

WSR 22-14-055
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket UE-210183, General Order R-604—Filed June 29, 2022, 9:10 a.m.]

In the matter of amending rules in chapter 480-100 WAC relating to markets purchases and double counting issues addressed under the Clean Energy Transformation Act (CETA).

SYNOPSIS

The Washington utilities and transportation commission (commission) adopts rules further implementing chapter 19.405 RCW, CETA. CETA mandates that all retail sales of electricity be greenhouse gas (GHG) neutral by January 1, 2030, and that the electricity supplied to retail customers in Washington comes from 100 percent renewable and nonemitting (R&N) resources by 2045. To that end, RCW 19.405.130(3) requires that the department of commerce (commerce) and the commission adopt rules by June 30, 2022, defining the requirements for complying with RCW 19.405.030 through 19.405.050 with electric market purchases from centralized markets, and to address the prohibition of double counting of nonpower attributes under RCW 19.405.140. This rule making has also investigated the interpretation of compliance with RCW 19.405.040 (1)(a) relating to the definition of "use" and the development of rules for the treatment of energy storage for compliance with RCW 19.405.030 through 19.405.050.

The commission's goals in this rule making are to implement sections of this legislation, incorporate changes to existing rules, ensure appropriate coordination with rules promulgated by commerce, and engage with interested persons to address and resolve ambiguity where necessary. The rules adopted here today, however, only address CETA's prohibition of double counting, electric purchases from centralized markets, and storage, and make several ministerial changes to existing rules. At this time, the commission declines to implement the proposed interpretation of compliance with RCW 19.405.040 (1)(a) defining "use." Further rule making and deliberation is needed to ensure implementation of those rules will provide consistency and reliability across Washington's energy market and among electric utilities.

1 STATUTORY OR OTHER AUTHORITY: The commission takes this action under Notice No. WSR 22-07-100, filed with the code reviser on March 22, 2022. The commission has authority to take this action pursuant to RCW 80.01.040, 80.04.160, 19.285.080, and 19.405.100.

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 RULE: 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. Given most comments in response to the CR-102 are related to the proposed rules related to "use," we are not attaching commission staff's (staff) comment matrix. Instead, we note and address the comments related to the rules that are being adopted below. 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 amends WAC 480-100-605 Definitions, 480-100-610 Clean energy transformation standards, 480-100-625 Integrated resource plan development and timing, 480-100-630 Integrated resource planning advisory groups, 480-100-640 Content of a clean energy implementation plan, 480-100-650 Reporting and compliance, 480-100-655 Public participation in a clean energy implementation plan (CEIP), 480-100-660 Incremental cost of compliance, and 480-100-665 Enforcement.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:** The commission filed with the code reviser a Preproposal statement of inquiry (CR-101) on May 3, 2021, at WSR 21-10-088, and filed the CR-101 in Docket UE-210183. The statement advised interested persons that the commission was initiating a rule making to address changes to chapter 480-100 WAC to implement chapter 19.405 RCW with a focus on RCW 19.405.050, [19.405.]040, [19.405.]050, [19.405.]130, and other portions of chapter 19.405 RCW that may affect or be affected by these subsections as enacted in the chapter 288, Laws of 2019, passed as E2SSB 5116, portions of which are now codified in CETA chapter 19.405 RCW. The rule making is intended to define the requirements for meeting the obligations under RCW 19.405.030 through [19.405.]050 with markets purchases from the bilateral markets, the Energy Imbalance Market (EIM), and other centralized markets, and to address the prohibition on double counting of nonpower attributes under RCW 19.405.040 that could occur under other programs. Specifically, the rule making interprets and implements the treatment of energy storage for compliance with RCW 19.405.030 through 19.405.050, and other portions of chapter 19.405 RCW that may affect or be affected by these portions of CETA.

8 On May 3, 2021, the commission issued a notice of opportunity to file written comments, informing persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3), and by sending notice to all registered electric companies. The commission received no comments in response to this notice.

9 On May 17, 2021, the commission issued a notice of opportunity to file written comments on issues related to double counting, market purchases of electricity, and the interpretation of compliance with RCW 19.405.040 (1)(a). Pursuant to this notice, the commission received comments from June 2 through June 15, 2021. The commission issued a notice of opportunity to file written comments on draft rules on October 12 and November 10, 2021, a notice of revised draft rules on November 16, 2021, and a final notice of opportunity to file written comments on draft rules on January 19, 2022.

10 **WORKSHOPS:** The commission, jointly with commerce, held workshops on June 22, August 21, September 27, and December 6 and 14, 2021. Pursuant to RCW 19.405.130(3), the commission and commerce's December 14, 2021, workshop included market operator and market participants to consider options that support the objectives of chapter 19.405 RCW regarding purchases from the western EIM or other centralized markets.

11 **SMALL BUSINESS ECONOMIC IMPACT ANALYSIS [STATEMENT] (SBEIS):** On February 23, 2022, the commission issued an SBEIS questionnaire to all interested persons. The commission received no responses to this questionnaire. Thus, the commission received no evidence in this proceeding that any small business will incur more-than-minor costs to comply with the proposed rules.

12 The commission nevertheless conducted an SBEIS. The commission evaluated the effect of the proposed rules on small businesses and filed an SBEIS in this docket on March 21, 2022. The proposed rules add provisions on double counting, and storage to meet the regulatory requirements for utilities providing retail electric service in the state of Washington that are subject to CETA. The rules also add provisions to require investor-owned utilities to include contract or other transaction terms in the sale of electricity to prevent double counting.

13 All of these rules codify reporting and other requirements in CETA. Investor-owned utilities will incur costs to comply with these requirements, but the commission does not propose any rules that would cause affected industries or small businesses to incur more-than-minor costs resulting from the statutory requirements codified in the proposed rules.

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. A copy of the commission's statement is attached to this order as Appendix B.

