

Sept. 23, 2019

To: Energy Independence Act/Clean Energy Transformation Act Stakeholders

From: Glenn Blackmon, Manager, Energy Policy Office

Re: Updated draft rule language

Commerce has updated the draft rule language to implement two provisions of Washington's 2019 clean electricity legislation. The revised language reflects comments received from stakeholders on Sept. 6, 2019. Here are the changes:

- **Incremental hydro and renewable energy certificates**

The revised language removes the reference to month in the definition of "vintage," and it clarifies that electricity may be stored without affecting its renewable energy credits.

- **Cost values for social cost of greenhouse gas emissions**

The revised language specifies the inflation factor to be used in adjusting the specified cost values and provides an example. It also adds rule language necessary to create a new chapter in the Washington Administrative Code.

The updated language is included here, along with responses to the comments received from stakeholders on Sept. 6, 2019.

Webinar Opportunity

We have scheduled a phone/webinar opportunity for questions and comments about the rule language. Here are the details:

Wednesday, October 9, 2019, 9:00 a.m. – 10:00 a.m.

Skype for Business webinar: <https://lync.wa.gov/commerce.wa.gov/meet/glenn.blackmon/4J219VHC>

Phone: (360) 407-3813 ID: 7614906#

Incremental hydro and RECs

Stakeholder comments and agency response

2019-09-23

Commenter	Summary	Response
Benton/Franklin PUDs	Support the draft rule concerning federal incremental hydro eligibility, understanding it to limit eligibility such that the electricity or RECs must be conveyed directly from BPA through a power sales contract and that no banking to another compliance year is allowed.	Thank you for your comment.
Bill Lemon	Include independent hydro facilities in the eligibility standards for incremental hydro generation.	The rule cannot extend eligibility beyond what the statute provides. The EIA limits incremental hydro eligibility to generation from projects owned by one of the qualifying utilities and projects marketed by the Bonneville Power Administration.
Climate Solutions	To prevent against double-counting, rules should specify that the energy associated with RECs used for compliance with RCW 19.285 may not be resold in a resource-specific transaction.	Concern about double-counting of renewable attributes is reasonable. However, the specific counting-provision applies only to unbundled RECs used to comply with the GHG Neutral Standard under CETA and does not apply to RECs used for EIA compliance. Any effort to address this concern in the EIA rules, without first doing so in the CETA rules, would be inappropriate. Stakeholders should consider this issue further when examining opportunities to streamline requirements between EIA and CETA.
Cowlitz PUD	Support rule language concerning documentation and	Thank you for your comment.

Incremental hydro and RECs

Comment summary and responses – 09-23-2019

Commenter	Summary	Response
	use of incremental hydropower for compliance with Chapter 19.285 RCW. The amendments reflect the statutory language and provide clear direction for compliance.	
Cowlitz PUD	Suggest removing “month” from definition of REC vintage. EIA uses only calendar years in determining vintage eligibility.	The revised draft language includes this change.
Lavle	Add “stored” to the language in WAC 194-37-120(1)(c) to avoid a negative implication that RECs are no longer valid if renewable energy is stored.	The revised draft language includes this change. RECs are created based on the energy source used to generate the electricity and remain valid if the electricity is used to store energy.
NW Energy Coalition	Revise REC rule language to address double-counting: 194-37-120(2)(c)(ii) The REC was acquired by the utility through ownership of the generation facility <u>and the power that generated the REC is not used for compliance with another program or sold as specified energy in WA or any other jurisdiction;</u> or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity; and”	Concern about double-counting of renewable attributes is reasonable. However, the specific counting-provision applies only to unbundled RECs used to comply with the GHG Neutral Standard under CETA and does not apply to RECs used for EIA compliance. Any effort to address this concern in the EIA rules, without first doing so in the CETA rules, would be inappropriate. Stakeholders should consider this issue further when examining opportunities to streamline requirements between EIA and CETA.
Renewable Northwest	The draft language related to the treatment of incremental hydropower within the EIA does require that the environmental attributes related to a renewable energy certificate (“REC”) used for compliance are not double counted in	Concern about double-counting of renewable attributes is reasonable. However, the specific counting-provision applies only to unbundled RECs used to comply with the GHG Neutral Standard under CETA and does not apply to RECs used

