071,349
Year 2	\$2,436,316,076	\$42,563,174	\$114,071,349
Year 3	\$2,533,768,719	\$42,563,174	\$114,071,349
		\$170,252,696	\$456,285,397

Over four years, the two percent calculation adds up to an eight percent increase while the commission rule calculation is an increase of over twenty-one percent. Under either calculation, the amount of utility spending on clean energy will increase significantly. For additional context, PSE's 2019 electric conservation program budget was just under \$84 million. These spending amounts are significant and will create burdens for ratepayers.

15 Ratepayer bill impacts of the commission's methodology are even more stark as shown in Table 4 below, which compares the bill increase for a residential ratepayer using 1000 kWh of electricity in a month if rates increased by two percent versus just over five percent:

Table 4: Bill Comparisons

	Current Monthly Bill	2%	WAC 480-100-660
Avista	\$90.36	\$92.17	\$95.20
PacifiCorp	\$86.97	\$88.71	\$91.63
PSE	\$104.56	\$106.65	\$110.16

Using PSE as one example, bills could increase at minimum just over \$2 per month or as high as \$5.50 per month for compliance with CETA. These bills also do not include any additional rate increases just to maintain the current electric system. The incremental cost formula under proposed WAC 480-100-660 will lead to unnecessary and significant increases for ratepayers due to a flawed mathematical methodology and statutory interpretation. If the legislature wanted utilities to spend more than two percent annually or amounts higher than their annual conservation budget to be considered in compliance with CETA, they would have stated that in the statutory language.

16 A correct reading of the incremental cost statute yields a simpler and mathematically proper methodology that also respects legislative intent and validates the commission's role to protect ratepayers. The commission could have adopted the following methodology to calculate the incremental cost:

$$\text{CEIP Incremental Cost Calculation} = (\text{WASR}_0 \times 2\%) + (\text{WASR}_1 \times 2\%) + (\text{WASR}_2 \times 2\%) + (\text{WASR}_3 \times 2\%)$$

Where: WASR_0 = Commission Basis Report from most recent complete year prior to CEIP start date and $\text{WASR}_1 = (\text{WASR}_0 \times 2\%)$ which this same formula applies to WASR_2 and WASR_3

This formula appropriately adds two percent per year over the four-year compliance period (compounded) and gives utilities a better sense of what their minimum CETA spending amount would be to achieve compliance. It represents a consistent and reasonable reading of the incremental cost statute giving effect to the phrase "above the previous year." Further, it reflects PSE's recollection during legislative consideration of CETA of how the formula would work in practice.¹⁷ Although this still has significant ratepayer impacts over time, it at least gives meaning to CETA's ratepayer protection provision.

¹⁷ December 9, 2020, adoption hearing audio recording at approximately 28:10.

To illustrate this alternative methodology, Table 5 shows a hypothetical PSE example using WASR from its 2019 Commission Basis Report:

Table 5: PSE Hypothetical

	Weather-Adjusted Sales	2% of WASR
Year 0	\$2,128,158,697	\$42,563,174
Year 1	\$2,170,721,871	\$43,414,437
Year 2	\$2,214,136,308	\$44,282,726
Year 3	\$2,258,419,035	\$45,168,381
		\$175,428,718

17 I agree with my colleagues that utilities are expected to achieve the clean energy goals at the lowest reasonable cost without defaulting to reliance on the incremental cost pathway. However, the aggressive clean energy goals contained in statute will require significant amounts of new spending (and rate increases). It is not unreasonable to expect utilities to rely on the incremental cost pathway for compliance, especially if spending will lead to rate increases of more than two percent per year.

18 PacifiCorp correctly observes that implementation of CETA must contain *meaningful* cost containment.¹⁸ Unfortunately, my colleagues' interpretation of the statute is not in the public interest. The incremental cost of compliance rule fails to achieve any meaningful cost

containment and will force ratepayers to absorb unnecessary rate increases. We could easily have avoided this outcome by taking the time to work with the parties and develop a simple, reasonable methodology that gives meaning to the two percent ratepayer protection provision in statute. There is ample evidence in the record to support this work. Several parties including Avista, PacifiCorp, public counsel and AWEC all noted at the December 9, 2020, adoption hearing they would support additional process to get this methodology right.¹⁹

¹⁸ PacifiCorp comments, page 2, November 12, 2020.

¹⁹ December 9, 2020, adoption hearing audio recording at approximately 17:40, 32:50, 42:30, and 56:40.

¹⁹ Finally, the enforcement provisions contained in proposed WAC 480-100-665 send the wrong signal to utilities about how the commission will view utility compliance with the various requirements of CETA. Although many of the enforcement tools listed in the rule are restatements of existing commission authority, by including explicit provisions in this package of rules, right out of the gate the commission is taking an aggressive and unnecessary adversarial stance on utility compliance with CETA. The enforcement language also implies the interim targets proposed in utility CEIPs are binding. This is not consistent with the specific statutory enforcement provisions in CETA and limits utility flexibility to achieve the clean energy goals at the lowest reasonable cost to ratepayers.²⁰ Utilities pointed this out numerous times in their comments and this provision is unnecessary.

²⁰ See RCW 19.405.090.

²⁰ The commission already has broad enforcement authority under its authorizing statutes and through its orders.²¹ If the commission wants to condition its approval of a utility CEIP it can do so in the final order in that proceeding. The commission can also initiate penalty actions before or after a hearing.²² Commission orders make the enforcement section in these rules redundant and superfluous.

²¹ See chapters 80.01 and 80.04 RCW.

²² *Enforcement Policy of the Washington Utilities and Transportation Commission*, Docket A-120061, ¶ 5 (January 7, 2013).

²¹ I recognize and appreciate the extraordinary amount of work that my colleagues, staff, the three electric utilities and all the stakeholders have put in to reach this point. In examining the record in this proceeding, legislative intent, and the statutory provisions of CETA, I cannot in good conscience support sections of these rules that eviscerate and render the ratepayer protections included as part of CETA useless and meaningless.

²² The definition of "alternative lowest reasonable cost and reasonably available portfolio" in proposed WAC 480-100-605, 480-100-660 Incremental cost of compliance, and 480-100-665 Enforcement, will harm ratepayers with larger than necessary rate increases to achieve the clean energy goals in CETA while also contravening legislative intent and misinterpreting statute. I find these sections of the rules are not in the public interest and therefore should not be adopted.

Jay M. Balasbas, Commissioner

Appendix A
Comment Summary Matrix
IRP and CEIP Rule-Making Dockets UE-191023 and UE-190698
(Consolidated)

CR-102 Comment Matrix
December 4, 2020

Summary of Comments

- Avista
- Pacific Power and Light (PP&L)
- Puget Sound Energy (PSE)
- Public Counsel (PC)
- Adcock, James
- Alliance of Western Energy Consumers (AWEC)
- Bonneville Power Administration (BPA)
- Briggs, Robert
- Climate Solutions (CS)
- Coalition of Eastside Neighbors for Sensible Energy (CENSE)
- Front and Centered (FC)
- Invenergy
- Lindley, Jane
- Lohr, Virginia
- Newcomb, Anne
- Northwest Energy Coalition (NVEC)
- Renewable Northwest (RN)
- Sierra Club (SC)
- The Energy Project (TEP)
- Vashon Climate Action Group (VCAG)
- Washington Environmental Council (WEC)
- Washington Environmental Council Members (WECM)
- Weinstein, Elyette
- Western Power Trading Forum (WPTF)

WAC 480-100-605 Definitions.

Party	Draft Definition	Summary of Comment	Staff Response
Avista	Alternative lowest reasonable cost and reasonably available portfolio	Proposes a redline edit to delete the requirement to include the social cost of greenhouse gases (SCGHG) as part of the portfolio. CETA states that all costs used to determine the cost of compliance must be directly attributable to actions necessary to comply with RCW 19.405.040 and 19.405.050, which do not include SCGHG.	Staff disagrees. "Lowest reasonable cost" is a defined phrase in chapter 19.280 RCW, and its use throughout chapter 19.405 RCW is intended to be consistent with the definition in RCW 19.280.020(11), which includes: "the cost of risks associated with environmental effects including emissions of carbon dioxide." In addition, although the phrase "social cost of greenhouse gas emissions" appears only in RCW 19.280.030, the calculation of cost for greenhouse gas emissions, including the effect of emissions, applies throughout CETA.
	Lowest reasonable cost	Proposes redline edits to clarify that the portfolio can include supply-side, demand-side, and energy storage resources in a portfolio.	Staff recommends rejecting the proposed edits. Although the resources Avista proposes to include are implied in the definition, the proposed definition is the statutory definition, which staff does not recommend modifying.
PP&L	Resource need	Appreciates staff's clarification that a "deficit" can also stem from "changes in system resources." It may be possible to improve this definition by moving away from the concept of "deficit" altogether.	Staff believes that the proposed definition is sufficiently flexible to meet the company's concerns.

Party	Draft Definition	Summary of Comment	Staff Response
CS	Indicator	Continue to be unclear about the definition of indicator included in rule. Indicators should not be characteristics of a resource unless indicators are associated with avoiding a given harm.	RCW 19.405.040(8) requires that all customers benefit from the transition to clean energy. The transition to clean energy is embodied in the specific actions of utilities, including resource selection and related distribution system investments. Therefore indicators, clarified as "customer benefit indicators" in the proposed rule, are appropriately defined as attributes of the resources and related distribution system investments. Customer benefit indicators may be directly related to the impacts established in the 480-100-620(9) assessment or may be based on other benefits and burdens depending on the customer input required in WAC 480-100-655 (2)(a).
		It is necessary to establish the status quo within the geographies served by utilities. The utility should then demonstrate with indicators how its selected investment portfolio will improve or impact these circumstances through indicators.	Staff believes that this is already covered by the assessment required under WAC 480-100-620(9), and therefore no edits here are necessary. Indicators are about the customer benefits and reduction of burdens associated with specific actions, not current conditions. However, customer benefit indicators must be viewed in context of the current conditions.
		Indicators for each resource should change based on location, ownership, and other relevant criteria and would be summed across the portfolio.	Staff agrees that the values for each customer benefit indicator will be specific to each resource, which is why WAC 480-100-640 (5)(c) requires utilities to provide the customer benefit indicator value for each specific action included in the CEIP.
Invenergy	General	The definitions of least cost and cost-effectiveness should be expanded to go beyond direct monetary costs to electricity customers to also include quantifiable externality costs, such as SCGHG.	The rules do not define least cost or cost-effectiveness. Staff believes that the commission does not need to, and should not, include definitions of these terms at this time, as the statute explicitly outlines how SCGHG should be considered.
Newcomb, Anne	Advisory group	Requests definition of advisory group.	Staff does not recommend a definition of advisory group at this time. Each utility administers advisory groups differently, and thus advisory groups have variable structures, and have been created in various other agreements and commission orders that are not within scope of this rule making. Staff recommends the commission offer additional guidance on the interaction between the general public, advisory groups, and utilities in this rule-making adoption order and in future policy statements as needed.
NVEC	Equitable distribution	Replaces "things" with "available information." Believes that "things" is somewhat imprecise.	Staff does not see a need to make this edit as "things" maintains flexibility to consider other principles or analysis as well as other sources of available information.
	Indicator	Add "or burdens" after "customer benefits."	Staff disagrees. RCW 19.405.040(8) requires that all customers benefit from the transition to clean energy. One of the specific customer benefits included in RCW 19.405.040(8) is a reduction of burdens. Therefore, burdens are sufficiently covered by the existing definition.
	IRP	Provides redline edits that clarify that generating resources refers to demand- and supply-side resources.	Staff recommends rejecting the edits. Although NVEC's edits are helpful, the proposed definition is the statutory definition. Staff does not recommend that the commission modify the statutory definition. Staff agrees that the IRP must describe the mix of demand- and supply-side resources and believes that the existing statutory definition is sufficient to address these resources.
	Resource need	Provides redline clarifying edit. Proposes to exchange the word "their" with "resource."	Staff appreciates NVEC's suggestion but declines to recommend its adoption. Staff believes the definition is clear.
	Related definition comment in 480-100-620(8)	Provide clarification in either a <i>definition</i> or in the adoption order regarding resource adequacy. Provides related redlines in WAC 480-100-620(8), "that (RA requirement and metrics) evaluates energy, capacity, and flexibility values of generation, demand-side and storage resources, both separately and in combinations, to meet system, not just peak, needs."	Staff agrees that these components are part of best utility practice for resource adequacy analysis. However, staff does not believe it is necessary to add every item that constitutes good utility practice to a commission rule.

Party	Draft Definition	Summary of Comment	Staff Response
TEP	Equitable distribution	Add "or burdens" after "customer benefits."	Staff disagrees. RCW 19.405.040(8) requires that all customers benefit from the transition to clean energy. One of the specific customer benefits included in RCW 19.405.040(8) is a reduction of burdens. Therefore, burdens are sufficiently covered by the existing definition.
	Resource need	Supports the definition as written.	No staff response necessary.

WAC 480-100-610 Clean Energy Transformation Standards.

Party	Draft WAC	Summary of Comment	Staff Response
PP&L	610 (2) and (3)	Suggests deletion of these two sections as duplicative with statute, and possibly confusing since they are not quoted word-for-word.	Staff disagrees. The purpose of WAC 480-100-610 is to identify and consolidate the statutory standards found in chapter 19.405 RCW, including the standards described in WAC 480-100-610 (2) and (3).
PSE	610 (4)(c)	Supports overarching provisions from RCW 19.405.040(8).	No staff response necessary.
Adcock	610(2)	Should explicitly include eighty percent nonemitting.	Staff disagrees. The twenty percent for alternative compliance options described in RCW 19.405.040 (1)(b) pertains to compliance with the standard and does not describe the standard itself. The WAC 480-100-040 standard is GHG neutral by 2030.
TEP	610 (4)(c)	Supports overarching provisions from RCW 19.405.040(8).	No staff response necessary.
WEC	610 (4)(c)	Supports overarching provisions from RCW 19.405.040(8).	No staff response necessary.

WAC 480-100-620 Content of an integrated resource plan.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	620 (3)(a)	Remove statement encouraging utilities to engage in distributed energy resource planning process as unnecessary.	Staff disagrees. This recommendation is in line with statute and is beneficial to all customers. Distributed energy resources are rapidly transforming the relationships between electric utilities and their retail electric customers.
	620 (3)(b)(iii)	Strike "Energy assistance potential assessment – The IRP must include distributed energy programs and mechanisms identified pursuant to RCW 19.405.120, which pertains to energy assistance and progress toward meeting energy assistance need; and" Agrees that the required assessment may inform an IRP but argues that the assessment is better suited with the utility's energy assistance advisory group.	Staff disagrees. As acknowledged by Avista, the assessment will inform the IRP and therefore should be included in the IRP. The rules properly require that the IRP include the results of the energy assessment potential assessment.
	620(4)	Strike ", including ancillary service technologies."	Staff disagrees. Supply-side resource evaluations should consider all potential values, or benefits, of a resource including ancillary services. As renewable energy penetration increases, it will be more important for utilities to plan for the suite of ancillary services needed to balance supply and demand and maintain grid reliability, which includes consideration of, contribution toward, or consumption of ancillary services.