15 **NOTICE OF PROPOSED RULE MAKING:** The commission filed a notice of proposed rule making (CR-102) on March 22, 2022, at WSR 22-07-100. On March 23, 2022, the commission issued a notice of opportunity to file written comments on proposed rules and notice of proposed rule virtual adoption hearing, finding good cause to conduct the rule-making hearing virtually due to social distancing requirements related to the COVID-19 pandemic. The commission scheduled this matter for oral comment and adoption at 9:30 a.m. on May 6, 2022,¹ and provided interested persons the opportunity to submit written comments to the commission by April 22, 2022. The CR-102 proposed amendments to chapter 480-100 WAC to define the requirements for meeting the obligations of market purchases from the western EIM and other centralized markets, address the prohibition on double counting of nonpower attributes (NPAs) under RCW 19.405.040 that could occur under other programs, and interpret and implement the treatment of energy storage for compliance with RCW 19.405.030 through 19.405.050, and other portions of chapter 19.405 RCW that may affect or be affected by these portions of CETA.

¹ The commission conducted this rule-making hearing virtually, with telephonic or online participation, to conform to social distancing requirements related to the COVID-19 pandemic.

16 **WRITTEN COMMENTS:** On April 22, 2022, the commission received written comments on the CR-102 from several interested companies and private parties. Staff summarized, prepared, and filed responses to these written comments on May 2, 2022.²

² Most of the comments were related to the proposed rules regarding "use" and are not being adopted at this time. The comments on the rules adopted in this order are summarized and responded to within the order.

17 **RULE-MAKING HEARING:** The commission considered the proposed rules for adoption at a rule-making hearing on Friday, May 6, 2022, before Chair David W. Danner and Commissioner Ann E. Rendahl. The commission heard oral comments from staff representative Steven Johnson. Representatives from Puget Sound Energy (PSE), Avista Corporation d/b/a Avista

Utilities (Avista), PacifiCorp d/b/a Pacific Power & Light Co. (PacifiCorp), public counsel unit of the Washington state attorney general's office (public counsel), Alliance of Western Energy Consumers (AWEC), Northwest & Intermountain Power Producers (NIPPC), Renewable Northwest, NW Energy Coalition (NWECC), Climate Solutions, and James Adcock also provided comments. These oral comments reiterated or emphasized portions of the comments these interested persons previously provided in writing.

18 **SUGGESTIONS FOR CHANGES:** Comments from interested persons suggested changes to the proposed rules. Most comments the commission received focused on the proposed rules governing "use." Given the concerns raised in the comments, the commission is not prepared to proceed with adopting the proposed "use" rules at this time. The commission adopts in this order only proposed rules relating to double counting and treatment of storage resources.

19 The following is a summary of proposed changes to the rules adopted by this order and the reasons for rejecting or accepting suggested changes. The commission adopts as its own the reasons staff proposed in its May 2, 2022, summary for rejecting or accepting interested persons' suggested changes to the rules as proposed in the CR-102 at WSR 22-07-100, subject to any modifications we make to the proposed rules and the rationale for those modifications explained in this order. Several of the interested persons' comments with suggested changes warrant further discussion. The following responds to these comments.

20 On April 22, 2022, public counsel filed comments in response to the CR-102, and made several observations regarding the proposed rules governing the disposition of energy "associated with" unbundled renewable energy credits (RECs).

21 Public Counsel argues that the proposed rules on the disposition of electricity associated with unbundled RECs in WAC 480-100-650 (6)(c) - now WAC 480-100-650 (4)(c), and specifically subsections (i)(A) and (i)(B) - are flawed because, by definition, there is no electricity "associated with" an unbundled REC. Public counsel asserts that the electricity from which an unbundled REC comes cannot be identified because RECs in the western renewable energy generation information system (WREGIS) are only identified by the month and year in which they are produced.

22 The proposed rules at WAC 480-100-650 (4)(c)(i)(A) require the purchaser of electricity stripped of its RECs to agree via terms in the sales contract not to represent the attributes of the electricity in any future sale and to require the same in any contract reselling the electricity. Public counsel asserts that this provision in the proposed rules will unnecessarily and unproductively drive up the cost of using unbundled RECs for utilities.

23 Additionally, public counsel states that the proposed rules when applied to sales of renewable energy without RECs into an out-of-state GHG program, "would force market participants to invent an attribute that does not exist, specifically carbon emissions, and ascribe it to certain generation sources so that these 'emissions' can be falsely 'counted' under a cap-and-trade program - even though the production of the REC does not in any way contribute to carbon emissions."

24 By statute, RECs are created with the generation of renewable electricity. If the unbundled REC is counted for compliance by a utility and the electricity that produced that REC is also claimed as renewable electricity, the NPAs of the electricity are being counted

twice. Public counsel's statements regarding the limitations in WREGIS's current tracking system do not alter the requirements of utilities to comply with CETA. State representatives and the utilities and entities generating renewable energy should work with WREGIS to ensure the system can address the requirements of CETA prior to 2030.

25 Public counsel is incorrect to assert that the proposed rules require ascribing emissions to the renewable energy from which unbundled RECs have been sold. If an out-of-state GHG emission program relies on the renewable designation of electricity in determining whether to assess an emission fee or allowance charge, it is relying on the NPAs of the electricity. Public counsel is incorrect that the NPAs do not include the zero-emission nature of renewable energy.³ Nonpower attributes in a REC include all NPAs associated with the MWh or electricity, whether the energy is sold in or out of state.⁴

³ RCW 19.405.020 (29)(a) "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 GHGs (emphasis added).

(b) "Nonpower attributes" does not include any aspects, claims, characteristics, and benefits associated with the on-site capture and destruction of methane or other GHGs at a facility through a digester system, landfill gas collection system, or other mechanism, which may be separately marketable as GHG emission reduction credits, offsets, or similar tradable commodities. However, these separate avoided emissions may not result in or otherwise have the effect of attributing GHG emissions to the electricity.

⁴ RCW 19.405.020(31) "Renewable energy credit" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department (emphasis added).

26 On April 22, 2022, the joint investor-owned utilities (IOUs) additionally filed comments. Among other comments, the joint IOUs stated that contracting requirements could interfere with the utilities' ability to interact in regional markets and result in significantly reduced market participation and/or drive higher prices for premium products to serve Washington customers. Specifically, contracting constraints related to coal power are too proscriptive, go beyond the statutory language of CETA, and are not needed. Accordingly, they suggest eliminating WAC 480-100-650 (4) (b) (v).