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	Washington or other states. Additional language would better align the rules with statutory intent by also explicitly prohibiting the use of RECs for compliance if the underlying power associated with the REC has been transacted in a specified manner in the state, or in other jurisdictions.	for EIA compliance. Any effort to address this concern in the EIA rules, without first doing so in the CETA rules, would be inappropriate. Stakeholders should consider this issue further when examining opportunities to streamline requirements between EIA and CETA.
Snohomish PUD	Support the draft rule concerning federal incremental hydro eligibility, understanding it to limit eligibility such that the electricity or RECs must be conveyed directly from BPA through a power sales contract and that no banking to another compliance year is allowed.	Thank you for your comment.
Tacoma Power	Support the draft rule concerning federal incremental hydro eligibility, understanding it to limit eligibility such that the electricity or RECs must be conveyed directly from BPA through a power sales contract and that no banking to another compliance year is allowed.	Thank you for your comment.
Washington Environmental Council	Continue to clarify only incremental hydropower projects owned by qualifying utilities or by the Bonneville Power Administration (BPA), if BPA provides both power and nonpower assets in a transaction with the qualifying utility, may be used to meet renewable energy targets under EIA.	Thank you for your comment.

Discussion Draft (version 2)

Amendments to Energy Independence Act Rules

9/23/2019

NOTE: Redline and strikeout reflects changes from existing rules in effect today. Changes from the 8/22/19 draft are highlighted in yellow.

Note: The amendments would take effect on January 1, 2020.

WAC 194-37-130

Documentation of incremental hydropower.

(1) **Projects owned by qualifying utilities.** Each utility using electricity produced as a result of a hydropower efficiency improvement, as defined in RCW 19.285.030 (12)(b), to meet a renewable energy target must provide documentation that:

(a) The hydroelectric generation project is owned by a qualifying utility and is located in the Pacific Northwest;

(b) The hydropower efficiency improvement was completed after March 31, 1999; and

(c) The additional generation does not result in new water diversions or impoundments.

(2) Federal projects. Each utility using electricity produced as a result of a hydropower efficiency improvement, as defined in RCW 19.285.030(12)(g), to meet a renewable energy target must provide documentation that:

(a) The output of the hydroelectric generation project is marketed by the Bonneville power administration;

(b) The utility received the electricity through a transaction with the Bonneville Power Administration that conveyed both the electricity and the nonpower attributes of that electricity;

(c) The hydropower efficiency improvement was completed after March 31, 1999; and

(d) The additional generation does not result in new water diversions or impoundments.

~~(23)~~ If the amount of electricity generated as a result of the hydropower efficiency improvement is directly measurable, the utility must use the measured output of the hydropower efficiency improvement as documentation of the amount of additional generation.

~~(34)~~(a) If the amount of electricity generated as a result of the hydropower efficiency improvements is not directly measurable, the utility must document the amount of electricity generated as a result of the hydropower efficiency improvement using an engineering analysis comparing the output in megawatt-hours of the hydroelectric generation project with the efficiency improvement to the output in megawatt-hours of the hydroelectric generation project without the efficiency improvement. Multiple efficiency improvements to a single hydroelectric generation project may be combined for purposes of the engineering analysis.

(b) The engineering analysis required by (a) of this subsection must be performed using an engineering model of the hydroelectric generation project that quantifies the relationship of stream flows, reservoir elevation, and other relevant factors to the electric output of the generating facility. The engineering model must accurately reflect the physical characteristics and operating requirements of the hydroelectric generation project during the target year and must accurately estimate the electric generation of the hydroelectric generation project without and with the hydropower efficiency improvement.

(c) A utility using the engineering analysis method to determine incremental generation must adopt and consistently apply in each target year one of the following methods:

(i) **Method one - Actual incremental generation.** A utility using this method must prepare an analysis using actual stream flows and the engineering model described in (b) of this subsection during each target year to determine incremental generation in the target year. A utility using this method must perform an updated calculation each year to determine the incremental generation amount for that target year.