Party	Draft WAC	Summary of Comment	Staff Response
	620 (10)(c)	Strike "At least one sensitivity must be a maximum customer benefit scenario. This sensitivity should model the maximum amount of customer benefits described in RCW 19.405.040(8) prior to balancing against other goals." Argues that it is unclear and not required by statute.	Staff disagrees. A utility's resource portfolio reflects the lowest-reasonable cost portfolio that meets all operational and regulatory standards. Given the novel customer benefit requirements, the sensitivity in WAC 480-100-620 (10)(c) will promote creative thinking and ensure broad consideration of customer benefit opportunities.
	620 (11)	Suggests clarifying edits, "The utility must integrate the demand forecasts and resource 'valuations' into a long-range integrated resource 'planning' solution describing the mix of resources that meet current and projected resource needs."	Staff disagrees with these clarifying edits. Valuation is an estimation of worth, while evaluation is an assessment. Each IRP is comprised of a series of assessments based on resource valuations.
	620 (11)(b)	Recommends striking "net of any off-system sales," and adding "sales" to, "Serve utility load, based on hourly data, with the output of the utility's owned resources, market purchases <u>and sales, and purchase power and sale agreements, net of any off-system sales of such resource;</u> "	Staff disagrees. The purpose of an IRP and CEAP is to identify projected <i>customer demand</i> , examine its load/resource balance, and identify the utility's action plan to implement CETA for the next ten years.
	620 (12)(c)(i)	Add "identified" before "benefits" and "burdens."	Staff does not see a need to make these changes. Avista did not provide an explanation in its submitted comments.
	620 (12)(c)(ii)	Strike "such" before "benefits" and add "equitably" before "reduced."	Staff does not see a need to make these changes in rule. The adoption order is anticipated to clarify that both the distribution of benefits and reduction of burdens must be equitable.
	620(13)	Strike "should" and "The utility may provide this content as an appendix." Also suggests two space strikeouts between non energy and the IRP.	Staff disagrees with deleting "should" as it does not provide additional clarity. Staff agrees with the two spacing strikeouts for grammatical clarity. Staff disagrees with deleting the final sentence in this subsection as this language provides options for when and where the avoided costs are included in the IRP.
	620(15)	Strike entire subpart (15) "Information relating to purchases of electricity from qualifying facilities."	Staff disagrees. Information regarding the methodology used to calculate avoided costs, including development of resource assumptions and market forecasts, is a necessary component of the IRP and will be used to inform filings under chapter 480-106 WAC.
	620(17)	Strike "The utility may include the summary as an appendix to the final IRP." States a "may" directive is unnecessary in rules. Offers redlines.	Staff disagrees. Staff believes the word "may" identifies options for when and where the comment summary is included in the IRP.

Party	Draft WAC	Summary of Comment	Staff Response
	620 (11)(b)	Requests clarification that using "hourly data," as is current practice by studying shorter periods of time on an hourly or sub-hourly basis, and then using those results as a component of its models in the IRP, will meet this requirement.	The IRP must show how the utility will serve utility load, based on hourly data or sub-hourly data. Staff recognizes there are many hundreds of thousands of hours in the IRP planning horizon, where hourly and sub-hourly data is a component of a utility's analysis. Utilities have the obligation to discern and model critical seasonal, monthly, hourly, and sub-hourly load and resource performance to complete the portfolio analysis and develop a preferred portfolio. A utility may need to alter its current use of hourly and sub-hourly modeling to meet the requirements in the CEIP and IRP, for example, to model resource needs under CETA involving the capacity and energy output of renewables and the effects of global warming on loads and resources in specific seasons and hours. The rules are designed to require the utility to consider these changes and to respond accordingly with appropriate consideration of load and resource performance based on an hourly and sub-hourly granularity as necessary.
PP&L	620 (2)-(8)	Requests clarification that its current practice meets requirements (2)-(8) Load Forecasting through Resource Adequacy. These topics are studied in the aggregate in the IRP, by adjusting the company's models to consider their costs, benefits, and availability as appropriate.	The company should obtain such clarification by working with its advisory group and staff to ensure that these elements of their IRP are meeting the rule requirements.
PSE	620(9)	Cumulative impact analysis from department of health is not yet available.	RCW 19.280.030 (1)(k) requires the utility's assessment be informed by the cumulative impact analysis once that analysis is available. The utility's assessment should include multiple data sources and the timeline of the cumulative impact analysis does not waive the required statutory assessment.
	620 (10)(c)	No time to develop a maximum customer benefit scenario for the 2021 IRP. Asks for workshops on this issue in early 2021.	Staff will provide recommendations as part of the advisory group process for PSE's 2021 IRP. Staff understands that PSE's current sensitivities include a "maximum equity" sensitivity based on stakeholder feedback.
	620 (11)(g)	Description of customer benefits in the IRP analysis will not be fully developed in the 2021 IRP cycle. Asks for more guidance on what will be required in 2021.	Staff will provide recommendations as part of the advisory group process for PSE's 2021 IRP. Staff understands that PSE's current sensitivities include a "maximum equity" sensitivity based on stakeholder feedback.
PC	620 (3)(a)	Require, rather than strongly encourage, utilities to engage in the distributed energy resource planning process described in RCW 19.280.100.	Staff agrees that utilities should use the distributed resource planning guidance in RCW 19.280.100 but does not recommend requiring it at this time because the statute is permissive rather than directive.

Party	Draft WAC	Summary of Comment	Staff Response
Briggs, Robert	620 (10)(b)	Recommends this scenario be changed to require the baseline be based on the best available science related to future climate change. Also, require at least one sensitivity representing more rapid than expected warming and attendant changes in precipitation patterns and one representing less rapid than expected climate changes.	Staff disagrees with including these additional requirements. The advisory group process created by these rules is the appropriate venue to address these kinds of specific suggestions.
	620 (11)(j) and (12)(i)	Regarding social cost of carbon, clarify these two sections through the addition of "variable cost adder," or by including an adequate definition of the term "cost adder."	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis. The commission should request that the utilities model SCGHG both in and out of dispatch in the IRP for comparison.
	General	Regarding the treatment of upstream or life-cycle emissions, the rule should clarify that the requirement to account for the social cost of greenhouse gases applies to costs associated with direct CO2 emissions and the social cost of upstream fugitive CH4 emissions. The rule should require reporting of the assumptions used in IRP analyses for upstream emissions.	In terms of current practice, utilities are applying upstream emissions in IRP modeling. The rules focus on CETA directives; the public participation process created by these rules is the appropriate venue to address utility assumptions used in IRP analyses.
CS	General	Require consideration of upstream emissions for application of SCGHG to comply with CETA, which provides separate and distinct regulatory authority from the Clean Air Act, and provide clarity on the way to do so, including how to identify a methane leakage rate and other considerations. Suggests commission adopt requirements similar to the department of ecology's greenhouse gas assessment for projects (GAP) proceeding.	In terms of current practice, utilities are applying upstream emissions in IRP modeling. The rules focus on CETA directives; the public participation process created by these rules is the appropriate venue to address utility assumptions used in IRP analyses.
	General	Concerned with the lack of guidance concerning setting a resource adequacy standard and disagrees with staff's assessment that the proposed rules provide sufficient direction.	Staff disagrees. The commission's goal is to ensure flexibility, allowing for continued evolution and development related to RA. Staff believe[s] the rules provide adequate guideposts.

Party	Draft WAC	Summary of Comment	Staff Response
CENSE	General	Require utilities to model a range of climate change futures, with "no climate change" recognized as the least likely outcome.	Staff disagrees with this level of specificity in the rule at this time. Climate change projections and impacts should be modeled in each IRP. The advisory group process created by these rules is the appropriate venue to address these kinds of specific suggestions.
		Require "variable cost" modeling in all calculations that relate to SCGHG.	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis. Staff recommends the commission request in the adoption order that utilities model SCGHG both in and out of dispatch in the IRP for comparison.
FC	620 (10)(c)	Supports maximum customer benefit scenario.	No staff response required.
Invenergy	620(17)	Recommends redlines changing "The utility may include the summary..." to "must include" and adds ", as long as all comments are archived and available to the public on the utility's website" to allow for consolidated summaries and responses.	Staff disagrees. Utilities may include the public comment summary if it makes sense for their filing. Staff also does not see the value of individually displaying multiple identical form letters on a utility website, for example, which could bury other comments and utility responses. Staff agrees utilities should archive all comments so they are available for commission or staff review as needed but does not believe the proposed rule needs to be revised to include this suggestion.
	General	IRP rules should recognize SCGHG as an incremental cost and how utilities should incorporate SCGHG as a cost adder.	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. Rather, staff recommends the commission request in the adoption order that utilities model SCGHG both in and out of dispatch in the IRP for comparison and include SCGHG in both portfolios of the incremental cost calculation.
Newcomb, Anne	General	If there are three climate weather scenarios in sensitivities, recommends all three reflect future climate impacts —not one.	Staff disagrees. Climate change projections and specific impacts should be modeled in each IRP. The advisory group process created by these rules is the appropriate venue to address these kinds of specific suggestions.
	General	Consider requiring variable cost modeling in all calculations and modeling that relate to SCGHG.	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis. Staff recommends the commission request in the adoption order that utilities model SCGHG both in and out of dispatch in the IRP for comparison.
NWEC	620(1)	The appropriate planning horizon should be long enough to assess cost and market changes, and not be limited to the implementation period.	Staff agrees but believes the rule is clear that an appropriate planning horizon is not the same as the implementation or planning period.

Party	Draft WAC	Summary of Comment	Staff Response
	620(8)	Add in definition or explain in adoption order, that the resource adequacy requirement and measurement "evaluates energy, capacity, and flexibility values of generation, demand-side and storage resources, both separately and in combinations, to meet system, not just peak, needs."	Staff agrees that these components are part of best utility practice for resource adequacy analysis. However, staff does not believe it is necessary to add every item that constitutes good utility practice to a commission rule.
	620 (10)(b)	Requests that the rule require all scenarios be informed by the best available future climate change predictions.	Staff believes that the utilities need to appropriately plan for the future and that means appropriately planning for climate change impacts. The advisory group process outlined in these rules is the appropriate venue to address how the utility models climate change in its IRP.
	620 (11)(b)	Clarifies purchase power agreements should be power purchase agreements.	Staff agrees and proposes that the commission accept the edit.
	620 (11)(j) and (12)(i)	Clarify for the incorporation of social cost of greenhouse gas emissions as, "a variable cost adder including market purchases, ..."	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis. Staff recommends the commission request in the adoption order that utilities model SCGHG both in and out of dispatch in the IRP for comparison.
	620(13)	Recommends adding "each supply- and demand-side resource including but not limited to" energy, capacity, etc., "including the SCGHG," and offers redline edits.	Staff disagrees this level of detail is necessary in rule at this time.
	620(17)	Recommends public comment summaries include a count of responses consolidated into one comment/response, stating that the volume of comments on a similar topic or issue could be useful information in addition to the single content summary and response. Offers redlines for rule or guidance in adoption order: "...along with the total number of comments consolidated into one comment."	Staff agrees this would be a useful element of comment summaries but disagrees with including a requirement in the proposed rule. Rather, staff recommends the commission include this guidance in this rule making's adoption order.
	General	Rules should include upstream emissions in the social cost of greenhouse gas cost adder in CETA, nothing in <i>Association of Washington Business v. Department of Ecology</i> , 195 Wn.2d 1 (2020), undermines this.	In terms of current practice, utilities are applying upstream emissions in IRP modeling. The rules should focus on CETA directives; the public participation process created by these rules is the appropriate venue to address utility assumptions used in IRP analyses.
RN	620(5)	Supports proposed rule.	No staff response required.
	620	Proposes specific resource adequacy language agreed to by the Northwest Power Pool, also submitted to commerce.	The specified elements identified for resource adequacy analysis are already best practice and therefore do not need to be included in rule. Staff does not support the proposed deadline for utilities filing a resource adequacy method and analysis. Staff believes that resource adequacy work will need to be continuously improved as utilities move toward meeting eighty percent of load with clean or non-emitting resources.

Party	Draft WAC	Summary of Comment	Staff Response
SC	General	Supports the inclusion of nonenergy benefits.	No staff response required.
		Recommends social cost of greenhouse gases should be used in the IRP as a "variable cost" and not a "fixed cost" for all scenarios and modeling. If SCGHG is not included in the dispatch modeling, then [it] will undermine true value of additional energy efficiency measures and distort if not treated as variable cost.	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis. Staff recommends the commission request in the adoption order that utilities model SCGHG both in and out of dispatch in the IRP for comparison.
		All scenarios should reflect climate change.	Staff believes that the utilities need to appropriately plan for the future and that means appropriately planning for climate change impacts. The advisory group process outlined in these rules is the appropriate venue to address how the utility models climate change in its IRP.
TEP	General and 620(3) 620(9)	Supports proposed rule. Proposes additional direct guidance or policy statement from the commission soon regarding nonenergy benefits and cost-effectiveness analyses.	Staff agrees that additional guidance is necessary and intends to explore revisions to its cost-effectiveness test to make it specific to Washington with stakeholders in 2021.
WEC	General	Supports proposed rule.	No staff response required.
VCAG	General	Recommends the rules should require SCGHG be applied as a variable cost adder.	Staff disagrees with specifying how the utilities model SCGHG in the IRP in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis. Staff recommends the commission request in the adoption order that utilities model SCGHG both in and out of dispatch in the IRP for comparison.
WECM	General	Supports proposed rule.	No staff response required.

WAC 480-100-625 Integrated resource plan development and timing.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	625(2)	Rules about contents on the utility website should be moved to its own subsection instead of a section describing a workplan, offers redlines.	Staff agrees and recommends the proposed changes in WAC 480-100-625 to create a subsection (5) for publicly available information.
	625 (2)(f)	Strike "managed by the utility and" because unnecessary. Strike "timely manner" because it's not clear about what event would trigger an update. Offers redlines.	Staff disagrees but will take these recommendations under advisement if and when final rules are opened for refinement. Staff believes the meaning of "timely manner" clearly requires utilities to actively manage their websites and public information needs and also maintains utility discretion for prioritizing updates.

Party	Draft WAC	Summary of Comment	Staff Response
PP&L	625(2)	Seeks clarification of the meaning of "advisory group" and seeks clarification that existing stakeholder group would qualify. What does it mean to get advisory group input on a work plan? The definition of advisory group was deleted from the rules.	Staff disagrees with including a definition of advisory group in the proposed rule but recommends that the adoption order provide additional guidance regarding the makeup of an advisory group.
PP&L	625(2)	Work plan filing date fifteen months ahead is too long and will require multiple update filings.	Staff disagrees that filing a workplan for an IRP fifteen months ahead of the IRP due date is unreasonable, given the extensive work that goes into these plans. IRPs will now include new evaluations and will lead to a CEIP, which means additional work on top of an already time-intensive planning process. At the same time, utilities will be filing full IRPs only every four years. Staff understands that planning efforts will solidify closer and further into the planning period and would accept these updates, as needed. Utilities and staff should work together to manage these updates.
	625(3)	Strongly opposes draft IRP. Agrees with intent of using public and regulator feedback to develop a better final product and believes existing process offers ample opportunity for feedback. Additionally, argues that company cannot identify or provide analysis supporting a preferred portfolio until the final step of the IRP and therefore a draft IRP would be the final IRP. Similarly CEAP cannot be provided until a preferred portfolio is chosen, which is under development until immediately before an IRP is filed.	Staff disagrees. Provision of a draft is a critical part of successful public engagement, allowing stakeholders to respond to an entire picture rather than bits and pieces. Utilities may be clear in their filings or presentations about where analysis is not yet finished. Utilities may have an additional two months to incorporate any feedback from stakeholders before their final submission is due. This feedback may inform new model runs if time permits, additional narrative, or new action items.
PSE	625(3)	Four months between the draft IRP and the final IRP is not enough time to make modeling changes.	Staff believes that it is important for the commission and stakeholders to have a meaningful opportunity to provide feedback in a formal setting on a utility's plan. If after the first cycle of IRPs the commission determines that the amount of time between the draft and final IRPs was not sufficient, the commission could reevaluate the appropriate length of time.
	625 (3)(a)	Concerned that stakeholders will not view the hearing on the draft IRP as a meaningful opportunity for public engagement, particularly if there is not enough time to make changes to the IRP based on the feedback.	Staff disagrees. Current practice of receiving formal stakeholder feedback only after the final IRP has been submitted is less meaningful than what is included in the proposed rules. To ensure stakeholders have meaningful opportunity to comment, it is incumbent upon the utility to foster meaningful engagement with its stakeholders in advance. Staff believes that the public comment hearing will contain few surprises in public opinion or stakeholder requests, particularly if utilities are engaging with their customers and stakeholders throughout plan development.
Lindley, Jane	625 (2)(f)(iv)	Recommends redline adding "and public."	Staff disagrees but recommends the commission offer additional guidance in the adoption order regarding how members of the public can participate in an advisory group, which are intended as spaces for the public to provide feedback on plan development.

