

REQUEST FOR COST INFORMATION

Clean Energy Transformation Act Rulemaking

February 25, 2022 (responses due March 14, 2022)

Background

The Washington Department of Commerce is preparing administrative rules to implement Chapter 19.405 RCW, the Clean Energy Transformation Act (CETA) for consumer-owned utilities. Commerce posted its draft of the rules on January 19, 2022, on its CETA Rulemaking webpage: commerce.wa.gov/growing-the-economy/energy/ceta-rulemaking. The rules will be codified in Chapter 194-40 WAC.

The Regulatory Fairness Act, Chapter 19.85 RCW, requires that an agency prepare a small business economic impact statement (SBEIS) if a proposed rule will impose more than minor costs on businesses in any industry. Commerce is requesting cost information from businesses that will be subject to the CETA rules to assist it in determining whether an SBEIS is necessary and, if so, whether the rules will have a disproportionate impact on small businesses.

The following definitions are used in the Regulatory Fairness Act and in this request for information:

- "Small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees.
- "Minor cost" means a cost per business that is less than 0.3% of annual revenue or income, or \$100, whichever is greater, or 1% of annual payroll.

The draft CETA rules apply to electric utilities that provide service to retail customers in Washington. Commerce has determined that, for the purposes of this analysis, the industry is Electric Power Distribution (NAICS 221122). For this industry the minor cost threshold is \$356,170 per year, as calculated using the [Minor Cost Threshold Calculator](#) (updated October 2021) of the Governor's Office of Regulatory Innovation and Assistance.

Commerce has prepared an initial analysis of the draft rules to identify if there are any specific rule provisions that impose requirements beyond the requirements of the CETA statute and may result in costs to regulated businesses. This initial analysis is included as Appendix A to this Request for Cost Information. If a business believes the initial analysis incorrectly concludes that a rule does not impose any costs beyond what the statute requires, it may provide cost information on that rule provision.

Information Requests

Commerce requests that electric utilities responding to this information request provide the following:

1. Information about the total operations of the business:
 - a. Business name
 - b. Number of employees, 2021
 - c. Annual payroll in 2021

- d. Annual revenue in 2021
2. Estimates of cost imposed by a rule and not otherwise required by statute. Provide separately for each rule provision that imposes a cost:
 - a. Rule section and subsection
 - b. Estimate of the number of jobs that will be created or lost as a result of compliance with the rule provision
 - c. Estimated staff time, in hours per year, required to comply
 - d. Estimated average hourly rate of staff engaged in compliance
 - e. Costs other than staff costs (identify)
 - f. Total estimated cost, per year, required to comply

Submission of Requested Information

Please submit the requested information via email to CETA@commerce.wa.gov by close of business Monday, March 14, 2022. All information submitted is subject to public disclosure. Please do not submit any information that the business considers to be confidential or proprietary.

Questions

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Chapter 194-40 Clean Energy Transformation

Rule Provision	Initial Cost Analysis
<p>WAC 194-40-370 Accounting for electricity from storage resources</p> <ul style="list-style-type: none"> (1) The eligibility of renewable or nonemitting electricity is not affected by the use of storage resources. (2) 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). (3) Any 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 CETA. 	<p>The rule provides clarification on the treatment of storage resources under the requirement in Chapter 19.405 RCW.</p> <p>The rule does not impose any costs on regulated businesses beyond the costs required to comply with the statute itself.</p>
<p>194-40-410 Use of renewable energy credits other than unbundled RECs to comply with the greenhouse gas neutral standard</p> <ul style="list-style-type: none"> (1) A utility may use a REC other than an unbundled REC to comply with the requirements of RCW 19.405.040(1)(a) or to demonstrate performance compared to an interim target established under RCW 19.405.060(1) only if the utility complies with the requirements of this section. (2) The utility must acquire the REC and the electricity associated with the REC in a single transaction through ownership or control of the generating facility or through a contract for purchase or exchange. (3) The electricity associated with the REC must be: 	<p>The rule provides clarification of the requirement in RCW 19.405.040 that a utility use renewable or non-emitting electricity sources in an amount equal to 100% of the utility’s retail electric load.</p> <p>The rule does not impose any costs on regulated businesses beyond the costs required to comply with the statute itself.</p>