27 The joint IOUs additionally claim that extensive reporting requirements could burden utilities and the commission with the creation of data systems, compilation, and, for the commission, receipt and review of voluminous data. Hourly data for some of the elements in the proposed rules simply cannot be provided at this time (e.g., none of the joint IOUs have advanced metering infrastructure (AMI) installed for 100 percent of their retail customer load).

28 We disagree that, because unspecified power is often "system power," an IOU selling the power will not know to whom they are selling the unspecified power. Where the utility has a contract for the sale of system power, it must know the entity to whom it sells power in order to collect payments for the power sold. Therefore, it should not be overly burdensome to provide the reporting requirements proposed in WAC 480-100-650 (4) (b) (v).

29 As for the IOU claim that buyers in the market of unspecified power would not accept a term requiring them to agree that the power was unspecified, the only buyer with a need or motivation not to agree to such a term would be the buyer who intended to resell the power with the false statement that such power was something other than unspecified power. That is exactly the result the proposed rules are intended to address.

30 Additionally, with the advent of allowance costs under the Climate Commitment Act (CCA) for unspecified power and emitting power, we are skeptical that unspecified power will transact in 2030 at the same levels as it does today. Certainly, if it does, and the problems

the joint IOUs predict either occur or are not remedied, the commission can revisit the proposed rules.

31 Furthermore, we disagree with the joint IOUs that CETA limits the requirement to eliminate coal power in the manner described in their comments. First, the commission has already considered and rejected similar arguments related to the elimination of coal-fired resources in the previous rule making concerning integrated resource plans and clean energy implementation plans.⁵ Second, the joint IOUs' conclusion that not buying coal power will result in paying a price premium for spot market power is speculative, and not supported by evidence or analysis. By the end of 2025, the only coal-fired generation in the Northwest will be in Montana and, at most, will be generated at Colstrip Units 3 and 4. To reach the 2030 CETA requirements, Washington utilities will likely commit most of the transmission they own from Montana to Washington to wind resources. This is likely to also be true for Oregon load-serving IOUs that own Colstrip transmission.

⁵ See Dockets UE-191023 and UE-190698, General Order R-601 at 28-33, ¶¶ 73 - 87 (December 28, 2020).

32 On April 22, 2022, Renewable Northwest filed comments in this docket, noting that the reporting of total renewable generation and bundled sales will allow interested persons to determine how much utilities are relying on retained RECs for compliance. We agree. Such reported data will allow the commission and interested persons to make just such a calculation.

33 On April 22, 2022, the Western Power Trading Forum (WPTF) submitted comments addressing double counting and coal exclusion. WPTF believes the proposed rules are susceptible to the following three interpretations and asks for confirmation of these interpretations:

1. Allow electricity sourced from a renewable resource located in California to be used for compliance with both CETA's 2030 GHG-neutral standard and the 2045 100 percent clean standard as long as the electricity and the associated RECs have been sold to a Washington utility.

2. California cap and trade program accounts for the direct emissions of that resource, which, under that program, does not render the associated RECs ineligible for CETA compliance, provided the RECs and energy have been contracted to a Washington utility.

3. If the resource is dispatched via EIM or future organized market, the dispatch of that resource based on its energy bids by the market operator would NOT be considered a transfer of ownership nor a transaction that would render the associated RECs ineligible for CETA compliance.

34 WPTF requests the commission address how a Washington utility purchasing system sales from a utility that operates coal-fired generating plants can demonstrate its purchase is coal free.

35 The commission appreciates WPTF sharing its interpretations. Under the rules adopted in this order, our response is as follows: (1) Yes, renewable resources sourced from California may be used for compliance provided that the sale to Washington is designated as an export from California so that the renewable energy sale is not considered under California's GHG cap and trade program. (2) Yes, as long as the RECs and energy are exported as a bundled product. (3) Because we are not adopting rules related to primary compliance at this time, we defer discussion of this question to a later time.

36 Investor-owned utilities can use many different means and constructs in private contracts to meet the demonstration requirement

specified in the proposed rule. We do not agree that the proposed rules should prescribe methods or terms that limit flexibility in complying with CETA.

37 **DISCUSSION:** The commission provides the following guidance in addition to the responses to the comments on the proposed rules above.

38 CETA mandates, among other things, that the electricity supplied to retail customers in Washington comes from 100 percent renewable and R&N resources by 2045,⁶ and that "all retail sales of electricity to Washington retail electric customers be GHG neutral by January 1, 2030".⁷ CETA provides that:

⁶ RCW 19.405.050(1).

⁷ RCW 19.405.040(1).

(a) For the four-year compliance period beginning January 1, 2030, and for each multiyear compliance period thereafter through December 31, 2044, an electric utility must demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options, as provided in this section. To achieve compliance with this standard, an electric utility must: (i) Pursue all cost-effective, reliable, and feasible conservation and efficiency resources to reduce or manage retail electric load, using the methodology established in RCW **19.285.040**, if applicable; and (ii) **use electricity** from renewable resources and nonemitting electric generation in an amount equal to 100 percent of the utility's retail electric loads over each multiyear compliance period. An electric utility must achieve compliance with this standard for the following compliance periods: January 1, 2030, through December 31, 2033; January 1, 2034, through December 31, 2037; January 1, 2038, through December 31, 2041; and January 1, 2042, through December 31, 2044.⁸

⁸ RCW 19.405.040 (1)(a).

The 2030 GHG neutrality standard is an important milestone in the transition to clean energy, and the commission has devoted a great deal of time and effort to considering the different interpretations of the term "use electricity" put forward by interested persons, both in this docket and in our previous rule making.⁹ Due to the uncertainty arising from these competing interpretations, as well as the passage of CCA, we will defer our interpretation of the ambiguous aspect of GHG neutrality standard in RCW 19.405.040(1) to the next iteration of the rule making in this docket. However, we still expect that the electric utilities we regulate are engaged in planning and acquiring resources to achieve CETA's final goal: Supplying 100 percent R&N electricity in providing electric service for retail customers equitably, cost effectively, and reliably.

⁹ See *In re Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act*, Dockets UE-191023 and UE-190698 (Consolidated), General Order R-601, p. 29, ¶ 75 (CETA Rule-making order) (December 28, 2020).