Party	Draft WAC	Summary of Comment	Staff Response
Invenergy	625 (1) or (4)	Asks commission to require a new IRP on January 1, 2023. Concerned that the four-year window for IRP filing is too long, particularly given the amount of acquisitions the companies will need to pursue to meet the requirements of CETA.	Staff disagrees. The commission does not wish to increase administrative burden. If necessary, the commission may require such a filing by order at any time.
NWEC	625(3)	Draft IRP should include the alternative lowest reasonable cost and reasonably available portfolio.	Staff agrees but believes that this is currently a requirement of the rules and that no edits to the rules are necessary.
RN	625(2)	Prefers restoration of "public participation." Or, add "(x) <u>A proposed list of parties and/or organizations constituting the utility's resource planning advisory group and equity advisory group, for commission review and approval;</u> " States adding this rule language would give the commission an opportunity to review the entities that will make up advisory groups and minimize utility bias in creating those groups.	Staff recommends that the commission provide additional guidance on advisory groups in the adoption order or through policy statement as necessary. The commission also should not put itself in the position of reviewing or approving the makeup of advisory groups as they are intended for reasonable general public access. The commission can address issues of utility gatekeeping or bias if or as they occur.
VCAG	625	The rules do not include the process for acknowledgment of an IRP or two-year progress report. This should be restored.	Staff disagrees. The commission's rules currently in effect (WAC 480-100-238) do not include this level of detail. Instead, they appropriately retain the commission's authority to decide how and whether to respond to an IRP. An IRP cannot be litigated and does not require any specific process by statute. Further, the CEIP that is developed based on the IRP can be litigated, and that is where the approval process is most important.
WEC	625	Supports proposed rule.	No staff response needed.

WAC 480-100-630 Integrated resource planning advisory groups.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	630(1)	Strike reference to two-year progress report from WAC 480-100-630; states two-year progress report does not call for a process with advisory groups as the update items will simply be updated.	Staff disagrees with this suggested edit and the premise that two-year progress reports will never call for a process with advisory groups, although staff agrees that the need for advisory groups will be different and possibly less intensive for the two-year progress reports as compared with the full IRPs. Given the possibility that progress reports may capture changing conditions between the filing of IRPs, it is reasonable to expect utilities to update or consult with advisory groups on deviations in expectations. Staff agrees that meetings may be fewer and required modeling could be less. Staff believes it is reasonable to discuss updates in the two-year progress report in advisory groups, which also allows staff to provide guidance on the two-year progress report.
	630(3)	Offers redline changing "advisory group member" to "the public."	Staff disagrees. The subsection discussed in Avista's proposed change would result in changes to the commission intended clarification of the role of advisory groups in plan development. Staff recommends the commission provide additional guidance regarding this clarification and its relevance to data disclosure in the adoption order.

Party	Draft WAC	Summary of Comment	Staff Response
PSE	630/655 general	States concerns that current work to develop a more inclusive and participatory approach to utility planning is nascent and will mature through the equity advisory group process and other means, including commission workshops on equity issues. Requests more workshops in early 2021 specifically focused on how to implement equity provisions in the rule, such as the development of indicators.	Staff understands this work is nascent for utilities and stakeholders alike and that it will take time for maturation. Staff anticipates future workshops and will provide notice as they are scheduled.
	630 general	Supports public participation in the IRP process, and notes that PSE already conducts an extensive public process in developing its IRP.	No staff response necessary.
	630/655 general	Requests guidance regarding first cycle IRP/CEIPs given arguments related to time crunch and ability to meet all requirements in first cycle.	Staff recommends that the commission provide additional guidance in the adoption order.
PC	General	Supports draft rules for IRP and CEIP public participation processes.	No staff response necessary.
	General	States that establishing a clear process for active public participation requires accessibility and transparency.	Staff agrees and looks forward to being part of the conversation on how to achieve those goals.
	General	Supports maintaining requirements for communication and reporting.	No staff response necessary.
Adcock, James	General	Claims that PSE's current IRP process does not meet required public participation and that IRP advisory group[s] should be allowed to ask technical questions and have them answered.	Staff looks forward to working with the public and utilities in helping participation processes meet the commission's expectations for public involvement. Staff agrees that advisory groups should be a place where technical questions are asked and answered.
	General	Requests the commission fix the problems in the PSE IRP process.	Staff recommends that the commission provide additional guidance in the rule-making adoption order and believes that guidance, combined with the proposed rules, will go a long way in providing pathways for resolving advisory group challenges. However, staff also acknowledges that fixing challenges will take time and the best efforts of utilities, as well as stakeholders and other members of the public.
Climate Solutions	General	Looks forward to further dialogue on advisory groups and stakeholder participation.	No staff responses necessary.

Party	Draft WAC	Summary of Comment	Staff Response
CENSE	General	Concerned that IRP rules will limit organization's participation in IRPs in the future. Requests that final rules preserve the public's ability to understand and participate in significant discussions about energy future.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order addressing public participation.
	630(1)	Concerned that narrowing participation rules to advisory groups places limits on public participation in the sense that utilities' control group membership. Offers example of gate-keeping group membership in previous IRP cycle. Additionally concerned about how utility agendas can hamstring ability of advisors to comment and offer feedback.	While utilities are inherently responsible for administering their groups, staff recommends that the commission provide additional guidance in the adoption order clarifying the commission's expectations to utilities and to stakeholders on these issues.
	General	Questions the recourse the general public would have if an issue of great significance to broader audience is of limited concern to advisors.	
	630(3)	Concerned about data disclosure requirements that do not require information to be released in a comprehensible format and that "native" format requirements could flood advisory group members with too much data.	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review." Staff anticipates additional guidance in the adoption order.
	General	Requests all parameters deemed relevant by advisory groups or the public be released in an "easily accessible format."	
	General	Notes companies could require non-disclosure agreements from advisory group[s] to provide sensitive information.	Staff agrees companies may use non-disclosure agreements to provide sensitive information. Staff disagrees with requiring non-disclosure agreements in rule, as their inclusion as a requirement would contradict the confidentiality provisions of RCW 80.04.095 and current commission rules.
FC	General	Supports upholding these public participation elements at minimum and requests further strengthening of opportunities and protection of public commenting outside of the advisory group process.	Staff recommends that the commission provide additional guidance in the adoption order or policy statements as needed.
	General	Offers "Tools for Measuring Equity in 100% Renewable Energy Deployment: Literature Review" that includes suggestions for actions utilities may take to involve the public in planning and decision making.	Staff appreciates this information and will take the content under advisement as staff, stakeholders, and utilities work to implement final rules.

Party	Draft WAC	Summary of Comment	Staff Response
Lindley, Jane	General	Requests reversions to previous draft language that is more inclusive for the wider public.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	630(1)	Recommends redlines changing "advisory group" to "public" and "advisory group members" to "stakeholders."	Staff disagrees with these redlines at this time but recommends that the commission provide additional guidance in the adoption order regarding how the wider public and stakeholders may be involved in advisory groups.
Lohr, Virginia	General	Believes language is unclear around makeup of an advisory group and potential gate-keeping to the group. Believes ability of general public to watch is clear, but it is not clear how members of the public may join an advisory group. Offers example of PSE IRP processes in 2017 and 2019: In 2017 group was open to anyone who wanted to join. In 2019 group was restricted to an application process that rejected some potential members. Believes current language allows this exclusionary practice to continue.	Staff believes the changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order regarding how the wider public and stakeholders may be involved in advisory groups.
	General	Requests that members of the public should be allowed to be on the advisory group and participate in meetings and that rule language make this clear.	
Newcomb, Anne	General	Requests guidance on how an advisory group would look and how it would be formed and if the divide between some utilities and public can be mended.	Staff recommends that the commission provide additional guidance in the adoption order regarding how the wider public and stakeholders may be involved in advisory groups. Staff notes that while the commission can offer guidance to mend relationships, utilities and stakeholders are responsible for working through that process.
	General	Recommends adding "in an easily accessible format" to all data disclosure locations.	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review" in WAC 480-100-630(3) and 480-100-655 (1)(g) and to data requirements in 480-100-640 and 480-100-650. Staff additionally recommends removal of confusing cross references to 480-100-655 from 480-100-640 and 480-100-650. Staff anticipates additional guidance in the adoption order.
	General	Recommends requiring non-disclosure agreements for confidential data considerations.	Staff disagrees with requiring non-disclosure agreements in rule, as their inclusion as a requirement would contradict the confidentiality provisions of RCW 80.04.095 and current commission rules. Staff supports utilities in their voluntary use of non-disclosure agreements.

Party	Draft WAC	Summary of Comment	Staff Response
NWEAC	General	Recommends revisiting data disclosures that reference "an easily accessible format" in 480-100-630(3), 480-100-650 (1)(k), and 480-100-650 (1)(g) and explaining difference in meaning, if language was intentional.	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review" in 480-100-630(3) and 480-100-655 (1)(g) and to data requirements in 480-100-640 and 480-100-650. Staff additionally recommends removal of confusing cross references to 480-100-655 from 480-100-640 and 480-100-650. Staff anticipates additional guidance in the adoption order.
RN	General	Does not support changes between previous and current draft rules and expresses concern that targeted language around advisory groups could exclude valuable public comment from IRP development.	The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order addressing how the public may interact in advisory groups.
	General	Recommends setting guidelines in rule for the formation of an advisory group.	Staff disagrees with setting guidelines for forming advisory groups in rule at this time because this rule making has not considered such specific parameters. Staff recommends that the commission provide additional guidance in the adoption order regarding how the wider public and stakeholders may be involved in advisory groups.

Party	Draft WAC	Summary of Comment	Staff Response
SC	General	Recommends all sections on data disclosure reflect the words "in an easily accessible format" because native formats can be difficult to follow.	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review" in 480-100-630(3) and 480-100-655 (1)(g) and to data requirements in 480-100-640 and 480-100-650. Staff additionally recommends removal of confusing cross references to 480-100-655 from 480-100-640 and 480-100-650. Staff anticipates additional guidance in the adoption order.
	General	Recommends full data disclosure should include all modeling software and programs.	Staff does not believe further changes to the rules are necessary. Proposed WAC 480-100-630(3) requires the utility to make all of its modeling software and programs available to the commission.
	General	Recommends utilities require non-disclosure agreements for confidential information.	Staff disagrees with requiring non-disclosure agreements in rule, as their inclusion as a requirement would contradict the confidentiality provisions of RCW 80.04.095 and current commission rules. However, staff supports utilities in their voluntary decision to use them.
	General	Recommends not limiting public participation to advisory groups and argues restricting public participation per the current rules enforces and maintains systemic policies that have led to disenfranchisement. Recommends restoring public participation language of previous rules and offering guidance relative to utility burden in subsequent policy statements.	Staff believes the changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	625 (2)(b), 630, and 655 (1)(a)	Notes that which advisory groups are included is not clear in draft rules. Recommends all advisory groups are included in the development of IRPs and CEIPs.	Staff disagrees. Staff does not believe the rules should require utilities to pull in all other groups, such as conservation and low-income groups, for IRP planning given overlapping representation in these groups with current IRP groups, because IRP groups are open to stakeholders not currently participating, and because staff believes stakeholders, utilities, and staff will have proposals for streamlining and smoothing out inter-group interactions as final rules are implemented and any issues become apparent. The proposed rules state at WAC 480-100-655 (1)(a) that all advisory groups must be included in CEIP development, including the equity group. In WAC 480-100-625 (2)(b), the proposed rules state that IRP development must include a proposed schedule for meeting with resource planning advisory groups, <i>i.e.</i> , current IRP groups, and the equity group. Utilities may pull in other groups to IRP planning if and as they feel they are necessary.

Party	Draft WAC	Summary of Comment	Staff Response
TEP	General	Supports inclusion of public involvement in IRP and CEIP planning processes, including right to comment, advisory group participation, creation of an equity advisory group, specific involvement in development of indicators and activities, filed public participation plans, reporting of public participation, and availability of supporting data.	No staff response required.
	General	Recommends restating in adoption order the existing IRP rule language of "Consultations with Commission Staff and public participation are essential to the development of an effective plan."	Staff agrees and recommends the commission include this type of direction in its adoption order.
	630(2)	Recommends harmonizing requirements of advanced distribution of materials to advisory groups. Appears to be removed from CEIP process.	Staff recommends that the commission address this issue in the adoption order.
	630(3)	Recommends harmonizing requirements of data input and files available to advisory groups.	Staff proposes rule changes to address this concern as well as comments from NVEC and others on confusion around data disclosure requirements.
VCAG	General	Concerned with limitation of public participation to advisory groups and argues restricting public participation per the current rules enforces and maintains systemic policies that have led to disenfranchisement. Asks how utility customers will have access to an advisory group or utility planning if they are not included in an advisory group and how disenfranchised customers will gain access to an advisory group.	Staff believes the changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	General	Recommends restoring public participation language of previous rules and offering guidance relative to utility burden in subsequent policy statements.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order. Staff anticipates additional policy statements will come as needed.
	General	Supports inclusion of requiring explanations of rejection of public input.	No staff response required.

Party	Draft WAC	Summary of Comment	Staff Response
WEC	General	Recommends restoring the public engagement provisions from previous drafts of the rule to undo barriers and create accessible public engagement opportunities needed to achieve an equitable transformation.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	General	Argues that utility advisory groups are topic-specific and less accessible than broader public engagement opportunities, and do not provide a way for a diversity of perspectives to be shared; notes utilities will require more than advisory groups to build and maintain community understanding and support.	Staff recommends that the commission provide additional guidance in the adoption order and notes that the proposed rules require utilities to provide additional methods of building and maintaining community interaction through their public participation plans.
WECM	General	Approximately 282 WEC member letters requesting creation of more accessible opportunities for robust public engagement in integrated resource planning and clean energy implementation planning that anticipate and break down barriers.	Staff recommends that the commission provide additional guidance in the adoption order as well as future conversations relative to barriers to participation.
Weinstein, Elyette	General	Recommends restoration of the public participation language of the previous draft of the rules and argues that limitation of participation to advisory groups bars input from individuals who utilities normally don't hear from. States concerns about transparency and gate-keeping public input to insider members of hand-picked advisory groups.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order or future policy statement as needed.

WAC 480-100-640 Clean energy implementation plan.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	640(1)	Proposes later due date of November 1 instead of October 1 for the CEIP. Notes that Commerce is using January 1.	Staff disagrees. A CEIP from a consumer-owned utility filed with the department of commerce will have already been approved by the utility's regulatory body – the city council or public utility district. For investor-owned utilities, the commission must have a reasonable amount of time to approve the CEIP so that it can become effective on January 1 as described in the statute. Based on commission experience with similar plans, October 1 will give the commission the bare minimum time required to approve such a complex set of documents by January 1. Staff also notes that if the plan is adjudicated, the commission would not be able to comply with a January 1 date.
	640(5)	Delete "the" before specific actions. Also proposes specific actions meet <i>'or be consistent with'</i> CETA. Concerned that it requires the utility to include all actions it will take, rather than just the actions the utility needs to take to make progress toward meeting the clean energy transformation standards.	Staff agrees with a clarifying edit and suggests adding "and be consistent with" CETA. Staff disagrees with deleting "the" as it is unnecessary. Utilities do not need to provide every single action it will take. Rather, utilities will need to identify material projects or programs and summarize their other actions.
	640 (6)(f)(ii)	Clarifying edit: "A description of the utility's methodology for selecting the investments and expenses it plans to make over the next four years that are directly related to the utility's compliance with the clean energy transformation standards ..."	Staff disagrees. The language in the proposed rules is clearer than the change the company suggests.
	640(11)	Clarifying edit: Change "... of how the update will modify targets" to "when the update modifies targets."	Staff disagrees. The biennial CEIP update will include, at a minimum, a new biennial conservation plan (BCP). WAC 480-100-640 (3)(a)(i) requires a specific energy efficiency target, which is included in the BCP. Therefore, by extension, staff expects the biennial CEIP update will include a modification to at least one target (the energy efficiency target).
FC	640 (4)(c)	Supports rule, but requests adding "reduction of risk" to the list of minimum required indicators. Each named element of the equity mandate requires at least one indicator. Notes that commerce's rule making includes risk reduction language.	Staff agrees.
		Requests that the commission commit to revisiting required indicators, frequently determine best practices, provide early guidance, review the rule's effectiveness, and revisiting the rule-making process, as needed, to codify best practices and facilitate more uniform reporting.	Staff anticipates ongoing engagement on customer benefit indicator development through participation in utility planning processes. The commission can provide additional guidance through policy statement, orders approving utility CEIPs, or changes to the rules as appropriate.
	650 (5)(c) and 640(8)	Supports proposed rule.	No staff response required.

