

February 24, 2020

Comments of Renewable Hydrogen Alliance, Klickitat PUD, and Douglas PUD on Chapter 173-444

The entities presenting these comments have an interest in encouraging and receiving investments or investment partners in Energy Transformation Projects that result in reduction of carbon emissions. Klickitat PUD owns and operates a large renewable natural gas facility. Their expertise has been requested on several potential new RNG facilities in the state; Douglas PUD is investing in renewable hydrogen production for use as a transportation fuel, natural gas displacement or other use that displaces hydrogen produced from natural gas resulting in reduction of carbon emissions; Renewable Hydrogen Alliance has members across multiple sectors, including electric and natural gas utilities, electrolyzer, fuel cell and automotive manufacturers and others and their mission is to encourage the production, distribution and end use of renewable hydrogen.

Guiding statutory language:

*The Legislature finds: **Absent significant and swift reductions in greenhouse gas emissions, climate change poses immediate significant threats to our economy, health, safety, and national security.***<sup>1</sup>

*"Energy transformation project" means a project or program that: Provides energy-related goods or services, other than the generation of electricity; **results in a reduction of fossil fuel consumption and in a reduction of the emission of greenhouse gases attributable to that consumption**; and provides benefits to the customers of an electric utility.*<sup>2</sup>

Our comments are directed to:

1. The time, cost and administrative complexity of the proposed direction of this rulemaking as presented by the Dept of Ecology at the public meeting of February 12, 2020 and how the proposal as presented will inhibit, if not foreclose, any consideration of investment in energy transformation projects by utilities contrary to the findings of the Legislature that absent significant and swift reductions in greenhouse gas emissions, we face immediate and significant threats to our economy, health, safety and national security.
  - a. Rulemaking on rulemaking;
  - b. Rulemaking/process for each of 18 ± protocols;
  - c. Application for approval for each project.

---

<sup>1</sup> RCW 19.405.010(3) Findings - Intent

<sup>2</sup> RCW 19.405.020 (18)

2. Presenting an alternative approach that also provides early action credit will provide opportunity, incentives and benefits from early investments in energy transformation projects.
3. In addition, we pose the following questions:
  - a. Who pays for this proposed extended rulemaking/criteria and protocol development process/project approval process?
  - b. Are considerations of early action investment incentives and banking for future compliance part of this rulemaking? If not, why not?

### **1(a) The Proposed Rulemaking Timeline Prevents Early Action and may take ETPs out of consideration altogether as a compliance alternative**

As Ecology described the process on the meeting of February 12, 2020, the current rulemaking is a “rulemaking on rulemaking”, expected to be completed by the end of 2020. Following adoption of this rulemaking, utilities (or others?) are to apply to Ecology to develop protocols for one or more of the at least eighteen possible ETPs listed in statute<sup>3</sup> (depending upon how one counts the listed ETPs).

In the Table 1 below, timelines are shown for addressing utility requirements for filing four-year Clean Energy Implementation Plans (CEIPs), ten-year Clean Energy Action Plans (CEAPs)<sup>4</sup>, and ten-year Integrated Resource Plans (IRPs)<sup>5</sup>, against proposed or suggested timelines required to complete the potential process for ETP project eligibility.

Only once Ecology has developed the criteria for a calculable MWh equivalent calculation for carbon reduction<sup>6</sup> can a utility incorporate the carbon reduction equivalent and alternative compliance costs and options for modeling into the next CEIP/CEAP/IRP planning process.

According to Ecology, a typical protocol can take 4-5 years to develop. Even under an expedited process, adopting a protocol under this assumption might take 2+ years. One can only estimate how long developing protocols will take if only half of the 18 protocols are applied for in the first two years from 2021 – 2023.

### **1(b) Protocol Approval Process**

First, we request more detail as to the process Ecology sees for protocol development. All that was mentioned in the Feb 12<sup>th</sup> meeting was that there would be a public process or public input. Would it follow the Administrative Procedures Act? Something less formal? And will Ecology have the staff to address all of the protocol applications? If not, what then? Contractors, consultants? Triage the applications and extend the process - perhaps literally out decades? And who pays?