39 *Prohibition on double counting.* CETA requires the commission to define the "requirements, including appropriate specification, verification, and reporting requirements, for the following: (a) Retail electric load met with market purchases and the western energy imbalance market or other centralized market administered by a market operator for the purposes of RCW 19.405.030 through 19.405.050; and (b) to address the prohibition on double counting of nonpower attributes under RCW 19.405.040(1) that could occur under other programs."¹⁰ RCW 19.405 does not define double counting, but the statutory requirement in RCW 19.405.040 (1)(b)(ii) allows use of unbundled RECs for alterna-

tive compliance only, provided that there is no double counting of any NPAs associated with renewable energy credits within Washington or programs in other jurisdictions, as follows:

¹⁰ RCW 19.405.130(3).

(A) Unbundled renewable energy credits produced from eligible renewable resources, as defined under RCW 19.285.030, which may be used by the electric utility for compliance with RCW 19.285.040 and this section as provided under RCW 19.285.040 (2) (e); and

(B) Unbundled renewable energy credits, other than those included in subsection (b) (ii) (A) of this subsection, that represent electricity generated within the compliance period.¹¹

¹¹ For reference, RCW 19.285.040 (2)(e) states, "A qualifying utility may use renewable energy credits to meet the requirements of this section, subject to the limitations of this subsection." The subsection goes on to establish restrictions on using RECs for compliance based on the type of renewable electricity and the year in which the electricity was generated.

40 The statute also prohibits double counting for any NPAs submitted for compliance under RCW 19.405.040 (1) (c) and (f). Although the term "double counting" is not explicitly used in these subsections, the prohibition becomes apparent when subsections (1) (c) and (f) are read together with the statutory definitions of "renewable energy credit" and "nonpower attribute" in RCW 19.405.020. Because RECs are defined as including *all* nonpower attributes associated with renewable electricity, any REC that is double counted would no longer meet the statutory definition. The requirement in RCW 19.405.040 (1) (c) that all renewable electricity used for compliance with subsection (a) "must be verified by the retirement of renewable energy credits" means that no double counting can occur for that REC to be counted toward primary compliance. The same holds true for nonpower attributes from nonemitting resources under RCW 19.405.040 (1) (f). The statutory definition of a NPA includes "all environmentally related characteristics" of the electricity, therefore, any double counted NPA would not meet the statutory definition, rendering it ineligible for primary compliance under RCW 19.405.040 (1) (f). In summary, the prohibition on double counting under RCW 19.405.040 includes all nonpower attributes, not just unbundled RECs submitted for alternative compliance as some interested persons have suggested.¹²

¹² Joint utilities comment at 7 (December 6, 2021).

41 Double counting can occur in a variety of ways. The first and most obvious is that an NPA is used for two different compliance requirements, or the same NPA is reported by two different entities. Another way double counting can occur is if the NPA is separated from the R&N electricity but that electricity, although not sold with the REC, is still described as having renewable nonpower attributes. As mentioned above, because of the statute's definition of RECs and NPAs, assigning any environmental attribute to electricity unbundled from its REC (or NPA) is double counting of that electricity's NPA.

42 Through this rule making, the commission ultimately addresses double counting by incorporating it into WAC 480-100-650(4), entitled "data and contract reporting." This subsection further specifies certain reporting requirements for annual clean energy progress reports under WAC 480-100-650(3), which are ultimately incorporated into the four-year clean energy compliance report required by WAC 480-100-650(1).

43 One of the criticisms interested persons have raised about proposed WAC 480-100-650(4) is that the contracting requirements are either overly burdensome or will have a chilling effect on bilateral

transactions.¹³ In light of the commission's duty to prevent double counting, we do not find these contracting requirements to be unduly burdensome or believe they will have a chilling effect. A purchaser of unspecified electricity, for example, would only object to the contract term described in WAC 480-100-650 (4)(c)(i)(A) if they intended to ascribe environmental attributes to the electricity, resulting in double counting. While we acknowledge that this rule will require utilities to make changes to their standard contract language, the requirement should not dissuade market participants that are not seeking to engage in double counting from continuing to make transactions. The commission acknowledges, however, that preventing double counting that occurs due to the actions of market participants located in other states would be difficult, if not impossible, given the limits of our jurisdiction and authority. These rules are intended to prevent as much double counting as possible within the scope of the commission's authority, but we acknowledge that preventing certain types of double counting will require interstate cooperation and coordination, market reforms, or both.

¹³ See e.g., joint utility comments at 5-6 (April 22, 2022).

44 Finally, WAC 480-100-650 (4)(d) addresses storage¹⁴ and its impact on reporting and compliance under these rules. In short, the rules state that storage does not affect the ability to report R&N electricity for compliance. However, consistent with the statutory definition of retail electric load¹⁵ and language in RCW 19.405.040 (1)(a)(ii), the subsection specifies that, "any electrical consumption or loss resulting ... is not considered retail electric load as defined in RCW 19.405.020(36)."¹⁶ Our rules related to storage have not garnered much attention or controversy in the last few drafts, although we did solicit comments on the subject early in this rule making.¹⁷ The U.S. Energy Storage Association submitted comments during the CR-101 phase of this Docket recommending that these rules encourage acquisition of storage resources.¹⁸ We take no further position on this issue, but note that determining how to properly value potential storage resources in a utility's portfolio should be left to other proceedings, such as each utility's integrated resource plans, clean energy implementation plans, and general rate case filings.

¹⁴ Here, as in the rules, "storage" does not refer to storage resources on the customer side of the meter.

¹⁵ RCW 19.405.020(36). Retail electric load is in part defined as "the amount of megawatt-hours of electricity delivered in a given calendar year ..."

¹⁶ WAC 480-100-650 (4)(d)(ii).

¹⁷ See revised notice of opportunity to provide written comment (June 7, 2021).

¹⁸ See generally, U.S. Storage Association comments (June 2, 2021).