Party	Draft WAC	Summary of Comment	Staff Response
Invenergy	640 (1) or (11)	Asks for a new CEIP by October 1, 2023.	Staff disagrees. The commission does not wish to increase administrative burden. If necessary, it may require such a filing by order at any time.
	General	CEIP rules should recognize SCGHG as an incremental cost adder.	Staff disagrees with specifying how the utilities model SCGHG in these rules. It is important to retain flexibility in modeling SCGHG so that utilities can best respond to changing conditions and new information. Too much specificity in the rule prevents the utility from developing new approaches to its analysis.
NWECC	640 (3)(b)	Not clear why some subsections require disclosure in "native format" and others require disclosure in "native format and in an easily accessible format." (Same comment as in WAC 480-100-620(14).)	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review" in WAC 480-100-630(3) and 480-100-655 (1)(g) and to data requirements in WAC 480-100-640 and 480-100-650. Staff additionally recommends removal of confusing cross references to WAC 480-100-655 from 480-100-640 and 480-100-650. Staff anticipates additional guidance in the adoption order.
	640(8)	Add "along with the total number of comments consolidated into one comment" to end. (Same comment as in WAC 480-100-620(17).)	Staff agrees this would be a useful element of comment summaries and recommends the commission include this guidance in this rule-making's adoption order.
RN	640 (4)(e) and (5)(b)	Resource adequacy requirements should refer back to the IRP.	Staff notes that there is no subsection (4)(e), however, staff believes RN is referencing subsection (5)(b) and (6)(e). Staff disagrees that the edits are necessary as the rules are clear that these are referencing the RA metrics as established in WAC 480-100-620(8).
	640(6)	Supports proposed rule.	No staff response required.
Sierra Club	640 (4)(c)	Add "reduction of risk" to the list of minimum required indicators. Each named element of the equity mandate requires at least one indicator. Notes that commerce's rule making includes risk reduction language.	Staff agrees.
		Requests that the commission commit to revisiting required indicators frequently, determine best practices, provide early guidance, review the rule's effectiveness, and revisiting the rule-making process, as needed, to codify best practices and facilitate more uniform reporting.	Staff anticipates ongoing engagement on customer benefit indicator development through participation in utility planning processes. The commission can provide additional guidance through policy statement, orders approving utility CEIPs, or changes to the rules as appropriate.

Party	Draft WAC	Summary of Comment	Staff Response
TEP	640 (4-6)	Supports required elements of CEIP, and inclusion of customer benefit indicators in 4(c).	No staff response required.
	640 (6)(b)(i)	Replace "by location and population" with "changes in benefits and burdens since the last CEIP, including results of specific actions taken (in) the prior CEIP implementation period consistent with the requirements in WAC 480-100-640 (4)(c)." Would alleviate concerns over timing of submission CEIP compliance report from previous period and next CEIP.	Staff does not agree with removing the "by location and population" language as the assessment should include geographic and demographic information to support the commission's review of equitable distribution requirements. Staff anticipates that the CEIP process will be iterative. The commission should carefully observe the first CEIP dockets and can modify the process as appropriate. Additional clarification will likely be provided in the adoption order.
	640 (6)(f)(iii)	Recommends retaining business case as an example of the type of justification for specific actions. The commission is fully authorized to require such information.	Staff declines to recommend restoring this language as utilities bear the burden of demonstrating a proposed CEIP meets the statutory requirements and fully supporting any projects proposed in the CEIP.
	640(11)	Revise third sentence to add "or plans to meet equitable distribution requirements" at the end. This would clarify how equity requirements are impacted by the biennial CEIP update.	Staff anticipates that the CEIP process will be iterative. The commission should carefully observe the first CEIP dockets and can modify the process as appropriate. Additional clarification will likely be provided in the adoption order.
WEC	640 (4)(c)	Add "reduction of risk" to the list of minimum required indicators.	Staff agrees.
	640(5)	Supports proposed rule.	No staff response required.

WAC 480-100-645 Process for review of CEIP and updates.

Party	Draft WAC	Summary of Comment	Staff Response
AWEC	645(2)	Reads the term "substantial interest" as having the same meaning as in WAC 480-07-355(3), and requests clarification in the adoption order on whether this reading is accurate. Also requests clarification regarding whether any information at all (more than demonstrating a "substantial interest") is required when requesting adjudicative proceeding.	Staff disagrees that the requested clarification is necessary. The term "substantial interest" has the same meaning and requirements as under WAC 480-07-355(3).
	645(2)	The Administrative Procedure Act (APA) does not allow a "brief adjudicative proceeding" to consider a CEIP, and reference to such should be deleted from the rules. The APA provides four conditions under which a brief adjudicative hearing can be held; a CEIP does not fit into any of them. A CEIP is too big and consequential, affects too many stakeholders, and therefore warrants a full adjudicative proceeding.	Staff disagrees with AWEC's interpretation. Staff generally envisions the commission choosing to set a CEIP adjudication for a BAP rather than a full adjudication when only one or two narrow issues within a CEIP are contested. These circumstances could easily meet the other requirements of RCW 34.05.482, and the inclusion of BAP in this subsection of the rules is sufficient to meet RCW 34.05.482 (1)(c).
TEP	645(2)	Supports proposed rule.	No staff response necessary.
WEC	645	Supports proposed rule.	No staff response necessary.

WAC 480-100-650 CEIP reporting and compliance.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	650	If the commission's rules are not the same as the rules adopted by commerce, investor-owned utilities will have to comply with both sets of rules. Provides no recommendations for changes.	Staff acknowledges that there will be some overlapping reporting with the department of commerce. Similar to EIA requirements, compliance information will be reported to both commerce and the commission. The reports required at four-year intervals by commerce (e.g., the interim performance report in 2026 and 2030, and the compliance report beginning in 2034) are appropriate to include within the clean energy compliance report outlined in WAC 480-100-650(1).
	650 (1)(j)	Proposes removal of description of public participation opportunities from four-year clean energy compliance report as redundant with subsection (e).	Staff disagrees that the requirements are redundant. Requirements in subsection (e) are limited to engagement on indicator development and use whereas (j) pulls in any other participatory elements.
	650 (3)(e)	Proposes example list of uses for renewable energy credits instead of explicit list. (Change i.e. to e.g.)	Staff agrees. The rule was intended to use a list of examples and the changes reflect grammatical corrections.
	650 (3)(j)	Proposes <i>estimated</i> greenhouse gas emissions.	Staff disagrees with the addition of this word. While it is true that greenhouse gas emissions are estimated calculations, the estimation is included in the definition of the term and may cause confusion if it is added here.
PP&L	650	Points out significant duplication of filings and regulatory burden when considering the new WAC 480-100-650 against the existing backdrop of filing requirements from WAC 480-100-238 and chapter 480-109 WAC.	Staff agrees. However, it is not apparent from the table provided by PP&L that the EIA filing requirements from chapter 480-109 WAC are in effect now, while the first filing requirement under WAC 480-100-650(3) does not begin until 2022. Staff intends to significantly streamline reporting before the end of 2022.
	650 (1)(b)	Asks for flexibility in meeting the interim targets, since large acquisitions can sometimes be delayed by a few months, which may result from conditions beyond the utility's control for which they should not be penalized.	Staff disagrees. Utilities can ask for penalty mitigation from the commission, and the situation envisioned here would be a perfect example for making such a request.
	650 (3)(a)	Asserts that the attestation goes beyond the CETA requirement to remove coal-fired resources from the allocation of electricity, which applies to ratemaking, not the use of power.	Staff disagrees with the substance and the suggested changes to the rule at this time. RCW 19.405.090(1) clearly penalizes the use of coal-fired resources to serve load, not only their inclusion in rates. Other sections of chapter 19.405 RCW support this position, and staff recommends further discussion of this issue in the adoption order. It will be helpful to wait for the completion of the rule making required in RCW 19.405.130. The attestation required by WAC 480-100-650 (3)(a) must describe how the utility has ensured that the required costs associated with coal-fired resources owned or under contract for longer than one month have been removed from existing and ongoing rates, and affirm that the utility did not knowingly purchase any electricity from coal-fired resources.

Party	Draft WAC	Summary of Comment	Staff Response
PSE	650(1)	Asks the commission to reconsider its treatment of interim targets as compliance obligations. Targets set by the utility can encourage gaming in setting targets low enough to ensure ease of compliance. The commission can already issue penalties to enforce its rules, without using the CETA penalty from statute. Commerce has treated interim targets as a demonstration of progress rather than compliance obligations. This may create an unfair advantage for consumer-owned utilities if the commission persists.	Staff disagrees. First, given that the commission reviews and approves these targets, and can modify them if they are insufficient under RCW 19.405.060 (1)(c), a utility will not be able to set insufficient interim targets to meet their statutory deadlines. Second, interim targets are included in the incremental cost alternative compliance pathway under RCW 19.405.060(3) but are not mentioned under RCW 19.405.090. This indicates that interim targets are intended as a compliance obligation enforced through commission order. Finally, if unforeseen circumstances affect a utility's ability to meet its interim targets, it can pursue compliance through the incremental cost pathway or request the commission mitigate any proposed penalty.
PC	650 (3)(a)	Supports attestation. Asks us to require verification, prefers a third-party audit. Recognizes there will be additional work on this issue.	Staff agrees with the substance but disagrees with the suggested changes to the rule. This issue will be addressed more fully during the rule making required in RCW 19.405.130, which will also address how to interpret a utility's "use" of electricity to serve customers.
AWEC	650 (3)(a)	Asserts that the attestation goes beyond the CETA requirement to remove coal-fired resources from the allocation of electricity. Broad ratemaking implications for multi-state utilities.	Staff disagrees. RCW 19.405.090(1) clearly penalizes the use of coal-fired resources to serve load, not only their inclusion in rates. Other sections of chapter 19.405 RCW support this position, and staff recommends further discussion of this issue in the adoption order. It will be more helpful to wait for the completion of the rule making required in RCW 19.405.130. The attestation required by WAC 480-100-650 (3)(a) must describe how the utility has ensured that the required costs associated with coal-fired resources owned or under contract for longer than one month have been removed from existing and ongoing rates, and affirm that the utility did not knowingly purchase any electricity from coal-fired resources.
BPA	650 (3)(f)	Asks to change the end date for when power from BPA must have associated RECs from January 1, 2029, to January 1, 2030, to be consistent with commerce.	Staff would prefer to keep the 2029 date, because if utilities are relying on BPA power, they must know ahead of time if they will be able to use it for CETA compliance after 2030. If BPA is still unable to provide RECs for its hydropower by 2029, utilities relying on such power should request a one-year rule waiver.
FC	650 (1)(d) and (e)	Supports requirements for developing a minimum suite of equity performance indicators and robust reporting.	No staff response necessary.
Lindley, Jane	650(3)	Recommends redlines adding description of public participation to annual clean energy progress report.	Staff disagrees. Staff supports streamlined reporting requirements and does not believe annual reporting in addition to the public participation plan and compliance reporting is necessary. Both current requirements would catch annual activities. The commission may require additional reporting as needed in the future.

Party	Draft WAC	Summary of Comment	Staff Response
NWEC	650 (1)(c)	We ask the commission to make clear that (c) refers to the individual specific actions as planned in WAC 480-100-640 (5) and (6) or (11) and addresses the success of each specific action.	Staff disagrees as WAC 480-100-650 (1)(c) requires a demonstration that the utility has executed a lowest reasonable cost plan for making progress toward compliance. Lowest reasonable cost refers to a portfolio-level, collective set of actions, not individual actions viewed in isolation.
	650 (1)(f)	The cost of compliance should address the cost of each action.	Staff disagrees. Although providing the costs of an individual action may be helpful, WAC 480-100-660(1) is clear that the incremental cost of compliance is analyzed at the portfolio level.
	650 (1)(d)(i)	Asks to restore language about the history of indicator changes because it will be more informative.	Staff disagrees as it adds administrative burdens. Companies will have to identify changes within the CEIPs when any changes are made.
	650 (3)(a)	Add that the attestation is provided by an appropriate utility executive. Concerned that there is no responsible party.	Staff disagrees with the suggested changes to the rule at this time. Staff suggests that the adoption order should address how the commission will treat this requirement moving forward. In general, additional specificity is not appropriate until more general issues are resolved. For example, it will be helpful to wait for the completion of the rule making required in RCW 19.405.130.
	650 (3)(e)	Use e.g. instead of i.e. in the list of examples.	Staff agrees.
	650 (3)(f)	Please explain in the rule-making order what it means to track the nonpower attributes of renewable energy through contract language. Who is responsible for this tracking? When does it occur, and to whom?	Staff expects that the utilities that choose to contract with BPA will ensure that their contracts with BPA address the tracking of nonpower attributes. In addition, the rule making required in RCW 19.405.130 may also address this issue.
	650(3) (new)	Asks to add description of progress on indicators to the annual report because if the progress is only included in the four-year report, it will not be available in time to inform the next round of IRPs.	Staff anticipates that the CEIP process will be iterative. The commission will carefully observe the first CEIP dockets and can modifying [modify] the process as appropriate. Additional clarification should be provided in the adoption order.

Party	Draft WAC	Summary of Comment	Staff Response
RN	650 (3)(a)	Asks that the attestation be made by an appropriate company executive, and subject to commission review. The proposed rules do not address a loophole which allows a utility to rely on consecutive short-term contracts for unspecified resources.	Staff disagrees with the suggested changes to the rule at this time. Renewable Northwest raises important issues that should be considered. However, additional specificity is not appropriate until more general issues are resolved. It will be helpful to wait for the completion of the rule making required in RCW 19.405.130.
	650 (3)(a) (new)	Concerned that one interpretation of the definition that coal-fired resource does not include wholesale power purchases of one month or less would allow utilities to rely on serial transactions for unspecified electricity to sidestep the requirement to remove coal from rates before 2030. Suggests this language be added: A utility must not engage in a series or combination of short-term transactions for unspecified electricity for the purpose of avoiding the restrictions on use of coal-fired resources under RCW 19.405.030(1).	Staff disagrees with the addition of this language as inconsistent with the statute. Under the law, both before and after 2030, the utility may recover the costs associated with coal-fired resources under contracts of one month or less from customers. Further, they may also engage in contracts for unspecified electricity of any length and recover related costs from customers. However, if they do enter into such contracts, after 2030, they will be subject to the \$100 penalty for electricity that is not renewable or nonemitting, which will include both the unspecified electricity and the coal-fired electricity that is procured under contracts of one month or less.
	650 (3)(f)	Add language prohibiting double-counting of nonpower attributes tracked through contract language prior to end date.	While staff declines to make the suggested change, staff points out that there is no allowance in CETA to use nonpower attributes more than once. Thus, we expect that when utilities negotiate contracts with BPA, they will address the necessary tracking to ensure compliance with the spirit of the law. This issue will likely be further addressed during the rule making under RCW 19.405.130.
TEP	650(3) (new)	Expresses concern about reporting on customer benefits in time to provide useful, informative information to support the next CEIP. Suggests changes to WAC 480-100-640 (6)(b)(i). Could also make changes here.	Staff anticipates that the CEIP process will be iterative. The commission should carefully observe the first CEIP dockets and can modify the process as appropriate. Additional clarification will likely be provided in the adoption order.
WPTF	650 (3)(a)	Do not spend additional effort to develop rules to ensure that Washington utilities can document that every single megawatt-hour of unspecified power has not been sourced from a coal resource.	Staff disagrees. Under RCW 19.405.130, the commission is required to adopt by June 30, 2022, rules concerning documentation of whether or not a utility has met the standards in RCW 19.405.030 through 19.405.050.
	650 (3)(a)	Focus on the narrow question of how to ensure that the investor-owned utilities that currently own coal fully divest of it, and/or don't continue to use these resources to serve Washington customers.	Staff agrees and believes that the attestation requirement is adequate at this time. Staff recommends that the adoption order address how the commission will treat this requirement moving forward. Note however, that the rules as currently written only address coal-fired resources as defined in the statute; those that are owned or under contracts of longer than one month.