(ii) **Method two - Percentage generation.**

(A) A utility using method two must prepare an analysis establishing the expected amount of incremental generation based on stream flows available to the hydroelectric generation project, adjusted for any known and measurable changes to stream flows due to environmental regulations or other factors, during a historical study period.

(B) The historical study period used in method two must be reasonably representative of the stream flows that would have been available to the hydroelectric project over the period of time for which stream flow records are readily available. A historical study period meets the requirements of this subsection if it includes the most recent readily available stream flow records and consists of a consecutive record of stream flow records at least five years in length.

(C) The amount of incremental generation using method two is calculated by multiplying the actual generation in megawatt-hours in the target year by a percentage amount equal to the difference between the calculated average generation over the historical study period with the hydropower efficiency improvement and the calculated average generation over the historical study period without the hydropower efficiency improvement, divided by the calculated average generation over the historical study period without the hydropower efficiency improvement.

(iii) **Method three - Fixed amount of generation.**

(A) A utility using method three must prepare an analysis establishing the expected amount of incremental generation based on stream flows available to the hydroelectric generation project, adjusted for any known and measurable changes to stream flows due to environmental regulations or other factors during a historical study period.

(B) The historical study period used in method three must be reasonably representative of the stream flows that would have been available to the hydroelectric project over the period of time for which stream flow records are readily available. A historical study period meets the requirements of this subsection if it includes the most recent readily available stream flow records and consists of a consecutive record of stream flow records at least ten years in length.

(C) The amount of incremental generation using method three is calculated as an amount in megawatt-hours equal to the difference between the calculated average generation over the historical study period with the hydropower efficiency improvement and the calculated average generation over the historical study period without the hydropower efficiency improvement. The amount must be adjusted in each target year for any reduction in availability of the hydroelectric generation project's generating capacity during the target year that is not accounted for in the analysis used to calculate the incremental generation amount.

(45) The requirements of this section are in addition to the documentation requirements specified in WAC [194-37-120](#)(1).

WAC 194-37-120

Documentation of use of eligible renewable resources and RECs for compliance.

A utility using an eligible renewable resource or REC for compliance with a requirement of chapter [19.285](#) RCW must document that use by following the procedures in this section.

(1) **Documentation of energy from eligible renewable resources.** Each utility using an eligible renewable resource for compliance must document the following for each resource:

- (a) The electricity was generated by a generating facility that is an eligible renewable resource;
- (b) The electricity was generated during the target year;
- (c) If the utility sold, exchanged, **stored**, or otherwise transferred the electricity to any person other than its retail customer, the utility retained ownership of the nonpower attributes; and
- (d) The utility retired, consistent with the requirements of subsection (2) of this section, any RECs representing the nonpower attributes associated with the electricity or, if no RECs have been created, the utility has committed to use the nonpower attributes exclusively for the compliance purpose stated in its documentation.

(2) **Documentation of renewable energy certificates.** Each utility using a REC for compliance must document the following:

- (a) The REC represents the output of an eligible renewable resource;
- (b) For a REC from electricity generated by a resource other than freshwater, the vintage of the REC is the year immediately prior to the target year, the year of the target year, or the year immediately after the target year; and
- (c) For a REC from electricity generated by freshwater:
 - (i) The vintage of the REC is the target year;
 - (ii) The REC was acquired by the utility through ownership of the generation facility or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity; and
 - (iii) For RECs from projects marketed by the Bonneville power administration, the utility received the REC through a transaction with the Bonneville Power administration that conveyed both the electricity and the nonpower attributes of the electricity.
- (d) The utility has ~~removed the REC from circulation by transferring~~retired the REC to a retirement subaccount of the utility within WREGIS using the following values in the certificate transfer:
 - (i) Retirement type: Used by the account holder for a state-regulated renewable portfolio standard/provincial utility portfolio standard;
 - (ii) State/province: Washington; and
 - (iii) Compliance year: Applicable target year.

WAC 194-37-040

Definitions.

The definitions in chapter 19.285 RCW apply throughout this chapter.

[...]

(x) "Vintage" means the year in which electricity is generated.