45 *Application of the rules to electricity from BPA.* Consistent with RCW 19.405.040 (1)(g) and RCW 19.405.050(6), the proposed rules were intended to enforce CETA's requirements without preventing IOUs from purchasing or exchanging power with the Bonneville Power Administration (BPA). The commission received generally favorable comments from BPA during the CR-101 phase of this docket. The commission has incorporated BPA's suggested language edits into WAC 480-100-650 (4)(c)(iii). The commission did not receive further written comments from BPA on the CR-102 draft rules, and believes these rules adequately meet the BPA-related objectives of the statute. The commission also notes that the rules set a January 1, 2029, end date for the BPA exemption under WAC 480-100-650 (3)(f), indicating that these rules will likely need to be revisited before that time.

46 *Finalization of "Use" rules.* In addition to the reasons discussed above, a changing market environment, new laws,¹⁹ and new technology adopted by the IOUs making information more readily available and easier to collect support our determination that "use" rules require further consideration. We also share the concerns of several commenters that the differences between the proposed rules related to "use" and the rules commerce has adopted on the same subject could create confusion, creating unwarranted expense for utilities and ultimately ratepayers. Therefore, we decline to adopt the proposed rules related to "use" and will conduct further proceedings in this docket to consider those rules.

¹⁹ The implementation of CCA will directly impact the application of the proposed "use" rules. The commission is working to coordinate with the department of ecology to ensure effective and efficient implementation of both CCA and CETA. The commission has noted that the application of these laws creates the potential for conflicting obligations for electric utilities. If these conflicts cannot be resolved through coordination between state agencies, they may require a legislative solution.

47 **COMMISSION ACTION:** After considering all the information regarding this proposal, the commission finds and concludes that it should amend the rules as proposed in the CR-102 at WSR 22-07-100 excluding the revisions related to "use." The following proposed rules will *not* be adopted:

- | | |
|--|---|
| 480-100-605 Definitions: "Primary compliance"; "Retained nonpower attribute" or "retained NPA" | "Primary compliance" "means the portion of the compliance obligation under RCW 19.405.040(1) that cannot be met through the alternative compliance options outlined in RCW 19.405.040 (1)(b)"
"Retained nonpower attribute" or "retained NPA" "means the nonpower attributes of renewable electricity (represented by RECs) or the nonpower attributes of nonemitting electricity, from electricity owned or controlled by a utility where the associated electricity was sold by that utility in a wholesale sale without its associated nonpower attributes (NPA)" |
| 480-100-620 (3)(b)(i) | After "including the" deleted "ten-year" and inserted "10-year" |
| 480-100-620 (11)(h) | After "projected resource needs", inserted "The utility may not include retained NPAs for primary compliance in its long-range integrated resource plan solution, consistent with WAC 480-100-650 (1)(a). The utility may not include retained NPAs in any way in its long-range integrated resource plan solution, consistent with WAC 480-100-650(2)" |
| 480-100-620 (11)(c) | Inserted "Meet the requirements of WAC 480-100-650 (1)(a) and (2)" |
| 480-100-620 (11)(d)-(k) | After the insertion of the new WAC 480-100-620 (11)(c), the lettering of remaining subsections went from "c-j" to "c-k" |
| 480-100-620(12) | After "develop a" deleted "ten-year" and inserted "10-year" |
| 480-100-620 (12)(b) | After "the utility's" deleted "ten-year" and inserted "10-year" |
| 480-100-620 (12)(c)(ii) | After "the CEAP's" deleted "ten-year" and inserted "10-year" |
| 480-100-620 (12)(c)(iii) | After "described in" deleted "(WAC 480-100-620 (11)(g).)" and inserted "subsection (11)(h) of this section" |
| 480-100-640(1) | After "action plan." inserted "The utility may not rely on retained NPAs toward primary compliance in its CEIP, consistent with WAC 480-100-650 (1)(a). The utility may not rely on retained NPAs in any way in its CEIP, consistent with WAC 480-100-650(2)." |
| 480-100-640 (6)(b)(ii) | Inserted "(g)" after "620(11)" and deleted ", (h)," before "and (12)(c)." |
| 480-100-650(1) Reporting and compliance | Inserted "Greenhouse gas neutrality resource portfolio performance standards and compliance. A utility must demonstrate how its resource acquisition, resource retirement, and continued investment in and operation of existing resources serve a minimum of 80 percent of its retail electric load, or other minimum percentage established by the commission, with renewable or nonemitting electricity in each compliance period beginning January 1, 2030. Using electricity for compliance under RCW 19.405.040(1) means that a utility: |

(a) May not account for the ability to apply retained NPAs toward primary compliance under (c) of this subsection when developing its long-range integrated resource plan solution under WAC 480-100-620 and its CEIP under WAC 480-100-640 and must have models, scenarios, projections, and other information and analysis within the utility's IRP and CEIP that are consistent with this requirement.

(b) May not account for the ability to apply retained NPAs toward primary compliance under (c) of this subsection or with its interim or other targets in making decisions to acquire or invest in resources with a contract term or useful life greater than two years.

(c) May report retained NPAs toward primary compliance with interim or other targets under this section or WAC 480-100-665, but only if the utility has complied with (a) and (b) of this subsection and subsection (6) of this section, and if applicable subsection (2) of this section during the period under review.

(2) One hundred percent renewable and nonemitting resource portfolio performance standards and compliance. A utility must demonstrate that it is supplying all its retail electric service obligations with renewable and nonemitting resources. To meet this requirement, the utility must demonstrate that it has secured transmission rights or assets to provide feasible transmission for renewable or nonemitting resources to serve its retail electric service obligations. A utility may not rely on retained NPAs for planning, acquisition, reporting or in any other way under RCW 19.405.050(1). A utility's demonstration of compliance with RCW 19.405.050(1) must include at a minimum an analysis of its retail electric service obligations on an hourly basis.

(3)"

480-100-650(2) Clean energy compliance report review process.

Substituted "2" for "4"

480-100-650(3) Annual clean energy progress reports.

Substituted "(3)" for "(5)"

480-100-650(4) Data and contract reporting.

Substituted "(4)" for "(6)"

480-100-650 (4)(b)(iv)

Inserted "Total monthly purchases and sales of unbundled RECs and other nonpower attributes. Based on the statutory definition of unbundled REC under RCW 19.405.020(38), a REC that meets the definition of a retained NPA under WAC 480-100-605 that is subsequently sold becomes an unbundled REC. Any unbundled REC reported for compliance must meet the requirements under (c) of this subsection."