WAC 480-100-655 Public participation in a CEIP.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	655 (1)(a)	Believes this section doesn't need to call out equity group because section is applicable to all groups. Offers redlines striking specific call-out.	Staff disagrees with this proposed edit. As the equity group is the only newly formed group, staff believes it is helpful to be clear about where that group interacts in the planning processes. Staff may recommend streamlining changes in the future as stakeholders and utilities become familiar with working with groups on equity issues.
	655 (1)(e)	Strike portion stating "utility may convene and engage public advisory groups on other topics" because it is unnecessary and creates uncertainty around expectations. Offers redlines striking (e).	Staff disagrees with this proposed edit and believes the current proposed language is clear that proposed rules do not limit utilities in developing stakeholder processes for other issues.
	655(g)	Offers redlines adding "used to develop its CEIP."	Staff agrees and believes this proposed edit clarifies the rule's intent. Staff additionally recommends the same clarification to WAC 480-100-630(3) for IRPs.
	655 (1)(h)	Believes subsection (h) is redundant to other requirements in section (1). Offers redlines striking all of (h).	Staff disagrees this section is redundant. It describes the comment summary mentioned but not detailed in WAC 480-100-640(8). Staff disagrees with making this suggested edit as it would remove the requirement for utilities to submit a summary.
	655 (2)(f)	Offers redlines rewording (f) to say "The date by which the utility must file ..."	Staff disagrees. The date by which utilities must file could be different from the dates by which they do file. Staff recognizes these will likely be the same date, particularly for initial plans. But in the event they are not the same, staff prefers the planned date.
PSE	655(3)	Supports removal of required customer notice review in previous draft rules.	No staff response required.
	General	States concerns that current work to develop a more inclusive and participatory approach to utility planning is nascent and will mature through the equity advisory group process and other means, including commission workshops on equity issues. Requests more workshops in early 2021 specifically focused on how to implement equity provisions in the rule, such as the development of indicators.	Staff understands this work is nascent for utilities and stakeholders alike and that it will take time for maturation. Staff anticipates future workshops and will provide notice as they are scheduled.
PC	General	Appreciates continued inclusion of public participation in CEIP process.	No staff response required.
	General	Supports continued discussion of funding for equity advisory group among stakeholders and a Commission policy statement to provide subsequent guidance.	Staff recommends that the commission take this under advisement as any additional workshops and policy statements are planned. Staff agrees that this issue merits additional conversation and does not believe particular requirements around funding mechanisms are ripe for rule language.
	General	Urges basic rule language in this docket requiring equity group funding.	Staff disagrees in light of the existing questions related to commission authority to require this type of funding, remaining questions about funding administration and practicalities, the substantive nature of this rule change (and thus a required additional CR-102), and the statutory timeline for completing this rule making.

Party	Draft WAC	Summary of Comment	Staff Response
AWEC	General	Opposes stakeholder processes in the proposed rules, stating they will be costly and time-consuming to participate in, undermine adjudicative proceedings, and hinder utilities' abilities to quickly respond to changing technologies and markets.	Staff disagrees that the stakeholder processes in this proposed rule, which are largely predicated on and inclusive of existing stakeholder processes, are more costly and time-consuming than are required by the additional planning needs created by CETA, as stakeholder participation is voluntary. Staff does not believe that advanced resolution of issues or a common understanding of needs between stakeholders undermines adjudicative proceedings. Staff is also not clear how <i>not</i> taking the voices and needs of customers and stakeholders into account would enable better decision-making in response to changing technologies and markets.
Climate Solutions	General	Looks forward to further dialogue on advisory groups and stakeholder participation.	No staff response necessary.
CENSE	Data	Concerned about data disclosure requirements that do not require information to be released in a comprehensible format and that "native" format requirements could flood advisory group members with too much data.	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review." Staff anticipates additional guidance in the adoption order. Staff agrees companies may require non-disclosure agreements to provide sensitive information but declines to recommend requiring non-disclosure agreements in rule, as their inclusion as a requirement would contradict the confidentiality provisions of RCW 80.04.095 and current commission rules.
	Data	Requests all parameters deemed relevant by advisory groups or the public be released in an "easily accessible format." Notes companies could require non-disclosure agreements from advisory group to provide sensitive information.	
FC	General	Supports creation of equity advisory group.	No staff response necessary.
	General	Supports provisions for meaningful public involvement and responses to public input.	
	General	Supports upholding these elements at minimum and requests further strengthening of opportunities and protection of public commenting outside of the advisory group process.	Staff recommends that the commission provide additional guidance in the adoption order or policy statements as needed.
	655 (2)(a)(i)-(ii)	Supports development of indicators using public involvement.	No staff response needed.

Party	Draft WAC	Summary of Comment	Staff Response
Lindley, Jane	General	Requests reversions to previous draft language that is more inclusive for the wider public.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	655 (2)(g)(iii)	Requests changing rule to state "Information on how the public may participate in CEIP development, <u>including advisory group meetings</u> ; and."	Staff believes that how the public could participate in advisory group meetings is already included in this rule and would be an expected element of a public participation plan. Staff believes this language is unnecessary. Staff nevertheless recommends that the commission provide additional broad guidance about public access to advisory groups in the adoption order.
	655(1)	Recommends redlines moving section number from first paragraph and creating "Advisory groups" section starting at subsection (a). Renumbers subsequent lines. Adds "public" and "stakeholders" throughout newly created intro paragraph.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	655(2)	Recommends redlines adding "and stakeholders."	
Newcomb, Anne	General	Requests guidance on how an advisory group would look and how it would be formed and if the divide between some utilities and public can be mended.	Staff recommends that the commission provide additional guidance in the adoption order regarding how the wider public and stakeholders may be involved in advisory groups. Staff notes that while the commission can offer guidance to mend relationships, utilities and stakeholders are responsible for working through that process.
	General	Supports language about involving vulnerable communities.	No staff response necessary.
	General	Recommends adding "in an easily accessible format" to all data disclosure locations.	Staff recommends proposed changes to these areas of the rule to clarify the commission's intent.
	General	Recommends requiring non-disclosure agreements for confidential data considerations.	Staff disagrees with requiring nondisclosure agreements in rule, as their inclusion as a requirement would contradict the confidentiality provisions of RCW 80.04.095 and current commission rules.
RN	General	Reiterates similar concerns as discussed in IRP sections above and requests guidance on the formation of advisory group[s], which are necessary for CEIPs, and which parties or organizations should compose through groups. Recommends limiting utilities' ability to gate-keep group membership by requiring commission review and approval.	Staff recommends that the commission provide additional guidance on advisory groups in the adoption order or through policy statement as necessary. The commission also should not put itself in the position of reviewing or approving the makeup of advisory groups as they are intended for reasonable general public access. The commission can address issues of utility gatekeeping or bias if or as they occur.

Party	Draft WAC	Summary of Comment	Staff Response
SC	General	Recommends all sections on data disclosure reflect the words "in an easily accessible format" because native formats can be difficult to follow.	Staff agrees there is confusion around this piece and recommends adding "easily accessible format" after "advisory group review" in WAC 480-100-630(3) and 480-100-655 (1)(g) and to data requirements in WAC 480-100-640 and 480-100-650. Staff additionally recommends removal of confusing cross references to WAC 480-100-655 from 480-100-640 and 480-100-650. Staff anticipates additional guidance in the adoption order.
	General	Recommends full data disclosure should include all modeling software and programs.	Staff does not believe further changes to the rules are necessary. Proposed WAC 480-100-630(3) requires the utility to make information available to the commission in native formats. Staff recommends the commission provide additional guidance, if needed, in the commission's adoption order.
	General	Recommends utilities require nondisclosure agreements for confidential information.	Staff disagrees with requiring nondisclosure agreements in rule, as their inclusion as a requirement would contradict the confidentiality provisions of RCW 80.04.095 and current commission rules.
	General	Recommends not limiting public participation to advisory groups and argues restricting public participation per the current rules enforces and maintains systemic policies that have led to disenfranchisement. Recommends restoring public participation language of previous rules and offering guidance relative to utility burden in subsequent policy statements.	Staff believes the changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	General	Notes that which advisory groups are included is not clear in draft rules. Recommends all advisory groups are included in the development of IRPs and CEIPs.	Staff disagrees. Staff does not believe the rules should require utilities to pull in all other groups, such as conservation and low-income groups, for IRP planning given overlapping representation in these groups with current IRP groups, because IRP groups are open to stakeholders not currently participating, and because staff believes stakeholders, utilities, and staff will have proposals for streamlining and smoothing out inter-group interactions as final rules are implemented and any issues become apparent. The proposed rules state at WAC 480-100-655 (1)(a) that all advisory groups must be included in CEIP development, including the equity group. In WAC 480-100-625 (2)(b), the proposed rules state that IRP development must include a proposed schedule for meeting with resource planning advisory groups, <i>i.e.</i> , current IRP groups, and the equity group. Utilities may pull in other groups to IRP planning if and as they feel they are necessary.

Party	Draft WAC	Summary of Comment	Staff Response
TEP	General	Supports inclusion of public involvement in IRP and CEIP planning processes, including right to comment, advisory group participation, creation of an equity advisory group, specific involvement in development of indicators and activities, filed public participation plans, reporting of public participation, and availability of supporting data.	No staff response necessary.
	655 (2)/(3)	Recommends harmonizing requirements of advanced distribution of materials to advisory groups. Appears to be removed from CEIP process.	Staff recommends that the commission address this issue in the adoption order.
	655 (1)(g)	Recommends harmonizing requirements of data input and files available to advisory groups.	Staff proposes rule changes to address this concern as well as comments from NWEC and others on confusion around data disclosure requirements.
VCAG	General	Concerned with limitation of public participation to advisory groups and argues restricting public participation per the current rules enforces and maintains systemic policies that have led to disenfranchisement. Asks how utility customers will have access to an advisory group or utility planning if they are not included in an advisory group and how disenfranchised customers will gain access to an advisory group.	Staff believes the changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	General	Recommends restoring public participation language of previous rules and offering guidance relative to utility burden in subsequent policy statements.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order. Staff anticipates that the commission will issue additional policy statements as needed.
	General	Supports inclusion of requiring explanations of rejection of public input.	No staff response required.
	General	Supports requiring utilities to use the IAP2 "involve" level for all CEIP hearings.	Staff disagrees. "Hearings," and "open meetings" are official forums for the commission and have limited back and forth interaction between utilities and customers, serving instead as a mechanism for conducting official commission business in compliance with open meeting laws. These official meetings give an opportunity for customers and the public to be heard by the commission and for the commission to ask questions of those present. In addition, the approval process for final CEIPs outlined in these proposed rules allows for CEIPs to be adjudicated. In these hearings, parties have the right to advocate in favor of their own positions. It is unclear what the IAP2 "involve" level would mean in this context.

Party	Draft WAC	Summary of Comment	Staff Response
WEC	General	Recommends restoring the public engagement provisions from previous drafts of the rule to undo barriers and create accessible public engagement opportunities needed to achieve an equitable transformation.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.
	General	Argues that utility advisory groups are topic-specific and less accessible than broader public engagement opportunities, and do not provide a way for a diversity of perspectives to be shared; notes utilities will require more than advisory groups to build and maintain community understanding and support.	Staff recommends that the commission provide additional guidance in the adoption order and notes that the proposed rules require utilities to provide additional methods of building and maintaining community interaction through their public participation plans.
WECM	General	Approximately 282 WEC member letters requesting creation of more accessible opportunities for robust public engagement in integrated resource planning and clean energy implementation planning that anticipate and break down barriers.	Staff recommends that the commission provide additional guidance in the adoption order as well as future conversations relative to barriers to participation.
Weinstein, Elyette	General	Recommends restoration of the public participation language of the previous draft of the rules and argues that limitation of participation to advisory groups bars input from individuals that utilities don't normally hear from. States concerns about transparency and gate-keeping public input to insider members of hand-picked advisory groups.	Staff disagrees. The changes to these rules clarify the role of the advisory group; they do not broadly limit public participation. Staff recommends that the commission provide additional guidance in the adoption order.

WAC 480-100-660 Incremental cost of compliance.

Party	Draft WAC	Summary of Comment	Staff Response
Avista	660(6)	The commission should determine whether the incremental cost cap has been met using a one-time estimate when the utility files its CEIP. This provides the utility with greater certainty as it will know exactly how much it needs to spend.	Staff disagrees. A forecast of compliance is not a reasonable substitution for a demonstration of compliance.
	660(2)	The proposed calculation should be revised to result in a two percent annualized spending, rather than the five percent in the draft rule, for demonstrating compliance. This is more consistent with the legislature's intent. The proposed calculation assumes that an actual incremental two percent in directly attributable costs will be spent each year of a CEIP, but that is unlikely to ever happen due to the nature of utility investments.	Staff disagrees. Staff believes that the intent of the statute is for the two percent calculation to increase each year over the CEIP period and that intent is evident in the phrase "two-percent increase ... above the previous year."
	660(2)	The determination of compliance should not be on the total dollars spent over a CEIP, but rather on the average rate increase per year during a CEIP period as specified in RCW 19.405.060 (3)(a).	Staff agrees that the statute does not require a specific amount of spending in any given year, rather it allows spending to be averaged over the CEIP compliance period.
	660(2)	Add the word "cumulative" before the mathematical formula.	Staff disagrees as the rules are sufficiently clear to capture the commission's intent.

Party	Draft WAC	Summary of Comment	Staff Response
PP&L	660(2)	The incremental cost methodology presented does not capture the cost containment intent from the legislature. Current methodology would allow rate increases of five percent on average over a four-year compliance period for investments only associated with CETA. Actual rate increases could be larger due to costs incurred in the alternative portfolio that would not be captured in the incremental cost calculation.	Staff disagrees. Staff believes that the intent of the statute is for the two percent calculation to increase each year over the CEIP period. That intent is evident in the phrase "two-percent increase ... above the previous year."
	660(2)	Recommendation to change "each" to "the" in draft WAC 480-100-660(2), and removal of the annual threshold amount formula. The rule dilutes the intent and specificity of the statute by interpreting "previous year" as "each previous year" of the compliance period and not as "the single year immediately preceding the CEIP." The incremental cost cap would not be known at the beginning of the CEIP period because revenues are not known to the company until months after the beginning of CEIP, making CEIP cost cap and incremental cost cap inconsistent.	Staff disagrees with this interpretation of the meaning of the statute. Staff expects a utility will rely on projections of revenue to estimate the incremental cost of compliance when it files its CEIP, and use actual weather-adjusted sales revenue when it reports its actual cost of compliance in the clean energy compliance report.
	660(2)	The rule is flawed because it does not arrive at a result that captures the legislative intent of creating an "extremely strong" cost cap. The calculation does not derive the WASR from the CBR, but it establishes an inflated WASR baseline every year in the compliance period based on projections and inclusion of amounts related to CETA implementation costs from the previous years.	Staff disagrees. Although the utility will estimate its WASR for each year when it files the CEIP, the determination for when a utility may rely on the incremental cost of compliance pathway is made when the utility files its clean energy compliance report, after the completion of the CEIP. In that compliance report, the utility will use the actual WASR from each year of the CEIP and will not rely on projections of future revenue.
	660 (1), (2)	Parties have not had a meaningful opportunity or sufficient time to comment on the incremental cost methodology and formulas.	Staff disagrees. The commission conducted a workshop on March 17, 2020, focused on incremental cost. The commission also issued notices for written comments on two sets of draft rules prior to the publication of the CR-102. The notice for the second draft specifically asked stakeholders for their comments on the appropriate calculation, including a formula that used a compounding calculation that was similar to the calculation in the proposed rules, as noted by PP&L on page 3 of its comments.

Party	Draft WAC	Summary of Comment	Staff Response
PSE	660(1)	The process for comparing the costs of the actual portfolio to the alternative lowest reasonable cost and reasonably available portfolio is unclear. The requirement to update the baseline using the portfolio optimization model has numerous flaws, including requiring the commission to make periodic and successive determinations of what the utility "would have implemented" absent CETA. Furthermore, the term "material" is not defined and creates uncertainty.	Staff disagrees. It is not uncommon for utilities to update a filing including one that is based on assumptions. Staff also notes that the standard is not what the utility would have implemented absent CETA, rather, it is what the utility would have implemented absent RCW 19.405.040 and 19.405.050.
PC	660(2)	CETA does not require compounding growth or cost increases to the threshold amount. The phrase "equals a two percent increase ..." only applies a two percent increase to revenue from the prior year. The statute does not say that cost increases from one year must be allowed to carry over into the following years.	Staff disagrees. Staff believes that the intent of the statute is for the two percent calculation to increase each year over the CEIP period and that intent is evident in the phrase "two-percent increase ... above the previous year."
	660(2)	Compounding cost increases across the four-year period assumes that all CETA-related cost increases in a given year remain unchanged in the subsequent years and that the new cost increases are simply added on top of the old in the calculation of the threshold amount. This may be true for large capital costs but not necessarily true of all costs.	Staff disagrees. The incremental cost is a calculation of the threshold for spending and is unrelated to specific costs, either large capital costs or small education expenses.
	660(2)	Compounding gives costs an inappropriate presumption of reasonableness.	Staff disagrees. The calculation is not tied to specific costs, rather it is a spending threshold unrelated to a utility's specific actions in its CEIP.
	660(2)	If the commission allows the utilities to carry over the CETA-related cost increases from year to year, the formula should be corrected so that the threshold amount only reflects CETA-related cost increases or decreases from year to year and does not repetitively account for the base revenue.	Staff disagrees. Staff believes that the intent of the statute is for the two percent calculation to increase over the CEIP period and that intent is evident in the phrase "two-percent increase ... above the previous year."