Social Cost of Greenhouse Gas rule

Stakeholder comments and agency response

2019-09-23

Commenter	Summary	Response
Benton/Franklin PUDs	Maintain authority of locally elected boards.	The legislation directs Commerce, rather than individual utility boards, to establish the cost values. This reflects the fact that the costs to be incorporated are damage costs that are not specific to any individual utility.
Benton/Franklin PUDs	Discuss process to update GHG cost values over time.	Rule provisions may be reviewed at any time, either by petition of stakeholders or by agency initiative.
Benton/Franklin PUDs	Questions about how GHG cost values should be applied.	Agree that application of cost values may be addressed further during the rulemaking process.
Climate Solutions	Appreciate the clarity in the draft rules specifying the social cost of greenhouse gas values that utilities should use in planning and procurement processes. Support the intent of the rules to be consistent among both publicly-owned and privately-owned utilities, and believe that it aligns with the intent of the Clean Energy Transformation Act.	Thank you for your comment.
Climate Solutions	Support the flexibility to model values above the minimum social cost of carbon required. While the draft rules permit this flexibility through increasing the numeric value of the social cost of greenhouse gases, we recommend that the rules also provide flexibility through using a	Thank you for your comment. The rule language does not make a distinction between cost values that result from higher estimated damages and ones that result from placing greater importance on costs and benefits that occur in the future (higher discount rate).

Commenter	Summary	Response
	lower discount rate as an option.	
Climate Solutions	Recommend that the rules specify a rate of inflation for utilities to use over time. We are agnostic on whether Commerce requires the GDP index or the CPI as a measure for inflation, but recommend that all utilities use the same rate and that it be consistent with the UTC rules.	The revised draft specifies that utilities use the implicit price deflator for gross domestic product, which is the same inflation rate adopted by the UTC for IOUs.
Cowlitz PUD	Recognize that the social cost of carbon may require update over time with new information and changing conditions between planning periods.	Rule provisions may be reviewed at any time, either by petition of stakeholders or by agency initiative.
Cowlitz PUD	Allow COU governing bodies to set and incorporate the discount rates that best coincide with the financial and resource planning efforts of their individual utilities.	The legislation directs Commerce, rather than individual utility boards, to establish the cost values. This reflects the fact that the costs to be incorporated are damage costs that are not specific to any individual utility.
Cowlitz PUD	Establish the minimum social cost values falling within the 3% discount rate, as these values are listed as the “central estimate” within the Technical Support Document. The proposed language provides utilities the flexibility to use higher values if they choose.	The approach in the draft language is more appropriate because it maintains consistency with cost values that the Legislature established for IOUs.
Cowlitz PUD	When adjusting the social cost of carbon values (stated in 2007 dollars) to reflect inflation, allow COU governing bodies to determine the index that best fits the utilities’ respective jurisdictions. For	The damage costs being incorporated through the social cost factor are not specific to Puget Sound, eastern Washington, or any other individual geographic region. The costs are incurred broadly, both geographically and across economic sectors, and the broadest

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	instance, a utility based in eastern Washington may desire to calculate the social cost of carbon with a different index than a utility located in the Puget Sound area.	measure of inflation will most effectively reflect this scope.
Invenergy	Agree with and support the discussion draft rule language on the social cost of greenhouse gas emissions.	Thank you for your comment.
Invenergy	Ensure utilities use the social cost of greenhouse gas emissions <i>per metric ton</i> on an accurate and consistent basis.	The required costs are stated on a per-ton basis in the draft rule language.
Invenergy	Develop rules specifically requiring inclusion of the social cost of carbon in dispatch and operational simulations, on an accurate and consistent basis.	This is a methodology issue and may be raised in that context.
NW Energy Coalition	<p>Suggest clarification of language on upward flexibility:</p> <p>The social cost values established in subsection (1) are minimum values; a utility may not use a lower social cost of carbon value. A utility may apply a social cost of carbon value that is greater than the required value listed on the table in section (2) if it has a reasonable basis to do so.</p>	The revised draft language includes this change.
Northwest Renewables	The state should have utilities include distributed solar in their IRPs, and they should pay for this valuable resource based on the social	This rule does not address the application of GHG costs to any particular resource or the compensation offered by utilities to power generators.