It can clearly be seen, with the proposed multi-phased process, one, or perhaps a select few protocols will be developed early (and how would the applications be prioritized?) Most protocols will probably not have criteria developed in time to be available for a utility to include in their planning modeling until their

---

<sup>3</sup> RCW 19.405.020(18)

<sup>4</sup> RCW 19.280.030(1)(l)

<sup>5</sup> RCW 19.280.030(1)

<sup>6</sup> RCW 19.405.040(2)

2<sup>nd</sup> CEIP, while at least 2 IRP (with included CEAPs) cycles, with their 10 year planning horizons, will likely be missed.

Additionally, given that ETPs, as alternative compliance options, are only eligible to be used for compliance until 2045, not only has the value of an ETP as a carbon reduction instrument lost any value for early action when action to reduce carbon emissions should be encouraged, potentially 20-30% of the available time for any ETP to be available as an alternative compliance option has been lost, diminishing the amortization period and making any potential investment in ETPs substantially less attractive if not prohibitive.

Table 1 uses an estimate of 1 year to apply for a protocol and four years to adopt a protocol.

As of Dec 31:	ETP Rulemaking	Utility CEIP	Utility CEAP	Utility IRP
2020	Rulemaking on Rulemaking			
2021	Apply for 1 or more protocols	Develop First 4 yr CEIP	Develop First 10 yr CEAP	IRP Update 10 yr look
2022	Protocol(s) Development	Implement 1st CEIP		
2023			CEAP Update	IRP Update
2024				
2025			Develop 2 <sup>nd</sup> CEIP	CEAP Update
2026	Project Approval?	Implement 2 <sup>nd</sup> CEIP		
2027			CEAP Update	IRP Update
2028				
2029		Develop 3 <sup>rd</sup> CEIP	CEAP Update	IRP Update
2030				
2045	ETPS non-Eligible	ETPS non-Eligible	ETPS non-Eligible	ETPS non-Eligible

**Table 1**

**1(c) Project Approval Process**

We do not agree that Ecology has the authority to assert jurisdiction for approval of investments made by a utility to comply with provisions of CETA. However, as Ecology has included the project approval process in their presentation, we include questions about how that process would play out. Once a protocol has been approved, what is the application process? Is it also subject to the APA? Subject to review if approval is not granted?

## 2. Alternative Approach

We think an approach that will be much more cost-effective, available for this rulemaking, and will encourage or offer options for early actions by utilities. With credit for early action, not only would this approach fundamentally change the economics of energy transformation projects, it will provide an opportunity, if not financial incentives for early action to reduce emissions, a policy of the Governor, Legislature and many scientists.

We suggest that CETA language encourages, if not requires Ecology in certain instances to use criteria “consistent with” default emissions or conversion factors established by other jurisdictions” or “look to other jurisdictions” in developing certain criteria required for ETPs.

*<sup>7</sup>the department of ecology must establish a conversion factor of emissions reductions resulting from energy transformation projects **to megawatt-hours of electricity from nonemitting electric generation that is consistent with the emission factors for unspecified electricity**, or for energy transformation projects in the transportation sector, **consistent with default emissions or conversion factors established by other jurisdictions for clean alternative fuels**. Emissions reductions from energy transformation projects must be:*

*(a) Real, specific, identifiable, and quantifiable;*

*(b) Permanent: **The department of ecology must look to other jurisdictions in setting this standard and make a reasonable determination on length of time;***

This approach, to not “reinvent the wheel” could save time, be much more cost-effective, bring the collective expertise of stakeholders into the process, and at least adopt a preliminary list of ETPs that could attract investment and support early action.

The rulemaking could proceed as follows:

1. Ecology has developed draft protocols in this rulemaking for specified and unspecified electricity.
2. Ecology and stakeholders identify criteria and protocols from other jurisdictions such as the California Air Resources Board (CARB) for ETPs in the transportation sector and bring into the open rulemaking for review and comment by all parties and inclusion into the rule as “*consistent with . . . other jurisdictions.*”
3. Request stakeholders and other to offer draft and referenced criteria from other jurisdictions for other ETPs identified in the statute for review by Ecology and stakeholders.
4. Establish the conversion factor for megawatt hours of electricity for those criteria and protocols that have been established, reviewed and agreed to.
5. For those ETPs that do not make this review, hold for future processes that can utilize the process for review established by this initial screening and approval.
6. All ETP investments can and should be reviewed after the fact, by Governing Boards and the UTC respectively, for verification and actual reductions that are counted toward compliance with CETA.

---

<sup>7</sup>RCW 19.405.040(2)