Party	Draft WAC	Summary of Comment	Staff Response
AWEC	660(2)	The proposed calculation artificially increases the incremental cost and is inconsistent with CETA's requirements that the cost be identified in some way as two percent of weather-adjusted sales. The proposed calculation would result in annual five percent increases, which does not faithfully implement the statute.	Staff disagrees. Staff believes that the intent of the statute is for the two percent calculation to increase over the CEIP period and that intent is evident in the phrase "two-percent increase ... above the previous year."
	660(6)	Utilities should be allowed to rely on a projection of incremental costs, which is consistent with existing commission ratemaking structures used today. If the commission continues to rely on a retrospective review, utilities should not be required to update their CEIP assumptions. A retrospective review of the mechanism guts the protections of the mechanism by increasing the utility's risks that its assumptions do not materialize.	Staff disagrees that a retrospective review guts the protections of the statute. On the contrary, a retrospective review is aligned with common regulatory practices. Moreover, a retrospective review of utility actions is a much more common ratemaking principle than relying on projected forecasts of costs.
CS	660 (1)(c)	Does not support allowing an alternative methodology as it would allow utilities to select variable and inconsistent approaches. If the commission retains this option, the alternative approach must be compared to the method established in rule for comparison.	Staff disagrees. Although it may be preferable to have a consistent approach across all three utilities, it is reasonable for the commission to allow alternatives that satisfy the statutory requirements. Due to the complexity of calculating the incremental cost, it is also appropriate for the commission to offer some flexibility.
	660(2)	Supports the incremental cost calculation as consistent with the statute. Notes that the proposed calculation is "more generous" than the calculation advocated for by CS. However, CS's earlier proposal provides more rate impact certainty.	No staff response necessary.
NVEC	660 (1)(c)	Does not support allowing an alternative incremental cost methodology until possible alternatives are better understood. It is preferable to have a consistent approach across all three utilities for comparison.	Staff disagrees. Although it may be preferable to have a consistent approach across all three utilities, it is reasonable for the commission to allow alternatives that satisfy the statutory requirements. Due to the complexity of calculating the incremental cost, it is also appropriate for the commission to offer some flexibility.

Party	Draft WAC	Summary of Comment	Staff Response
RN	660 (1)(c)	Strike the option for an alternative methodology. The benefit of including this option is unclear. The method should be uniform across the utilities. However, if the commission maintains this option, the utility should be required to calculate its incremental cost via its method and the method established in rule for comparison.	Staff disagrees. Although it may be preferable to have a consistent approach across all three utilities, it is reasonable for the commission to allow alternatives that satisfy the statutory requirements. Due to the complexity of calculating the incremental cost, it is also appropriate for the commission to offer some flexibility.
	660(2)	RN supports the calculation in its current form; however, its prior calculation proposal would be better. RN's proposal allows long-term investments to be incorporated into the calculation at once so that once a utility determines the two percent threshold for the compliance period, a long-term investment will not count against a future year's incremental cost. RN's formula creates a slightly lower cost threshold than the draft rules proposal.	Staff disagrees. Staff believes that the calculation included in the rule satisfies the statutory requirements and is aligned with the intent. Staff also believes that the calculation in rule is flexible and reasonably accounts for long-term investments.
WEC	660(1)	The final rules should not allow companies to propose their own methodology but rather require consistent application of the incremental cost of compliance methodology across all utilities. The methodology should be adaptively managed and updated over time.	Staff disagrees. Although it may be preferable to have a consistent approach across all three utilities, it is reasonable for the commission to allow alternatives that satisfy the statutory requirements. Due to the complexity of calculating the incremental cost, it is also appropriate for the commission to offer some flexibility.

WAC 480-100-665 Enforcement.

Party	Draft WAC	Summary of Comment	Staff Response
FC	665	Support express restatement of the commission's enforcement powers, including compliance with the equity mandate.	No staff response required.
WEC	665	Restore the full description of the commission's authority to limit the extent to which utilities may recover return on investment, determine the prudence of a utility's activities, and take action in response to violations not directly related to emissions.	Staff disagrees. The commission does not need to restate its statutory authority to regulate utility rates in this rule, and the prior language is needlessly provocative.

Miscellaneous.

Party	Draft WAC	Summary of Comment	Staff Response
CS	Resource adequacy	Concerned with the lack of guidance for a resource adequacy standard. Resource adequacy (RA) is an off-ramp for CETA compliance, and the commission's current draft provides little guidance to ensure consistency or oversight of this provision.	Staff disagrees. Staff does not read WAC 480-100-090(3) as an off-ramp based on the performance of an RA analysis but rather as an off-ramp in the face of imminent failure of the NERC operating standards. NERC operating standards are operational performance standards. In contrast, RA is a measurement and standard for use in long-term planning. In this rule making, multiple utilities have asked that the commission not impose uniform RA standards in rule. Staff agrees the responsibility for an RA methodology should remain with a utility and it bears the risk to perform the RA analysis necessary to meet its load service obligations.
FC	610 (4)(c)(i)	Provides two attachments on metrics for equitable distribution and tools for measurement.	Staff appreciates the additional information and anticipates further engagement with utilities and stakeholders to refine how the information included in the attachments relates to the various elements of RCW 19.405.040(8) compliance.
Invenergy	Repowering	IRP and CEIP rules should require including repowering decisions in utility resource planning processes. Utilities should evaluate major repowering of any existing generating resource on a consistent basis with new resource opportunities, including application of the same requirements under CETA. Further, the rules should not allow utilities to bias their IRP and CEIP evaluations to justify constructing or repowering GHG-emitting generating resources.	Staff disagrees this edit is necessary because repowering is addressed in WAC 480-100-620(7), resource evaluation, where each utility's IRP must include a comparative evaluation of all ... potential changes to existing resources.
	Construction of new GHG-emitting resources	Provide more guidance in the rules to ensure that any construction of new GHG-emitting resources is based on a complete justification including the risks that such new resources will be cost-effective over a reduced lifespan.	Staff believes that the statute is clear: Utilities must be greenhouse gas neutral by 2030 and 100 percent clean by 2045. All new builds should first be previewed in the CEAP before being included in the CEIP, where stakeholders and the commission may delve into the benefits and risks of a project. Staff believes that the rules and existing commission practices ensure that there is an opportunity to review the benefits and risks of all projects.
Adcock, James	RECs	Concerned that there is an opportunity for potential REC double-counting.	Staff points out that there is no allowance in CETA to use nonpower attributes or renewable energy credits more than once. This issue will likely be further addressed during the rule making under RCW 19.405.130.

Appendix B

[WAC 480-XX - RULES]

OTS-2679.2

PART VIII—PLANNING

NEW SECTION

WAC 480-100-600 Purpose. The purpose of these rules is to ensure that the utility meets the clean energy transformation standards outlined in WAC 480-100-610 in a timely manner and at the lowest reasonable cost.

[]

NEW SECTION

WAC 480-100-605 Definitions. The definitions below apply to all of WAC 480-100-600 through 480-100-665.

"Allocation of electricity" means, for the purposes of setting electricity rates, the costs and benefits associated with the resources used to provide electricity to an electric utility's retail electricity consumers that are located in this state.

"Alternative lowest reasonable cost and reasonably available portfolio" means, for purposes of calculating the incremental cost of compliance in RCW 19.405.060(3), the portfolio of investments the utility would have made and the expenses the utility would have incurred if not for the requirement to comply with RCW 19.405.040 and 19.405.050. The alternative lowest reasonable cost and reasonably available portfolio must include the social cost of greenhouse gases in the resource acquisition decision in accordance with RCW 19.280.030(3)(a).

"Biomass energy" includes: Organic by-products of pulping and the wood manufacturing process; animal manure; solid organic fuels from wood; forest or field residues; untreated wooden demolition or construction debris; food waste and food processing residuals; liquors derived from algae; dedicated energy crops; and yard waste.

Biomass energy does not include:

- Wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic;
- Wood from old growth forests; or
- Municipal solid waste.

"Carbon dioxide equivalent" or "CO₂e" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

"CEAP" means the clean energy action plan.

"CEIP" means the clean energy implementation plan.

"Coal-fired resource" means a facility that uses coal-fired generating units, or that uses units fired in whole or in part by coal as feedstock, to generate electricity. Coal-fired resource does not include:

- An electric generating facility that is included as part of a limited duration wholesale power purchase, not to exceed one month, made by an electric utility for delivery to retail electric customers that are located in this state for which the source of the power is not known at the time of entry into the transaction to procure the electricity; or

- An electric generating facility that is subject to an obligation to meet the standards contained in RCW 80.80.040 (3) (c).

"Commission" means the Washington utilities and transportation commission.

"Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

"Cost-effective" means that a project or resource is forecast to be reliable and available within the time it is needed and to meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

"Customer benefit indicator" means an attribute, either quantitative or qualitative, of resources or related distribution investments associated with customer benefits described in RCW 19.405.040(8).

"Demand response" means changes in electric usage by demand-side resources from their normal consumption patterns in response to changes in the price of electricity, or to incentive payments designed to induce lower electricity use, at times of high wholesale market prices or when system reliability is jeopardized. Demand response may include measures to increase or decrease electricity production on the customer's side of the meter in response to incentive payments.

"Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

"Energy assistance" means a program undertaken by a utility to reduce the household energy burden of its customers.

- Energy assistance includes, but is not limited to, weatherization, conservation and efficiency services, and monetary assistance, such as a grant program or discounts for lower income households, intended to lower a household's energy burden.

- Energy assistance may include direct customer ownership in distributed energy resources or other strategies if such strategies achieve a reduction in energy burden for the customer above other available conservation and demand-side measures.

"Energy assistance need" means the amount of assistance necessary to achieve an energy burden equal to six percent for utility customers.

"Energy burden" means the share of annual household income used to pay annual home energy bills.

"Equitable distribution" means a fair and just, but not necessarily equal, allocation of benefits and burdens from the utility's transition to clean energy. Equitable distribution is based on disparities in current conditions. Current conditions are informed by, among other things, the assessment described in RCW 19.280.030 (1) (k) from the most recent integrated resource plan.

"Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such a material.

"Greenhouse gas" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department of ecology by rule under RCW 70A.45.010.

"Highly impacted community" means a community designated by the department of health based on the cumulative impact analysis required by RCW 19.405.140 or a community located in census tracts that are fully or partially on "Indian country," as defined in 18 U.S.C. Sec. 1151.

"Implementation period" means the four years after the filing of each clean energy implementation plan through 2045. The first implementation period will begin January 1, 2022, and will end December 31, 2025, and the second implementation period will begin on January 1, 2026, and will end on December 31, 2029.

"Integrated resource plan" or "IRP" means an analysis describing the mix of generating resources, conservation, methods, technologies, and resources to integrate renewable resources and, where applicable, address overgeneration events, and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers and that complies with the requirements specified in RCW 19.280.030(1).

"Lowest reasonable cost" means the lowest cost mix of generating resources and conservation and efficiency resources determined through a detailed and consistent analysis of a wide range of commercially available resources. At a minimum, this analysis must consider resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, the risks imposed on the utility and its customers, public policies regarding resource preference adopted by Washington or the federal government, and the cost of risks associated with environmental effects, including emissions of carbon dioxide. The analysis of the lowest reasonable cost must describe the utility's combination of planned resources and related delivery system infrastructure and show consistency with chapters 19.280, 19.285, and 19.405 RCW.

"Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form, including methane clathrate. Natural gas does not include renewable natural gas or the portion of renewable natural gas when blended into other fuels.

"Nonemitting electric generation" means electricity from a generating facility or a resource that provides electric energy, capacity, or ancillary services to an electric utility and that does not emit greenhouse gases as a by-product of energy generation. Nonemitting electric generation does not include renewable resources.

"Nonpower attributes" 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.

"Renewable resource" means water; wind; solar energy; geothermal energy; renewable natural gas; renewable hydrogen; wave, ocean, or tidal power; biodiesel fuel that is not derived from crops raised on land cleared from old growth or first growth forests; or biomass energy.

"Resource" includes, but is not limited to, generation, conservation, distributed generation, demand response, efficiency, and storage.

"Resource need" means any current or projected deficit to reliably meet electricity demands created by changes in demand, changes to system resources, or their operation to comply with state or federal requirements. Such demands or requirements may include, but are not limited to, capacity and associated energy, capacity needed to meet peak demand in any season, fossil-fuel generation retirements, equitable distribution of benefits or reduction of burdens, cost-effective conservation and efficiency resources, demand response, renewable and nonemitting resources.

"Social cost of greenhouse gas emissions" or "SCGHG" is the inflation-adjusted costs of greenhouse gas emissions resulting from the generation of electricity, as required by RCW 80.28.405, the updated calculation of which is published on the commission's website.

"Vulnerable populations" means communities that experience a disproportionate cumulative risk from environmental burdens due to: Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and sensitivity factors, such as low birth weight and higher rates of hospitalization.

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NEW SECTION

WAC 480-100-610 Clean energy transformation standards. (1) On or before December 31, 2025, each utility must eliminate coal-fired resources from its allocation of electricity to Washington retail electric customers;

(2) By January 1, 2030, each utility must ensure all retail sales of electricity to Washington electric customers are greenhouse gas neutral;

(3) By January 1, 2045, each utility must ensure that nonemitting electric generation and electricity from renewable resources supply one hundred percent of all retail sales of electricity to Washington electric customers;

(4) In making progress toward and meeting subsections (2) and (3) of this section, each utility must:

(a) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources, and demand response;

(b) Maintain and protect the safety, reliable operation, and balancing of the electric system; and

(c) Ensure that all customers are benefiting from the transition to clean energy through:

(i) The equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable populations and highly impacted communities;

(ii) Long-term and short-term public health and environmental benefits and reduction of costs and risks; and

(iii) Energy security and resiliency.

(5) Each utility must demonstrate that it has made progress toward and has met the standards in this section at the lowest reasonable cost.

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NEW SECTION

WAC 480-100-620 Content of an integrated resource plan. (1)

Purpose. Consistent with chapters 80.28, 19.280, and 19.405 RCW, each electric utility has the responsibility to identify and meet its resource needs with the lowest reasonable cost mix of conservation and efficiency, generation, distributed energy resources, and delivery system investments to ensure the utility provides energy to its customers that is clean, affordable, reliable, and equitably distributed. At a minimum, integrated resource plans must include the components listed in this rule. Unless otherwise stated, the assessments, evaluations, and forecasts should be over an appropriate planning horizon.

(2) **Load forecast.** The IRP must include a range of forecasts of projected customer demand that reflect the effect of economic forces on the consumption of electricity and address changes in the number, type, and efficiency of end uses of electricity.

(3) **Distributed energy resources.**

(a) The IRP must include assessments of a variety of distributed energy resources. These assessments must incorporate nonenergy costs and benefits not fully valued elsewhere within any integrated resource plan model. Utilities must assess the effect of distributed energy resources on the utility's load and operations under RCW 19.280.030

(1)(h). The commission strongly encourages utilities to engage in a distributed energy resource planning process as described in RCW 19.280.100. If the utility elects to use a distributed energy resource planning process, the IRP should include a summary of the results.

(b) The required distributed energy resource assessments must include the following:

(i) Energy efficiency and conservation potential assessment - The IRP must assess currently employed and potential policies and programs needed to obtain all cost-effective conservation, efficiency, and load management improvements, including the ten-year conservation potential used in calculating a biennial conservation target under chapter 480-109 WAC;

(ii) Demand response potential assessment - The IRP must assess currently employed and new policies and programs needed to obtain all cost-effective demand response;

(iii) Energy assistance potential assessment - The IRP must include distributed energy programs and mechanisms identified pursuant to RCW 19.405.120, which pertains to energy assistance and progress toward meeting energy assistance need; and

(iv) Other distributed energy resource potential assessments - The IRP must assess other distributed energy resources that may be in-

stalled by the utility or the utility's customers including, but not limited to, energy storage, electric vehicles, and photovoltaics. Any such assessment must include the effect of distributed energy resources on the utility's load and operations.

(4) **Supply-side resources.** The IRP must include an assessment of a wide range of commercially available generating and nonconventional resources, including ancillary service technologies.

(5) **Renewable resource integration.** An assessment of methods, commercially available technologies, or facilities for integrating renewable resources including, but not limited to, battery storage and pumped storage, and addressing overgeneration events, if applicable to the utility's resource portfolio. The assessment may address ancillary services.