Commenter	Summary	Response
	cost of carbon it offsets. Distributed solar needs to be an important part of any successful implementation of CETA, putting generation closer to consumption, providing a needed competitive push to reluctant utilities clinging to fossil fuels and obstructing net metering, and simply providing much-needed clean generation capacity to meet the law.	
Public Generating Pool	PGP has questions about how rules around the application of the social cost of carbon may provide flexibility to respond to changing conditions.	Rule provisions may be reviewed at any time, either by petition of stakeholders or by agency initiative.
Renewable Northwest	Support the inclusion of an explicit option for a complying utility to use a lower discount rate (<2.5%) should they so choose—recognizing the impact of carbon on future generations—in addition to the existing option to use a higher social cost of carbon on a reasonable basis standard.	The draft rule language provides upward flexibility for GHG cost values and does not limit that flexibility to cost differences that result from placing greater importance on costs and benefits that occur in the future (higher discount rate).
Seattle City Light	Request clarification that utilities will be allowed to use registered and verified greenhouse gas offsets as a compliance mechanism.	Greenhouse gas offsets are not an eligible compliance option under either EIA or CETA. The commenter may wish to discuss this issue during the Department of Ecology rulemaking on clean energy transformation projects.
Seattle City Light	We should not use a 2016 report as a basis for the social cost of GHG Emissions. We advocate that	The draft rule language allows utilities to use higher GHG cost values if they have a reasonable basis to do so.

Commenter	Summary	Response
	utilities may use a higher value if they have a reasonable basis to do so.	
Snohomish PUD	Support the draft rules to establish values consistent with those required for IOUs.	Thank you for your comment.
Snohomish PUD	Encourage Commerce to discuss or establish a method to update cost values.	Rule provisions may be reviewed at any time, either by petition of stakeholders or by agency initiative.
Solar Installers of Washington	Distributed solar should be considered by utilities in their IRPs and CEAPs as one method for utilities to reduce greenhouse gas emissions, and customer generators should receive that value in the form of a renewable energy credit.	This rule does not address the application of GHG costs to any particular resource or the compensation offered by utilities to power generators.
Tacoma Power	Values should be consistent across COUs and ideally consistent between IOUs and COUs.	The draft rule language is consistent with this comment.
Tacoma Power	Values adopted should be eligible for review and change. The rule should consider the possibility that stakeholders may wish to use an updated research document in the future.	Rule provisions may be reviewed at any time, either by petition of stakeholders or by agency initiative. The draft rule language allows utilities to use higher GHG cost values if they have a reasonable basis to do so.
Tacoma Power	Should not restrict post-2050 values to a particular progression so far out, as changing conditions may occur.	The comment did not provide an alternative to the draft rule language.
Tacoma Power	Support for draft rule language is contingent on decisions made on rules concerning application of GHG costs in planning and resource evaluation.	This linkage of issues is unnecessary and would impede the widely stated desire to establish GHG cost values promptly.
Washington Environmental Council	Support Commerce adopting a progressively increasing social cost of carbon, using a 2.5% discount rate, and	Thank you for your comment.

Commenter	Summary	Response
	<p>providing for adjustment to reflect inflation. Those values should be equivalent to the ones adopted by the Utilities and Transportation Commission (UTC). Appreciate that the discussion draft grants discretion to utilities to increase social cost values if they have a reasonable basis to do so.</p>	
<p>Washington Public Utility Districts Association</p>	<p>Establish as default values the amounts used in the draft rule language but allow utility governing boards to use other figures, either higher or lower, when they have a reasonable and supportable basis to do so.</p>	<p>The legislation directs Commerce, rather than individual utility boards, to establish the cost values. This reflects the fact that the costs to be incorporated are damage costs that are not specific to any individual utility.</p>

Draft rule language to establish social cost of greenhouse gas emissions for consumer-owned utilities

Version 2 (redline and strikeout indicates change from 8/22 draft. None of this text is an existing rule.)

NOTE: Chapter 194-40 WAC will be the chapter for Commerce rules relating to CETA and related planning requirements.

194-40-010 Purpose and scope.