And inserted "(v)" before "Beginning January 1, 2026"

480-100-650 (4)(d)(iii)

Inserted "For reporting and compliance with subsections (1)(a), (b), and (2) of this section,"

89 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the commission determines that it should amend WAC 480-100-605, 480-100-610, 480-100-625, 480-100-630, 480-100-640, 480-100-650, 480-100-655, 480-100-660, and 480-100-665 to read as set forth in Appendix A, as rules of the commission, to take effect pursuant to RCW 34.05.380(3) on July 1, 2022, as required by RCW 19.405.130.

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 0, Amended 10, Repealed 0.

Number of Sections Adopted at the 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 0, Amended 10, Repealed 0.

ORDER

THE COMMISSION ORDERS:

90 (1) The commission amends WAC 480-100-605, 480-100-610, 480-100-625, 480-100-630, 480-100-640, 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 commission, to take effect on July 1, 2022, as required by RCW 19.405.130 and pursuant to RCW 34.05.380(2).

91 (2) This order and the rules set forth in Appendix A, after being recorded in the register of the commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and chapter 1-21 WAC.

DATED at Lacey, Washington, and effective June 29, 2022.
Washington Utilities and Transportation Commission

Appendix B

**Proposed Adoption of Rules Further Implementing CETA
Docket UE-210183
March 21, 2022**

I. Introduction: On May 3, 2021, the commission filed with the code reviser a Preproposal statement of inquiry (CR-101) to promulgate new rules to further implement certain sections of CETA, E2SSB 5116, codified in chapter 19.405 RCW. The commission filed the CR-101 in Docket UE-210183.

CETA requires investor-owned electric utilities (1) to eliminate coal-fired generation from their portfolios by the end of 2025; (2) to ensure that all retail sales of electricity to their retail customers will be GHG-neutral by the end of 2030; and (3) to source all of their power from renewable and nonemitting resources by the end of 2045. Furthermore, CETA requires that the utilities ensure that all customers are benefiting from the transition to clean energy through the equitable distribution of energy and nonenergy benefits and reductions of burdens to vulnerable and highly impacted communities. The commission previously adopted rules implementing most of these requirements.¹

¹ *In re Rulemaking Related to Clean Energy Implementation Plans, CETA Compliance, and Integrated Resource Planning*, Dockets UE-190698 and UE-191023.

RCW 19.405.130(3) requires that commerce and the commission adopt rules by June 30, 2022, defining the requirements for complying with RCW 19.405.030 through 19.405.050 with electric market purchases from carbon and electricity markets outside of the state, and to address the prohibition of double counting of nonpower attributes under RCW 19.405.040. This rule making also addresses two related issues that arose during the development the CETA implementation rules in Docket UE-191023 - the interpretation of the requirement to "use" electricity for compliance with RCW 19.405.040 (1)(a), and the treatment of energy storage for compliance with RCW 19.405.030 through 19.405.050.

The commission is ready to publish proposed rules. When issuing a notice of proposed rules, agencies must provide a copy of the SBEIS prepared in accordance with the Regulatory Fairness Act, codified in

chapter 19.85 RCW, or explain why an SBEIS was not prepared. The commission has evaluated the effect of the rules on small businesses and determined that the rule will only implement state law without imposing additional requirements to the affected industries and that small businesses will not incur more-than-minor costs resulting from the statutory requirements codified in the proposed rules.

II. SBEIS Requirements: The Regulatory Fairness Act provides that an agency must conduct an SBEIS "if the proposed rule will impose more than minor costs on businesses in an industry."² An SBEIS is intended to assist agencies in evaluating any disproportionate impacts of the rule making on small businesses. A business is categorized as "small" under the Regulatory Fairness Act if the business employs 50 or fewer employees. Under RCW 19.85.040(1), agencies must determine whether there is a disproportionate impact on small businesses in the industry, and under RCW 19.85.030(2), consider means to minimize the costs imposed on small businesses.

² RCW 19.85.030.

III. SBEIS Evaluation Procedure: On February 23, 2022, the commission mailed a notice to all stakeholders interested in the commission's rule making, providing a copy of the draft proposed rules and an opportunity to respond to an SBEIS questionnaire. The notice requested that companies that would be affected by the draft rules provide information about the rules' possible cost impacts, with specific information for each rule that the companies identified as causing an impact. The commission received no responses to the SBEIS questionnaire.

Pursuant to the Regulatory Fairness Act, the commission is required to conduct an SBEIS before adopting a rule that will impose more-than-minor costs on small businesses. In analyzing the draft proposed rule, the enacting statute, and the current rule, the commission has determined that the draft proposed rules merely implement state law and adopt reporting requirements that apply only to investor-owned utilities. The commission finds, based on the information available to it, that the proposed rules will not impose more-than-minor costs on small businesses.

IV. Results of the Analysis: In evaluating the proposed rules and the costs of complying with them, the commission conducted an analysis of the statute and the rules proposed to implement it.

The proposed rules interpret and implement the term "use" in RCW 19.405.040 (1) (a) and 19.405.050(1). The proposed rules also address the legislature's prohibition of double counting of nonpower attributes under RCW 19.405.040, as well as the treatment of energy storage for compliance with RCW 19.405.030 through RCW 19.405.050.

RCW 19.405.040 (1)(a) provides, in part, that an electric utility must "demonstrate its compliance with this standard using a combination of nonemitting electric generation and electricity from renewable resources, or alternative compliance options" and "use electricity from renewable resources and nonemitting electric generation in an amount equal to one hundred percent of the utility's retail electric loads over each multiyear compliance period."

The proposed rules interpreting the meaning of "use" are integrated into existing language in WAC 480-100-600 through 480-100-665. Broadly, the proposed rules include the following changes:

- WAC 480-100-605 Definitions, changes to the definitions to clarify distinctions between retained nonpower attributes from renewa-

ble energy, or renewable energy credits (RECs), and those from nonemitting resources.