(6) **Regional generation and transmission.** The IRP must include an assessment of the availability of regional generation and transmission capacity on which the utility may rely to provide and deliver electricity to its customers.

(a) The assessment must include the utility's existing transmission capabilities, and future resource needs during the planning horizon, including identification of facilities necessary to meet future transmission needs.

(b) The assessment must also identify the general location and extent of transfer capability limitations on its transmission network that may affect the future siting of resources.

(7) **Resource evaluation.** The IRP must include a comparative evaluation of all identified resources and potential changes to existing resources for achieving the clean energy transformation standards in WAC 480-100-610 at the lowest reasonable cost.

(8) **Resource adequacy.** The IRP must include an assessment and determination of resource adequacy metrics. It must also identify an appropriate resource adequacy requirement and measurement metrics consistent with RCW 19.405.030 through 19.405.050.

(9) **Economic, health, and environmental burdens and benefits.** The IRP must include an assessment of energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities; long-term and short-term public health and environmental benefits, costs, and risks; and energy security risk. The assessment should be informed by the cumulative impact analysis conducted by the department of health.

(10) **Scenarios and sensitivities.** The IRP must include a range of possible future scenarios and input sensitivities for the purpose of testing the robustness of the utility's resource portfolio under various parameters. The IRP must also provide a narrative description of scenarios and sensitivities the utility used, including those informed by the advisory group process.

(a) At least one scenario must describe the alternative lowest reasonable cost and reasonably available portfolio that the utility would have implemented if not for the requirement to comply with RCW 19.405.040 and 19.405.050, as described in WAC 480-100-660(1). This scenario's conditions and inputs should be the same as the preferred portfolio except for those conditions and inputs that must change to account for the impact of RCW 19.405.040 and 19.405.050.

(b) At least one scenario must be a future climate change scenario. This scenario should incorporate the best science available to analyze impacts including, but not limited to, changes in snowpack, streamflow, rainfall, heating and cooling degree days, and load changes resulting from climate change.

(c) At least one sensitivity must be a maximum customer benefit scenario. This sensitivity should model the maximum amount of customer benefits described in RCW 19.405.040(8) prior to balancing against other goals.

(11) **Portfolio analysis and preferred portfolio.** The utility must integrate the demand forecasts and resource evaluations into a long-range integrated resource plan solution describing the mix of resources that meet current and projected resource needs. Each utility must provide a narrative explanation of the decisions it has made, including how the utility's long-range integrated resource plan expects to:

(a) Achieve the clean energy transformation standards in WAC 480-100-610 (1) through (3) at the lowest reasonable cost;

(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;

(c) Include all cost-effective, reliable, and feasible conservation and efficiency resources, using the methodology established in RCW 19.285.040, and demand response;

(d) Consider acquisition of existing renewable resources;

(e) In the acquisition of new resources constructed after May 7, 2019, rely on renewable resources and energy storage, insofar as doing so is at the lowest reasonable cost;

(f) Maintain and protect the safety, reliable operation, and balancing of the utility's electric system, including mitigating over-generation events and achieving the identified resource adequacy requirement;

(g) Achieve the requirements in WAC 480-100-610 (4)(c); the description should include, but is not limited to:

(i) The long-term strategy and interim steps the utility will take to equitably distribute benefits and reduce burdens for highly impacted communities and vulnerable populations; and

(ii) The estimated degree to which benefits will be equitably distributed and burdens reduced over the planning horizon.

(h) Assess the environmental health impacts to highly impacted communities;

(i) Analyze and consider combinations of distributed energy resource costs, benefits, and operational characteristics including ancillary services, to meet system needs; and

(j) Incorporate the social cost of greenhouse gas emissions as a cost adder as specified in RCW 19.280.030(3).

(12) **Clean energy action plan (CEAP).** The utility must develop a ten-year clean energy action plan for implementing RCW 19.405.030 through 19.405.050. The CEAP must:

(a) Be at the lowest reasonable cost;

(b) Identify and be informed by the utility's ten-year cost-effective conservation potential assessment as determined under RCW 19.285.040;

(c) Identify how the utility will meet the requirements in WAC 480-100-610 (4)(c) including, but not limited to:

(i) Describing the specific actions the utility will take to equitably distribute benefits and reduce burdens for highly impacted communities and vulnerable populations;

(ii) Estimating the degree to which such benefits will be equitably distributed and burdens reduced over the CEAP's ten-year horizon; and

(iii) Describing how the specific actions are consistent with the long-term strategy described in WAC 480-100-620 (11)(g).

- (d) Establish a resource adequacy requirement;
- (e) Identify the potential cost-effective demand response and load management programs that may be acquired;
- (f) Identify renewable resources, nonemitting electric generation, and distributed energy resources that may be acquired and evaluate how each identified resource may reasonably be expected to contribute to meeting the utility's resource adequacy requirement;
- (g) Identify any need to develop new, or to expand or upgrade existing, bulk transmission and distribution facilities;
- (h) Identify the nature and possible extent to which the utility may need to rely on an alternative compliance option identified under RCW 19.405.040 (1)(b), if appropriate; and
- (i) Incorporate the social cost of greenhouse gas emissions as a cost adder as specified in RCW 19.280.030(3).

(13) **Avoided cost and nonenergy impacts.** The IRP must include an analysis and summary of the avoided cost estimate for energy, capacity, transmission, distribution, and greenhouse gas emissions costs. The utility must list nonenergy costs and benefits addressed in the IRP and should specify if they accrue to the utility, customers, participants, vulnerable populations, highly impacted communities, or the general public. The utility may provide this content as an appendix.

(14) **Data disclosure.** The utility must include the data input files made available to the commission in native format per RCW 19.280.030 (10)(a) and (b) and in an easily accessible format as an appendix to the IRP. For filing confidential information, the utility may designate information within the data input files as confidential, provided that the information and designation meet the requirements of WAC 480-07-160.

(15) **Information relating to purchases of electricity from qualifying facilities.** Each utility must provide information and analysis that it will use to inform its annual filings required under chapter 480-106 WAC. The detailed analysis must include, but is not limited to, the following components:

(a) A description of the methodology used to calculate estimates of the avoided cost of energy, capacity, transmission, distribution and emissions averaged across the utility; and

(b) Resource assumptions and market forecasts used in the utility's schedule of estimated avoided cost required in WAC 480-106-040 including, but not limited to, cost assumptions, production estimates, peak capacity contribution estimates and annual capacity factor estimates.

(16) **Report of substantive changes.** The IRP must include a summary of substantive changes to modeling methodologies or inputs that result in changes to the utility's resource need, as compared to the utility's previous IRP.

(17) **Summary of public comments.** The utility must provide a summary of public comments received during the development of its IRP and the utility's responses, including whether issues raised in the comments were addressed and incorporated into the final IRP as well as documentation of the reasons for rejecting any public input. The utility may include the summary as an appendix to the final IRP. Comments with similar content or input may be consolidated with a single utility response.

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NEW SECTION**WAC 480-100-625 Integrated resource plan development and timing.**

(1) **Timing.** Unless otherwise ordered by the commission, each electric utility must file an integrated resource plan (IRP) with the commission by January 1, 2021, and every four years thereafter.

(2) **IRP work plan.** No later than fifteen months prior to the due date of its IRP, the utility must file a work plan that includes advisory group input and outlines the content of the IRP and expectations for the subsequent two-year progress report. The utility must include the following in its work plan:

(a) The methods for assessing potential resources;

(b) A proposed schedule of meetings for the utility's resource planning advisory group and equity advisory group, as established in WAC 480-100-655 (1)(b), for the IRP;

(c) A list of significant topics, consistent with WAC 480-100-620, that will be discussed at each advisory group meeting for the IRP;

(d) The date the draft IRP will be filed with the commission;

(e) The date the final IRP will be filed;

(f) A link to the utility's website, updated in a timely manner, to which the utility posts and makes publicly available information related to the IRP, including information outlined in subsection (5) of this section;

(g) If the utility anticipates significant changes in the workplan, it must file an updated workplan.

(3) **Draft IRP.** No later than four months prior to the due date of the final IRP, the utility must file its draft IRP with the commission. At minimum, the draft IRP must include the preferred portfolio, CEAP, and supporting analysis, and to the extent practicable all scenarios, sensitivities, appendices, and attachments.

(a) The commission will hear public comment on the draft IRP at an open meeting scheduled after the utility files its draft IRP. The commission will accept public comments electronically and in any other available formats, as outlined in the commission's notice for the open public meeting and opportunity to comment.

(b) The utility must file with the commission completed presentation materials concerning the draft IRP at least five business days prior to the open meeting.

(4) **Two-year progress report.** At least every two years after the utility files its IRP, beginning January 1, 2023, the utility must file a two-year progress report.

(a) In this report, the utility must update its:

(i) Load forecast;

(ii) Demand-side resource assessment including a new conservation potential assessment;

(iii) Resource costs; and

(iv) The portfolio analysis and preferred portfolio.

(b) The progress report must include other updates that are necessary due to changing state or federal requirements, or significant changes to economic or market forces.

(c) The progress report must also update for any elements found in the utility's current clean energy implementation plan, as described in WAC 480-100-640.

(5) **Publicly available information.** The utility must make the following information publicly available on its website:

- (a) Meeting summaries and materials for advisory group meetings, including materials for future meetings;
- (b) A current schedule of advisory group meetings and significant topics to be covered, actively updated by the company and changes highlighted;
- (c) Information on how members of the public may participate in advisory group meetings; and
- (d) Advisory group comments about the IRP and its development received to date, including responses communicating how the subject of the input was considered or used. Comments with similar content or input may be consolidated with a single utility response.

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NEW SECTION

WAC 480-100-630 Integrated resource planning advisory groups.

- (1) The utility must demonstrate and document how it considered input from advisory group members in the development of its IRP and two-year progress report. Examples of how the utility may incorporate advisory group input include using modeling scenarios, sensitivities, and assumptions advisory group members proposed and using data and information supplied by advisory group members as inputs to plan development. As part of this process and consistent with WAC 480-100-625(5), the utility must communicate to advisory group members about whether and how the utility used their input in its analysis and decision making, including explanations for why the utility did not use an advisory group member's input.
- (2) The utility must make available completed presentation materials for each advisory group meeting at least three business days prior to the meeting. The utility may update materials as needed.
- (3) The utility must make all of its data inputs and files used to develop its IRP available to the commission in native file format, per RCW 19.280.030 (10)(a) and (b), and in an easily accessible format. The utility may make confidential information available by providing it to the commission pursuant to WAC 480-07-160. The utility should minimize its designation of information in the IRP as confidential. Nonconfidential contents of the IRP, two-year progress report, and supporting documentation as well as nonconfidential data inputs and files must be available for advisory group member review in an easily accessible format upon request. Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

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NEW SECTION

WAC 480-100-640 Content of a clean energy implementation plan

- (CEIP).** (1) **Filing requirements - General.** Unless otherwise ordered by the commission, each electric utility must file with the commission a CEIP by October 1, 2021, and every four years thereafter. The CEIP describes the utility's plan for making progress toward meeting the

clean energy transformation standards, and is informed by the utility's clean energy action plan. The information and documents described in each subsection below must be included in each CEIP.

(2) **Interim targets.**

(a) Each utility must propose a series of interim targets that:

(i) Demonstrate how the utility will make reasonable progress toward meeting the standards identified in WAC 480-100-610 (2) and (3);

(ii) Are consistent with WAC 480-100-610(4); and

(iii) Each utility must propose interim targets in the form of the percent of forecasted retail sales of electricity supplied by non-emitting and renewable resources prior to 2030 and from 2030 through 2045.

(b) The utility must include the utility's percentage of retail sales of electricity supplied by nonemitting and renewable resources in 2020 in the first CEIP it files.

(c) Each interim target must be informed by the utility's historic performance under median water conditions.

(3) **Specific targets.**

(a) Each utility must propose specific targets for energy efficiency, demand response, and renewable energy.

(i) The energy efficiency target must encompass all other energy efficiency and conservation targets and goals the commission requires the utility to meet. The specific energy efficiency target must be described in the utility's biennial conservation plan required in chapter 480-109 WAC. The utility must provide forecasted distribution of energy and nonenergy costs and benefits.

(ii) The utility must provide proposed program details, program budgets, measurement and verification protocols, target calculations, and forecasted distribution of energy and nonenergy costs and benefits for the utility's demand response target.

(iii) The utility must propose the renewable energy target as the percent of retail sales of electricity supplied by renewable resources and must provide details of renewable energy projects or programs, program budgets as applicable, and forecasted distribution of energy and nonenergy costs and benefits.

(b) The utility must provide a description of the technologies, data collection, processes, procedures, and assumptions the utility used to develop the targets in this subsection. The utility must make data input files that are used to determine relevant targets available in native format and in an easily accessible format as an appendix.

(4) **Customer benefit data.** Each CEIP must:

(a) Identify highly impacted communities using the cumulative impact analysis pursuant to RCW 19.405.140 combined with census tracts at least partially in Indian country;

(b) Identify vulnerable populations based on adverse socioeconomic factors and sensitivity factors developed through the advisory group process and public participation plan described in WAC 480-100-655, describing and explaining any changes from the utility's most recently approved CEIP; and

(c) Include proposed or updated customer benefit indicators and associated weighting factors related to WAC 480-100-610 (4)(c) including, at a minimum, one or more customer benefit indicators associated with energy benefits, nonenergy benefits, reduction of burdens, public health, environment, reduction in cost, energy security, and resiliency. Customer benefit indicators and weighting factors must be developed consistent with the advisory group process and public participation plan described in WAC 480-100-655. The utility should describe

and explain any changes in customer benefit indicators or weighting factors from its most recently approved CEIP.

(5) **Specific actions.** Each CEIP must include the specific actions the utility will take over the implementation period. The specific actions must meet and be consistent with the clean energy transformation standards and be based on the utility's clean energy action plan and interim and specific targets. Each CEIP must present the specific actions in a tabular format that provides the following information for each specific action:

(a) The general location, if applicable, proposed timing, and estimated cost of each specific action or remaining resource need, including whether the resource will be located in highly impacted communities, will be governed by, serve, or otherwise benefit highly impacted communities or vulnerable populations in part or in whole;

(b) Metrics related to resource adequacy including contributions to capacity or energy needs; and

(c) Customer benefit indicator values, or a designation as nonapplicable, for every customer benefit indicator described in subsection (4)(c) of this section.

(6) **Narrative description of specific actions.** The CEIP must describe how the specific actions:

(a) Demonstrate progress toward meeting the standards identified in WAC 480-100-610 (2) and (3);

(b) Demonstrate consistency with the standards identified in WAC 480-100-610(4) including, but not limited to:

(i) An assessment of current benefits and burdens on customers, by location and population, and the projected impact of specific actions on the distribution of customer benefits and burdens during the implementation period;

(ii) A description of how the specific actions in the CEIP mitigate risks to highly impacted communities and vulnerable populations and are consistent with the longer-term strategies and actions described in the utilities most recent IRP and CEAP as required by WAC 480-100-620 (11)(g) and (12)(c).

(c) Are consistent with the proposed interim and specific targets;

(d) Are consistent with the utility's integrated resource plan;

(e) Are consistent with the utility's resource adequacy requirements, including a narrative description of how the resources identified in the most recent resource adequacy assessment conducted or adopted by the utility demonstrates that the utility will meet its resource adequacy standard; and

(f) Demonstrate how the utility is planning to meet the clean energy transformation standards at the lowest reasonable cost including, but not limited to:

(i) A description of the utility's approach to identifying the lowest reasonable cost portfolio of specific actions that meet the requirements of (a) through (e) of this subsection, including a description of its methodology for weighing considerations in WAC 480-100-610(4);

(ii) A description of the utility's methodology for selecting the investments and expenses it plans to make over the next four years that are directly related to the utility's compliance with the clean energy transformation standards, consistent with RCW 19.405.050

(3)(a), and a demonstration that its planned investments represent a portfolio approach to investment plan optimization; and

(iii) Supporting documentation justifying each specific action identified in the CEIP.

(7) **Projected incremental cost.** Each CEIP must include a projected incremental cost as outlined in WAC 480-100-660(4).

(8) **Public participation.** Each CEIP must detail the extent of advisory group and other public participation in the development of the CEIP as described in WAC 480-100-655 including, but not limited to, the summary of advisory group member comments described in WAC 480-100-655 (1) (i).

(9) **Alternative compliance.** The utility must describe any plans it has to rely on alternative compliance mechanisms as described in RCW 19.405.040 (1) (b).

