



Energizing Life in Our Communities

February 21, 2020

Washington Department of Ecology
300 Desmond Dr SE
Lacey, WA 98503

Via Public Comment Form @ ecology.wa.gov

RE: Comments from Snohomish PUD regarding Clean Energy Transformation Act Rulemaking; Energy Transformation Projects and Proposed Protocols

Snohomish PUD (Snohomish) appreciates the opportunity to provide feedback on the two Clean Energy Transformation Act (CETA) topics discussed at the January 14th workshop held at the Department of Ecology (Ecology). With 2,200 square miles of service area, 350,000+ customers, Snohomish PUD is the second largest publicly owned utility in the Pacific Northwest and 13th largest in the nation. Snohomish serves its customers with electricity that is 98% carbon free on a four-year average, the majority of which is hydro generation and purchased from the Bonneville Power Administration (BPA).

Snohomish will be commenting on the content of the workshop held on February 12, 2020 regarding Energy Transformation Projects (ETPs) and the proposed process surrounding their approval.

Energy Transformation Projects

Snohomish believes that the proposed approval process is too complex, and may exceed the statutory authority granted by CETA

Snohomish understands Ecology's desire to establish "bookends" for the types of projects that could be considered ETPs, as well as a process for evaluating potential ETPs. However, the approval process outlined by Ecology seems to introduce unnecessary complexity, as well as a statutorily unfounded requirement for Ecology approval. CETA, in RCW 19.405.040(2) directs Ecology to develop criteria against which ETPs will be evaluated. It does not grant Ecology the authority to perform such an evaluation. Utility governing boards have the authority to maintain local control over investments and projects aimed at meeting CETA compliance obligations. Ultimately, the determination of the utility's

compliance with the overall standard will fall to the State Auditor's office, which will be responsible for determining whether ETPs meet the criteria established by Ecology, and whether the performance of the ETP is satisfactory for use as an alternative compliance option. The approach laid out in the draft rule outline has the effect of requiring Ecology approval of each ETP project through the use of required protocols that must be approved for each type of ETP.

That said, Snohomish recognizes two natural conclusions that can be made from such a framework:

1. Utilities will not make investments in ETPs unless they are confident that the ETP is eligible for compliance purposes
2. If the State Auditor cannot make a determination of compliance, it may look to Ecology for guidance as to whether an ETP meets Ecology's criteria

Snohomish recommends that Ecology offer advisory opinions

Snohomish therefore is supportive of the idea that utilities could *voluntarily* submit ETPs to Ecology for evaluation and receive an advisory opinion whether they are eligible as an ETP under CETA. A similar approach is embedded in the Energy Independence Act for energy conservation investments. Further, Snohomish supports the establishment of an "initial list" of acceptable ETPs as an advisory document, with the recognition that the list is not exhaustive, nor limiting of future types of ETPs. This would also address temporal concerns for utilities; an ETP that is actively producing carbon reduction benefits could be claimed for compliance even if the ETP has not yet received an advisory opinion. The advisory opinion would not be necessary to invest or claim compliance benefit, but would instead provide certainty to the utility that the ETP is eligible.

Snohomish recommends that Ecology simplify its approach

As described in Ecology's proposed rules, there are seven conditions that must be met, as well as three restrictions.¹ Snohomish believes the conditions and restrictions set out in the statute and in Section IV of the draft rule outline are the elements that Ecology is to turn into criteria. However, the application of these criteria to a particular project, which is what Ecology's proposed "requirement for approved protocols" for each type of project amounts to, goes beyond Ecology's statutory role unless a project

¹ Section II, bullets 3 and 4 on Page 1 of Ecology's "Draft Energy Transformation Project Rule Outline"; <https://ecology.wa.gov/DOE/files/29/2967ef50-6dde-4449-9c08-39f05be56c9a.pdf>

voluntarily petitions for an advisory opinion. Utilities should have flexibility to establish how their ETP meets the statutory criteria, rather than be required to follow a prescriptive and complex protocols, which may not accurately reflect the characteristics of a given ETP.

If Ecology continues to pursue development of these protocols, they should be considered useful guidance for points that utilities should consider when forming their petition, but should not be strict requirements, nor should they be included in the rule language itself. Snohomish believes this will also grant Ecology more flexibility to evaluate ETPs claimed for compliance if asked to provide guidance to the State Auditor.

Snohomish appreciates the opportunity to comment on this rulemaking process and looks forward to continuing its participation in future workshops. If you have any questions about our comments, please do not hesitate to contact us.

Sincerely,



Kim Johnston
Director of Government and External Affairs