- WAC 480-100-650 Content of integrated resource plan, adding a requirement to plan for the compliance requirements under WAC 480-100-650(2).
- WAC 480-100-650(1) Reporting and compliance for meeting the GHG-neutral standard, expansion of details on planning and acquisition requirements under RCW 19.405.040 (1)(a), how utilities may demonstrate compliance, and restrictions on the use of retained RECs in planning and acquisitions.
- WAC 480-100-650(2) 100 Percent renewable and nonemitting resource portfolio performance standards and compliance, addition of a new subsection detailing requirements that ensure compliance under RCW 19.405.050(1).
- WAC 480-100-650(5) Annual clean energy progress reports, revisions and additions to reporting requirements.
- Removal of the specific time period for reviewing rules on compliance with RCW 19.405.040(1).

The proposed rules add rules on double counting, and the second draft rules shifted the focus of the regulatory requirements to utilities providing retail electric service in the state of Washington that are subject to CETA. The rules add provisions to require investor-owned utilities to include contract or other transaction terms in the sale of electricity to prevent double counting.

All of these rules codify reporting and other requirements in CETA. Investor-owned utilities will incur costs to comply with these requirements, but the commission does not propose any rules that would cause companies to incur any costs that are more than minor that the legislature has not required in the statute.

Even if the proposed rules could be construed to impose more-than-minor compliance costs, small businesses will not incur any of those costs. The proposed rules establish requirements for investor-owned utilities, none of which are small businesses as defined in the statute. The Regulatory Fairness Act does not apply to the costs these large businesses incur to comply with those requirements.

V. Proposed Rule that May Create Costs: The commission's analysis shows that the proposed rules have the effect of merely implementing CETA. The statute requires investor-owned utilities to undertake certain activities and functions, and requires the commission to determine the utilities' compliance with the statutory requirements. The proposed rules implement those requirements. No interested persons have identified any costs to small businesses that will result from complying with the statutory requirements codified in the proposed rules. Any compliance costs are the result of implementing legislative direction, and would not be born by small businesses as defined in the Regulatory Fairness Act.

VI. Summary of Findings: The commission finds that the proposed rules implement CETA as enacted by the legislature, and any costs that result from complying with the statutory requirements codified in the proposed rules would be the result of legislative, not commission, direction. The commission further finds that small businesses will not incur any more-than-minor costs to comply with the proposed rules.

VII. Summary of Mitigation: No mitigation is necessary. The legislature, not the commission, has adopted requirements that may require large businesses to incur more-than-minor compliance costs, none of which must be addressed through the Regulatory Fairness Act.

VIII. Conclusion: Chapter 19.85 RCW requires that an agency prepare an SBEIS to assess whether proposed rules would impose more-than-minor costs on small businesses.

The commission has analyzed all information collected throughout the rule-making process and concludes the proposed rules do no more than implement CETA and do not impose more-than-minor costs on small businesses that the legislature did not require.

David W. Danner, Chairman
Ann E. Rendahl, Commissioner

Appendix A Amended Rules

OTS-3653.6

PART VIII—PLANNING AND IMPLEMENTATION

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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: (a) To be reliable and available within the time it is needed; and (b) 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 energy credit" or "REC" means a tradable certificate of proof of one megawatt-hour of a renewable resource. The certificate includes all of the nonpower attributes associated with that one megawatt-hour of electricity and the certificate is verified by a renewable energy credit tracking system selected by the department of commerce.

"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, and renewable and nonemitting resources.

"Retail electric load" means the amount of megawatt-hours of electricity delivered in a given calendar year by an electric utility to its Washington retail electric customers. "Retail electric load" does not include:

(a) Megawatt-hours delivered from qualifying facilities under the federal Public Utility Regulatory Policies Act of 1978, P.L. 95-617, in operation prior to May 7, 2019, provided that no entity other than the electric utility can make a claim on delivery of the megawatt-hours from those resources; or

(b) Megawatt-hours delivered to an electric utility's system from a renewable resource through a voluntary renewable energy purchase by a retail electric customer of the utility in which the renewable energy credits associated with the megawatt-hours delivered are retired on behalf of the retail electric customer.

"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.

"Unbundled renewable energy credit" or "unbundled REC" means a renewable energy credit that is sold, delivered, or purchased separately from the underlying electricity. All thermal renewable energy credits are considered unbundled renewable energy credits.

"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.

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

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-605, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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)) 100 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 ((r)) 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.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-610, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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~~) 15 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.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-625, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-630, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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(~~(7)~~) 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); and

(ii) Are consistent with WAC 480-100-610(4) (~~(7) and~~).

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

~~((b))~~ (c) 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.

~~((e))~~ (d) 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, reduction in risk, 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)~~ a 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.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-640, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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) Demonstrate whether and how the utility met its interim targets((+)).
- (b) Demonstrate whether and how the utility met its specific targets((+)).
- (c) Demonstrate whether and how the specific actions the utility took made progress toward meeting the clean energy transformation standards at the lowest reasonable cost((+)).
- (d) Demonstrate whether and how the utility met its statutory obligations under RCW 19.405.040(1) and 19.405.050(1) through the acquisition of the electricity and associated RECs or nonpower attributes. This requires the utility to demonstrate that the electricity the utility reports for compliance is:
- (i) From a generating facility located within the utility's service area or balancing authority area; or
- (ii) Acquired by the utility at one of the following points of delivery:
- (A) The transmission or distribution system of an electric utility;
- (B) The transmission system of the Bonneville Power Administration;
- (C) The transmission system of any entity that is a participant in a centralized organized market located in the Western Interconnection in which the electric utility is a participant; or
- (D) Another point of delivery designated by the electric utility for the purpose of subsequent delivery to the electric utility.
- (e) Demonstrate whether and how 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))~~ (f) 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))~~ (g) Include the actual incremental cost of compliance as required in WAC 480-100-660(5)((+)).
- ~~((g))~~ (h) Include all of the information found in the annual progress report as described in subsection ~~((3))~~ (4) of this section for the fourth year of the CEIP((+)).
- ~~((h))~~ (i) Include a summary of the data in the annual progress reports described in subsection ~~((3))~~ (4) of this section((+)).
- ~~((i))~~ (j) 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))~~ (k) Include 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))~~ (l) 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~~)) 60 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)).