The purpose of this chapter is to implement the requirements of the Clean Energy Transformation Act, chapter 19.405 RCW, and Chapter 19.280 RCW.

194-40-020 Applicability.

Unless specifically provided otherwise, the provisions of this chapter apply to consumer-owned electric utilities that provide electrical service to retail customers in the state of Washington.

WAC 194-40-100 Social cost of greenhouse gas emissions

- (1) The social cost of greenhouse gas emissions to be included by utilities in resource planning, evaluation, and selection, in compliance with RCW 19.280.030.(3), is equal to the cost per metric ton of carbon dioxide equivalent emissions, using the 2.5 percent discount rate, listed in table 2, technical support document: Technical update of the social cost of carbon for regulatory impact analysis under Executive Order No. 12866, published by the interagency working group on social cost of greenhouse gases of the United States government, August 2016, referred to in this rule as the "technical support document."
- (2) The social cost values for intermediate years are calculated by linear interpolation and provided in Appendix A of the technical support document. Social cost values for years after 2050 must be determined by applying an escalation factor of 1.3 percent, consistent with Table 3 of the technical support document. Social cost values must be adjusted for inflation, using the implicit price deflator for gross domestic product published by the United States Department of Commerce, from 2007 dollars to the base year used for other cost and benefit values in the utility's analysis.
- (3) As a convenience and example, the cost values established in subsection (1) and adjusted for inflation to 2018 dollars are restated here:

Year in Which Emissions Occur or Are Avoided	Social Cost of Carbon Dioxide (in 2007 dollars per metric ton)	<u>Social Cost of Carbon Dioxide (in 2018 dollars per metric ton)</u>
2010	\$50	<u>\$60</u>
2015	\$56	<u>\$67</u>
2020	\$62	<u>\$74</u>
2025	\$68	<u>\$81</u>
2030	\$73	<u>\$87</u>
2035	\$78	<u>\$93</u>
2040	\$84	<u>\$100</u>

2045	\$89	<u>\$106</u>
2050	\$95	<u>\$113</u>

- (4) The social cost values established in ~~subsection (1)~~this rule are minimum values. A utility may apply a greater value if it has a reasonable basis to do so.

~~The social cost values for intermediate years are calculated by linear interpolation and provided in Appendix A of the technical support document. Social cost values for years after 2050 must be determined by applying an escalation factor of 1.3 percent, consistent with Table 3 of the technical support document. Social cost values must be adjusted for inflation from 2007 dollars to the base year used for other cost and benefit values in the utility's analysis.~~

Incremental hydro and RECs
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Climate Solutions	To prevent against double-counting, rules should specify that the energy associated with RECs used for compliance with RCW 19.285 may not be resold in a resource-specific transaction.	Concern about double-counting of renewable attributes is reasonable. However, the specific counting-provision applies only to unbundled RECs used to comply with the GHG Neutral Standard under CETA and does not apply to RECs used for EIA compliance. Any effort to address this concern in the EIA rules, without first doing so in the CETA rules, would be inappropriate. Stakeholders should consider this issue further when examining opportunities to streamline requirements between EIA and CETA.
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Lavle	Add “stored” to the language in WAC 194-37-120(1)(c) to avoid a negative implication that RECs are no longer valid if renewable energy is stored.	The revised draft language includes this change. RECs are created based on the energy source used to generate the electricity and remain valid if the electricity is used to store energy.
NW Energy Coalition	Revise REC rule language to address double-counting: 194-37-120(2)(c)(ii) The REC was acquired by the utility through ownership of the generation facility <u>and the power that generated the REC is not used for compliance with another program or sold as specified energy in WA or any other jurisdiction;</u> or through a transaction that conveyed both the electricity and the nonpower attributes of the electricity; and”	Concern about double-counting of renewable attributes is reasonable. However, the specific counting-provision applies only to unbundled RECs used to comply with the GHG Neutral Standard under CETA and does not apply to RECs used for EIA compliance. Any effort to address this concern in the EIA rules, without first doing so in the CETA rules, would be inappropriate. Stakeholders should consider this issue further when examining opportunities to streamline requirements between EIA and CETA.
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