(10) **Early action coal credit.** If the utility proposes to take the early action compliance credit authorized in RCW 19.405.040(11), the utility must satisfy the requirements in that statutory provision and demonstrate that the proposed action constitutes early action by presenting the analysis in subsection (6) of this section both with and without the proposed early action. The utility must compare both the proposed early action and the alternative against the same proposed interim and specific targets.

(11) **Biennial CEIP update.** The utility must make a biennial CEIP update filing on or before November 1st of each odd-numbered year that the utility does not file a CEIP. The CEIP update may be limited to the biennial conservation plan requirements under chapter 480-109 WAC. The utility must file its biennial CEIP update in the same docket as its most recently filed CEIP and include an explanation of how the update will modify targets in its CEIP. In addition to its proposed biennial conservation plan, the utility may file in the update other proposed changes to the CEIP as a result of the integrated resource plan progress report.

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NEW SECTION

WAC 480-100-645 Process for review of CEIP and updates. (1)

Public comment. Interested persons may file written comments with the commission regarding a utility's CEIP and biennial CEIP update within sixty days of the utility's filing unless the commission states otherwise.

(2) **Approval process.** The utility's CEIP and biennial CEIP update filing will be set for an open public meeting. On the commission's own motion or at the request of any person who has a substantial interest in the subject matter of the filing, the commission will initiate an adjudication, or if appropriate a brief adjudicative proceeding, to consider the filing. The commission will enter an order approving, rejecting, or approving with conditions the utility's CEIP or CEIP update at the conclusion of its review. The commission may, in its order, recommend or require more stringent targets than those the utility proposes.

(a) The commission may adjust or expedite interim and specific target timelines when issuing a decision on a CEIP or biennial CEIP updates.

(b) Any party requesting the commission make existing targets more stringent or adjust existing timelines has the burden of demon-

strating the utility can achieve the targets or timelines in a manner consistent with the requirements of RCW 19.405.060 (1)(c)(i) through (iv).

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NEW SECTION

WAC 480-100-650 Reporting and compliance. (1) **Clean energy compliance report.** Unless otherwise ordered by the commission, each electric utility must file a clean energy compliance report with the commission by July 1, 2026, and at least every four years thereafter. The report must demonstrate whether and how:

- (a) The utility met its interim targets;
- (b) The utility met its specific targets;
- (c) The specific actions the utility took made progress toward meeting the clean energy transformation standards at the lowest reasonable cost;
- (d) The specific actions the utility took are consistent with the requirements in WAC 480-100-610 (4)(c) including, but not limited to:
 - (i) Providing updated customer benefit indicator values;
 - (ii) An analysis that the distribution of benefits and reductions of burdens have accrued or will reasonably accrue to intended customers, including highly impacted communities and vulnerable populations.
- (e) Provide a description of the utility's equity advisory group process, customer engagement and outcomes, and how the utility's efforts are consistent with the requirements in WAC 480-100-655 for the development or update of customer benefit indicators related to WAC 480-100-610 (4)(c);
- (f) Include the actual incremental cost of compliance as required in WAC 480-100-660(5);
- (g) Include all of the information found in the annual progress report as described in subsection (3) of this section for the fourth year of the CEIP;
- (h) Include a summary of the data in the annual progress reports described in subsection (3) of this section;
- (i) Document the use of any alternative compliance options as described in RCW 19.405.040 (1)(b), or any request for a temporary exemption per RCW 19.405.090(3);
- (j) A description of the public participation opportunities the utility provided and the feedback the utility received during the implementation period, including whether and how public participation influenced the utility's decisions and actions; and
- (k) Include the data input files made available to the commission in native format and in an easily accessible format as an appendix.

(2) **Clean energy compliance report review process.**

- (a) Interested persons may file written comments with the commission regarding the utility's clean energy compliance report within sixty days of the utility's filing unless the commission states otherwise.
- (b) The commission may review clean energy compliance reports through the commission's open public meeting process, as described in chapter 480-07 WAC.
- (c) After completing its review of the utility's clean energy compliance report, the commission will determine whether the utility

met its specific and interim targets, and whether the utility made sufficient progress toward meeting the clean energy transformation standards.

(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; and

(l) Other information the company agreed to or was ordered to report in the most recently approved CEIP.

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NEW SECTION

WAC 480-100-655 Public participation in a clean energy implementation plan (CEIP). (1) **Advisory groups.** The utility must demonstrate and document how it considered input from advisory group members in the development of its CEIP and biennial CEIP update. Examples of how the utility may incorporate advisory group input include: Using modeling scenarios, sensitivities, and assumptions advisory group members proposed and using data and information supplied by advisory group members as inputs to plan development. As part of this process and consistent with (i) of this subsection, the utility must communicate to advisory group members about whether and how the utility used their input in its analysis and decision-making, including explanations for why the utility did not use an advisory group member's input.

(a) The utility must involve all advisory groups in the development of its CEIP and its biennial CEIP update, including the equity advisory group identified in (b) of this subsection;

(b) The utility must maintain and regularly engage an external equity advisory group to advise the utility on equity issues including, but not limited to, vulnerable population designation, equity customer benefit indicator development, data support and development, and recommended approaches for the utility's compliance with WAC 480-100-610 (4) (c) (i). The utility must encourage and include the participation of environmental justice and public health advocates, tribes, and representatives from highly impacted communities and vulnerable populations in addition to other relevant groups;

(c) The utility must convene advisory groups, with reasonable advance notice, at regular meetings open to the public during the planning process. A utility must notify advisory groups of company and commission public meetings scheduled to address its CEIP and biennial CEIP update;

(d) Engaging with advisory groups for the purposes of developing the CEIP does not relieve the utility of the obligation to continue to convene and engage these groups for their individual topical duties. This section does not supersede existing rules related to those groups;

(e) Nothing in this section limits the utility from convening and engaging public advisory groups on other topics;

(f) Participation in an advisory group does not restrict groups and individuals from commenting on CEIP filings before the commission;

(g) The utility must make available completed presentation materials for each advisory group meeting at least three business days prior to the meeting. The utility may update materials as needed;

(h) The utility must make all of its data inputs and files used to develop its CEIP available to the commission in native file format and in an easily accessible format. The utility may make confidential information available by providing it to the commission pursuant to WAC 480-07-160. The utility should minimize its designation of information in the CEIP as confidential. Nonconfidential contents of the CEIP, biennial update, and supporting documentation as well as nonconfidential data inputs and files must be available for advisory group review in an easily accessible format upon request. Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095;

(i) As part of the filing of its CEIP and biennial update with the commission, the utility must provide a summary of advisory group comments received during the development of its CEIP and biennial up-

date and the utility's responses, including whether issues raised in the comments were addressed and incorporated into the final CEIP as well as documentation of the reasons for rejecting public input. The utility must include the summary as an appendix to the final CEIP. Comments with similar content or input may be consolidated with a single utility response.

(2) **Participation plan and education.** The utility must involve advisory groups in developing the timing and extent of meaningful and inclusive public participation throughout the development and duration of the CEIP, including outreach and education serving vulnerable populations and highly impacted communities. On or before May 1st of each odd-numbered year, the utility must file with the commission a plan that outlines its schedule, methods, and goals for public participation and education both during the development of its CEIP and throughout the implementation of the plan. The utility must include the following in its participation plan:

(a) Timing, methods, and language considerations for seeking and considering input from:

(i) Vulnerable populations and highly impacted communities for the creation of or updates to customer benefit indicators and weighting factors for the utility's compliance with WAC 480-100-610

(4) (c) (i); and

(ii) All customers, including vulnerable populations and highly impacted communities, for the creation of, or updates to, customer benefit indicators and weighting factors for the utility's compliance with WAC 480-100-610 (4) (c) (ii) and (iii).

(b) Identification of barriers to public participation including, but not limited to, language, cultural, economic, or other factors, and strategies for reducing barriers to public participation;

(c) Plans to provide information and data in broadly understood terms through meaningful participant education;

(d) A proposed schedule of public meetings or engagement, including advisory group meetings;

(e) A proposed list of significant topics that will be discussed;

(f) The date the utility will file the final CEIP with the commission; and

(g) A link to a website accessible to the public and managed by the utility, to which the utility posts and makes publicly available the following information:

(i) Meeting summaries and materials for all relevant meetings, including materials for future meetings;

(ii) A current schedule of advisory group meetings and significant topics to be covered;

(iii) Information on how the public may participate in CEIP development; and

(iv) Final plans and biennial CEIP updates posted within thirty days of final commission action.

(3) **Customer notices.** Within thirty days of filing the utility's CEIP, the utility must inform customers of the filing and requirements under chapter 19.405 RCW, briefly summarize the utility's CEIP, and inform customers of how they may comment on the utility's filing. The notice must include:

(a) The date the notice is issued;

(b) The utility's name and address;

(c) A website link that navigates to the full CEIP;

(d) A statement that the commission has the authority to approve the CEIP, with or without conditions, or reject the CEIP;

(e) A description of how customers may contact the utility if they have specific questions or need additional information about the CEIP; and

(f) Public involvement language pursuant to WAC 480-100-194 (4) (j).

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NEW SECTION

WAC 480-100-660 Incremental cost of compliance. (1) **Incremental cost methodology.** To determine the incremental cost of the actions a utility takes to comply with RCW 19.405.040 and 19.405.050, the utility must compare its lowest reasonable cost portfolio to the alternative lowest reasonable cost and reasonably available portfolio. The utility should use a portfolio optimization model, such as the one used in its most recent integrated resource plan, as the basis for calculating the alternative lowest reasonable cost and reasonably available portfolio to show the difference in portfolio choices and investment needs between the two portfolios, and demonstrate which investments and expenses are directly attributable costs to meet the requirements of RCW 19.405.040 and 19.405.050.

(a) The utility may include in its documentation of both portfolios those investments and expenses that are not reflected in the portfolio optimization if the utility demonstrates that the investment or expense could not reasonably have been reflected in the portfolio optimization model.

(b) If the portfolios provided are the result of a model, the utility must provide a fully linked and electronically functional copy of that model as part of its workpapers.

(c) The utility may propose an alternative incremental cost methodology if it can demonstrate that it meets the requirements of a methodology as described in RCW 19.405.060 (3) and (5), and will comply with RCW 19.405.040 and 19.405.050 at the lowest reasonable cost.

(2) **Incremental cost calculation.** The utility must calculate the average annual threshold amount for determining eligibility for reliance on RCW 19.405.060(3) as a means of compliance. The average annual threshold amount is equal to a two percent increase over the utility's weather-adjusted sales revenue to customers from each previous year, divided by the number of years in the period. For a period consisting of four years, the mathematical formula for the annual threshold amount is:

$$\text{Annual Threshold Amount} = \frac{(WASR_0 \times 2\% \times 4) + (WASR_1 \times 2\% \times 3) + (WASR_2 \times 2\% \times 2) + (WASR_3 \times 2\%)}{4}$$

(3) **Directly attributable costs.** An investment or expense is directly attributable only if all of the following conditions are satisfied:

(a) The utility made the investment or incurred the expense during the implementation period;

(b) The investment or expense is part of the lowest reasonable cost portfolio that results in compliance with RCW 19.405.040 and 19.405.050;

(c) The investment or expense is additional to the costs that the utility would incur for the alternative lowest reasonable cost and reasonably available portfolio; and

(d) The investment or expense is not required to meet any statutory, regulatory, or contractual requirement or any provision of chapter 19.405 RCW other than RCW 19.405.040 or 19.405.050.

(4) **Projected incremental cost.** The utility must file projected incremental cost estimates in each CEIP using the methodology described in subsection (1) of this section and using projected weather-adjusted sales revenue in the calculation in subsection (2) of this section to estimate the average annual threshold amount for the implementation period. The utility must support the projections with workpapers, models, and associated calculations, and must provide the following information:

(a) Identification of all investments and expenses that the utility plans to make during the period in order to comply with the requirements of RCW 19.405.040 and 19.405.050;

(b) Demonstration that the investments and expenses identified in (a) of this subsection are directly attributable to actions necessary to comply with, or make progress towards, the requirements of RCW 19.405.040 and 19.405.050; and

(c) The expected cost of the utility's planned activities and the expected cost of the alternative lowest reasonable cost and reasonably available portfolio.

(5) **Reported actual incremental costs.** In each CEIP compliance report as described in WAC 480-100-650, the utility must file the actual incremental costs using the methodology described in subsection (1) of this section and the calculation in subsection (2) of this section. The utility must support its filing by providing the following information:

(a) The actual costs the utility incurred during the implementation period; presentation of capital and expense accounts should be reported by Federal Energy Regulatory Commission (FERC) account by year;

(b) A demonstration that the reported incremental cost is directly attributable to specific actions the utility has taken that were necessary to comply with RCW 19.405.040 and 19.405.050, per subsection (2) of this section;

(c) Documentation of the cost of the alternative lowest reasonable cost and reasonably available portfolio; the utility must update verifiable and material inputs of this portfolio with the most recent information available;

(d) If the utility uses the incremental cost compliance option as described in this subsection, a demonstration that during the implementation period the average annual incremental cost of meeting the standards or the interim targets equals or exceeds a two percent annual increase of the investor-owned utility's weather-adjusted electric retail sales revenue to customers for electric operations above the previous year;

(e) An explanation for the variance between the projected incremental cost in subsection (3) of this section and the actual incremental costs reported in subsection (4) of this section; and

(f) Workpapers and calculations supporting the incremental cost calculations.

(6) **Determination of incremental cost of compliance option.**

(a) For any implementation period in which the utility relies on RCW 19.405.060(3) as the basis for compliance with the standard under

RCW 19.405.040(1) or 19.405.050(1), the utility must request a determination from the commission when filing its clean energy compliance report, per WAC 480-100-650.

(b) The utility must also provide evidence that, if the utility relied on alternative compliance options allowed under RCW 19.405.040 (1)(b) during the applicable period, the utility has maximized investments in renewable resources and nonemitting electric generation before relying on these alternative compliance options.

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NEW SECTION

WAC 480-100-665 Enforcement. (1) General. The commission may take enforcement action in response to a utility's failure to comply with the provisions of chapter 19.405 RCW, this chapter of the commission's rules, or a commission order implementing those requirements.

(2) Procedure. The commission may take enforcement action in the following types of proceedings:

(a) Complaint. The commission may bring a complaint against the utility pursuant to RCW 80.04.380 and WAC 480-07-300, et seq.

(b) Penalty assessment. The commission may assess penalties as provided in RCW 80.04.405 and WAC 480-07-915.

(c) Other. The commission may take enforcement action in any proceeding in which the utility's compliance with the provisions of chapter 19.405 RCW, this chapter of the commission's rules, or a commission order implementing those requirements is at issue including, but not limited to, the utility's general rate case.

(3) Remedies. The commission may impose any one or a combination of the following remedies for a utility's failure to comply with the provisions of chapter 19.405 RCW, this chapter of the commission's rules, or a commission order implementing those requirements.

(a) RCW 19.405.090. For all violations subject to the compliance, enforcement and penalty provisions of RCW 19.405.090, the commission may require the utility to pay an administrative penalty of one hundred dollars multiplied by the applicable megawatt-hour of electric generation used to meet load that is not electricity from a renewable resource or nonemitting electric generation.

(b) For violations of rule or order not subject to RCW 19.405.090, the commission may pursue the following remedies:

(i) RCW 80.04.380. The commission may assess penalties of up to one thousand dollars for each violation. Violation of the same requirement in statute, rule, or commission order are separate and distinct violations, and each day the utility is not in compliance with these requirements is a separate and distinct violation.

(ii) RCW 80.04.405. The commission may assess penalties of one hundred dollars for each violation. Violation of the same requirement in statute, rule, or commission order are separate and distinct violations, and each day the utility is not in compliance with these requirements is a separate and distinct violation.

(c) Specific performance. The commission may order a utility to take specific actions necessary to comply with chapter 19.405 RCW, this chapter of the commission's rules, and commission orders implementing those requirements.

(d) Customer notification. If the commission finds a utility in violation of chapter 19.405 RCW, this chapter of the commission's rules, or commission orders implementing those requirements, the commission may order the utility to notify its retail electric customers of the violation in a published form.

(4) Mitigation. A utility may request and the commission may mitigate any administrative penalty as described in RCW 19.405.090(3) or penalty assessment as provided in WAC 480-07-915. Any mitigation the commission grants does not relieve the utility of its obligation to comply with applicable legal requirements or to take specific actions the commission orders.

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