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

(4) Data and contract reporting. Each utility must file its annual clean energy progress report based on an analysis that identifies and considers the source and characteristics of the electricity a utility claims to meet compliance obligations under WAC 480-100-610, including electricity that is produced, purchased, sold, or exchanged.

(a) Unless otherwise ordered by the commission, the analysis and supporting data provided in the filing must include data in an hourly format for:

(i) Total Washington retail sales.

(ii) Retail sales for customers participating in a voluntary renewable energy purchase program in alignment with RCW 19.405.020 (36) (b).

(iii) Total electricity production for all renewable and nonemitting generation owned, contracted, or controlled by the utility.

(iv) Generation from qualifying facilities as described in RCW 19.405.020 (36) (a).

(v) All electricity sold or transferred for all bundled sales of electricity from renewable and nonemitting sources. For the purposes of this subsection, bundled electricity is electricity that is sold with all its nonpower attributes in the same transaction.

(vi) All electricity sales in which the electricity was sold by that utility in a wholesale market sale without its associated nonpower attributes.

(b) Unless otherwise ordered by the commission, the utility must include in its filing the following:

(i) Total monthly megawatt-hours of sales, purchases, and exchanges by counter party of electricity sales in which the electricity was sold by that utility in a wholesale market sale without its associated nonpower attributes. Any contract in which the utility sells electricity in a wholesale market sale without its associated nonpower attributes must include terms stating the seller is not transferring any of the nonpower attributes and the buyer may not represent in any form that the electricity has any nonpower attributes associated with it and that the buyer must include such provision in any sale of the electricity in any subsequent sale it makes.

(ii) Total monthly megawatt-hours of sales, purchases, and exchanges of bundled electricity from renewable or nonemitting generation. For the purposes of this subsection, bundled electricity is electricity that is sold with all of its nonpower attributes in the same transaction.

(iii) All purchase contracts longer than one month that source the electricity delivered from coal fueled generation.

(iv) Beginning January 1, 2026, all existing or new purchase contracts longer than one month with documentation that none of the electricity delivered is sourced from coal fueled generation.

(v) Any data provided to the Western power pool's resource adequacy program or its successor.

(c) A utility may use an unbundled REC as an alternative compliance option, as provided in RCW 19.405.040 (1) (b), only if the utility demonstrates that there is no double counting of any nonpower attribute associated with that REC. This subsection sets only the minimum requirements necessary to demonstrate that no double counting has occurred. The commission may require the utility to produce other evidence or take specific actions as the commission determines necessary to ensure that there is no double counting of nonpower attributes.

(i) Except as provided in (c)(iii) of this subsection, a utility may use an unbundled REC for alternative compliance only if the utility demonstrates:

(A) The associated electricity was sold, delivered, or transferred without fuel sources or nonpower attributes and under a contract or transaction term expressly stating the fuel source or nonpower attributes are not included; and

(B) The associated electricity was not delivered, reported, or claimed as a zero-emission specified source or assigned the emissions rate of the renewable generating facility under a greenhouse gas (GHG) program.

(ii) A utility's demonstration under this section may be met by documentation that the entity providing the unbundled REC:

(A) Provides contract, confirmation, or other transaction terms that comply with the requirements of (c)(i)(A) and (B) of this subsection;

(B) Was a party to or otherwise has knowledge of the transaction in which the associated electricity was sold or transferred and attests to (c)(i)(A) and (B) of this subsection; or

(C) Obtained the unbundled REC from an entity that attests that it and all previous owners of the REC transferred the REC using transaction terms complying with the requirements of (c)(ii)(A) or (B) of this subsection.

(iii) To claim and retire an unbundled REC for alternative compliance where the Washington-eligible RECs were created by renewable electricity marketed by the Bonneville Power Administration a utility must demonstrate the REC was not associated with electricity from a system sale from the Bonneville Power Administration directly into a state with a GHG program and to an entity regulated by the state greenhouse gas program. The RECs are calculated based on the same vintage year as the year in which the electricity was imported to the state with the greenhouse gas program.

(iv) For the purposes of (c) of this subsection, "greenhouse gas program" includes any governmental program outside of Washington that caps or limits greenhouse gas emissions or requires the purchase, surrender, or retirement of greenhouse gas allowances if the scope of the greenhouse gas program includes electricity imported from outside the governmental jurisdiction and does not require the retirement of RECs for such imported electricity.

(d) For the purposes of reporting and compliance, the storage of electricity has the following impacts:

(i) The eligibility of renewable or nonemitting electricity is not affected by the use of storage resources.

(ii) Except for storage resources located on the customer side of a retail meter, any electrical consumption or loss resulting from the charging, holding, and discharging of storage resources is not considered retail electric load as defined in RCW 19.405.020(36).

(iii) Any electrical consumption or loss resulting from the charging, holding, and discharging of storage resources located on the customer side of a retail meter is considered retail electric load for the purpose of compliance with chapter 19.405 RCW.

(5) **Commission staff information requests.** Nothing in this rule affects the utility's obligation to provide any additional information or data requested by commission staff.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and

UE-190698, General Order 601), § 480-100-650, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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((~~7~~)).

(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 update 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((~~7~~)).

(c) Plans to provide information and data in broadly understood terms through meaningful participant education((~~7~~)).

(d) A proposed schedule of public meetings or engagement, including advisory group meetings((~~7~~)).

(e) A proposed list of significant topics that will be discussed((~~7~~)).

(f) The date the utility will file the final CEIP with the commission((~~7~~ 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~~)) 30 days of final commission action.

(3) **Customer notices.** Within ((~~thirty~~)) 30 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).

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-655, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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~~) IRP, 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 that it 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))~~ Identify 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))~~ Demonstrate 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) Provide 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 annu-

al 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.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-660, filed 12/28/20, effective 12/31/20.]

AMENDATORY SECTION (Amending WSR 21-02-022, filed 12/28/20, effective 12/31/20)

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~~) \$100 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))~~ \$1,000 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))~~ \$100 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 mitigation of, 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.

[Statutory Authority: RCW 80.01.040, 80.04.160, and chapters 80.28, 19.280, and 19.405 RCW. WSR 21-02-022 (Dockets UE-191023 and UE-190698, General Order 601), § 480-100-665, filed 12/28/20, effective 12/31/20.]