Rule Provision	Initial Cost Analysis
<p>(a) From a generating facility located within the utility’s service area or balancing authority area; or</p> <p>(b) Acquired by the utility at one of the following points of delivery:</p> <ul style="list-style-type: none"> (i) The transmission or distribution system of an electric utility (as defined in RCW 19.405.020); (ii) The transmission system of the Bonneville Power Administration; (iii) The transmission system of any entity that is a participant in an organized electricity market located in the Western Interconnection in which the electric utility is a participant; or (iv) Another point of delivery designated by the utility for the purpose of subsequent delivery to the utility. <p>(4) The electricity associated with the REC must be from a generating facility or contract that is part of a resource portfolio reasonably expected to be capable of serving on an hourly basis at least 80 percent of the utility’s retail electric load over each compliance period. Each utility required under RCW 19.280.030(1) to prepare an integrated resource plan must demonstrate compliance with this requirement in its integrated resource plans by, at a minimum, showing through an hourly analysis that the expected output of the resource portfolio could be generated and delivered to serve at least 80 percent of expected retail electric load.</p> <p>(5) A REC is not eligible under this section if the utility sells or otherwise transfers ownership of the electricity associated with the REC in a transaction that (a) contractually specifies the source of the electricity by fuel source or as renewable or (b) transfers the nonpower attributes of the electricity.</p>	

Rule Provision	Initial Cost Analysis
<p>194-40-415 Use of renewable energy credits to comply with the 100 percent renewable or non-emitting standard</p> <p>(1) Except as provided in subsection (2), a utility may not use a REC to comply with the requirements of RCW 19.405.050(1) unless:</p> <p>(a) The utility acquired the REC and the electricity associated with the REC in a single transaction through ownership or control of the generating facility or through a contract for purchase or exchange; and</p> <p>(b) The utility did not use the associated electricity for any purpose other than supplying electricity to its Washington retail electric customers.</p> <p>(2) A utility may use any REC to comply with the requirements of RCW 19.405.050(1) if:</p> <p>(a) The utility acquired the REC through participation in a clean electricity market;</p> <p>(b) The REC is associated with electricity acquired through participation in a clean electricity market; and</p> <p>(c) The utility obtained all electricity supplied to its retail customers from clean electricity markets.</p> <p>(3) For purposes of this section, “clean electricity market” means an organized wholesale electricity market that provides for the physical delivery of electricity and excludes electricity from fossil fuel or unspecified sources.</p>	<p>The rule provides clarification of the requirement in RCW 19.405.050 that a utility supply 100% of all sales of electricity to Washington retail electric customers using electricity from renewable or non-emitting sources.</p> <p>The rule does not impose any costs on regulated businesses beyond the costs required to comply with the statute itself.</p>
<p>WAC 194-40-420 Safeguards to prevent double counting of unbundled RECs</p> <p>(1) 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.</p>	<p>The rule addresses the prohibition on double counting of non-power attributes under RCW 19.405.040. RCW 19.405.040 prohibits use of renewable energy credits if that use would result in double-counting of nonpower attributes, and RCW 19.405.130 requires that Commerce adopt rules to address this prohibition.</p>

Rule Provision	Initial Cost Analysis
<p>(2) Except as provided in subsection (4), a utility may use an unbundled REC for alternative compliance only if the utility demonstrates:</p> <ul style="list-style-type: none"> (a) The associated electricity was sold, delivered, or transferred without fuel sources or nonpower attributes and under a contract 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 GHG program. <p>(3) A utility’s demonstration under this section may be met by documentation that the entity providing the unbundled REC:</p> <ul style="list-style-type: none"> (a) provides contract, confirmation, or other transaction terms that comply with the requirements of subsection (2); (b) was a party to or otherwise has knowledge of the transaction in which the associated electricity was sold or transferred and attests to complying with the requirements of subsection (2); 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 subsections (3)(a) or (3)(b). <p>(4) To claim and retire an unbundled REC for alternative compliance where the Washington-eligible RECs were created by renewable electricity marketed by BPA, a utility must demonstrate the REC was not associated with electricity from a system sale from BPA directly into a state with a</p>	<p>The rule does not impose any costs on regulated businesses beyond the costs required to comply with the statute itself.</p>

Rule Provision	Initial Cost Analysis
<p>GHG 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 GHG program.</p> <p>(5) For the purposes of this section, “GHG 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.</p> <p>(6) This section sets only the minimum requirements necessary to demonstrate that no double counting has occurred. The auditor may request that the utility produce other evidence or recommend specific actions for the utility to consider to demonstrate that there is no double counting of nonpower attributes.</p>	