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TACOMA PUBLIC UTILITIES

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300 Desmond Drive SE
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Via Public Comment Form @ ecology.wa.gov

RE: Department of Ecology April 13, 2020, Clean Fuel Program Draft Rule

Tacoma Power appreciates the opportunity to provide feedback on the Department of Ecology's (Ecology) Clean Fuels Program (CFP) rulemaking. We wish to acknowledge the tremendous effort involved to put a CFP in place, and we commend Ecology's rulemaking staff for their significant effort.

Introduction

Tacoma Power is a municipally-owned electric utility that serves approximately 400,000 residents in the City of Tacoma, several surrounding cities, Joint Base Lewis McChord, and parts of unincorporated Pierce County. We serve our customers with 97 percent carbon-free electricity from our own hydroelectric projects and through contract hydropower from the Bonneville Power Administration.

Tacoma Power was an early supporter of legislation to establish a Clean Fuels Program (CFP) in Washington state, and we are very pleased that Ecology is now developing the rules to implement this law. In addition to being an early supporter of the CFP, we were a strong advocate of legislation that clarified the authority of consumer-owned utilities to create Transportation Electrification Plans (TEP) which, with the adoption by their governing bodies, enable customer-owned utilities to promote transportation electrification through programs, advertising, and direct incentives.

[Tacoma Power's TEP](#) was approved in July 2020 and has been guiding our transportation electrification (TE) programs and projects ever since. We believe our experience developing and implementing a robust TE portfolio, which focuses on serving and benefiting vulnerable populations and highly impacted communities in our service area, allows us to offer insight into the development of the CFP rule.

Our comments are intended to align with the Joint Utility letter that has already been submitted. In this letter, we discuss fundamental issues that are relevant to Tacoma Power's unique

circumstances and service area, with the goal of maximizing benefits of TE opportunities to our customers. Next, we offer specific comments, requests for clarification, and questions on the draft rule language made available on Ecology’s rulemaking website on April 13, 2022 (Draft Rules).

I. Principal Issues

1. Keep the implementation of CFP as simple as possible

Tacoma Power shares the CFP’s goals (RCW 70A.535.050) to reduce greenhouse gas (GHG) emissions associated with transportation. To that end, we urge Ecology to ensure that electric utilities are empowered to continue being the driving force behind TE programs and projects that will directly reduce transportation emissions.

We support an ambitious pace to reduce the carbon intensity in transportation fuels to support GHG reduction goals established by the State of Washington, Tacoma Public Utilities, and the City of Tacoma. Given the inherent complexity of this undertaking, Ecology should embrace simplicity where possible, avoid burdensome reporting and verification protocols where feasible, and pursue a user-friendly program that will invite greater participation and accelerate the achievement of the intended benefits of the CFP.

Ecology could consider revisions or additions to the CFP after a few years of experience managing the program. Both California and Oregon have revisited and revised their programs multiple times. We believe it will be better for all stakeholders to start the CFP as simply as possible and adjust the program based on this experience, than to establish an unwieldy regulatory regime that may prove to be unworkable or problematic.

2. CFP revenues should be equitably invested in Washington communities – for utilities and non-utility entities

Washington’s electric utilities have a proven record (and legal requirement) of providing services to all customers. The Legislature established requirements in the CFP statute on how participating electric utilities may invest their CFP revenues in TE projects and programs with a significant focus on serving and benefiting vulnerable populations and highly impacted communities.

Under the CFS statute ([RCW 70A.535.080](#)), utilities are required and committed to deploying revenues in programs and projects in and benefiting Washington state, that reduce greenhouse gas emissions, and that directly benefit underserved communities.

Unlike electric utilities, electric vehicle manufacturers, EV supply equipment (EVSE) owners/operators, and many potential credit aggregators are not subject to regulatory and local community oversight. No oversight body is required to or tasked with ensuring TE programs are developed and administered. Furthermore, these groups are not subjected to stringent review and evaluation or accompanied by robust engagement from stakeholders. Electric utilities have all these processes in place and possess the expertise and presence in their communities to achieve these objectives for their unique and specific communities.

The statute ensures that electric utility revenues generated by CFP credits will be spent in Washington in an additive and accelerative manner. By contrast, non-utility credit generators are not constrained in this way or for this purpose. We are encouraged that draft WAC 173-424-SRR(3)(b)(iv) states:

“A non-utility credit generator must use credit proceeds to benefit EV drivers and their customers and educate them about the benefits of EV transportation (including environmental benefits and costs of EV charging, or total cost of ownership, as compared to gasoline).”

This language, especially “to benefit EV drivers and customers”, should be expanded to require that non-utility credit generators expend all credit revenues within the borders of Washington State on specific TE investments, such as those described in Chapter 317, Laws of 2021, Sec. 4(9)(2), and not limited to marketing and consumer education.

3. The statute specifies that residential credits should go to utilities

All residential charging credits should be assigned to electric utilities. We urge Ecology to adopt rules that are consistent with the statute, which assigns all credits from residential charging to electric utilities. This clarification will recognize the decades of utility and customer investments in clean energy resources and benefits.

Chapter 317, Laws of 2021, Sec. 4(6):

“Mechanisms that allow for the assignment of credits to an electric utility for electricity used within its service area, at a minimum, for residential electric charging or fueling...”

We interpret the law as clearly directing Ecology to create mechanisms to ensure the assignment of credits from residential charging to electric utilities. Residential credits should include those generated from electric vehicle chargers located at:

- Single-family homes,
- Common-interest communities (e.g. homeowners’ associations, condominiums, etc.),
- Multi-family dwelling units, and;
- Public chargers on rights-of-way that are purposefully installed to support residential customers (e.g., Level 2 chargers for EV owners who do not have access to their own garage).

Tacoma Power seeks additional clarity on how direct metering for residential credits impacts the assignment of credits using methodology described in 173-424-CCD (3)(b). While the statute is clear that residential credits go to utilities, we also recognize that the implementation may entail some “netting out” of the total estimated electricity by those who have made specific EVSE investments for local EV use (owners of metered EVSE). The language currently in that section suggests that Ecology will subtract specific residences using direct metering from the utility service area calculation, but the lack of details regarding how this would work is concerning in view of how Ecology is assigning base credits in 173-424-220(7).

Adding to this confusion is who can register as a direct meter technology. Specifically, the residential metered EV charging registrant language found in 173-424-REG(1)(v)(C) indicates vehicle telematics is eligible. However, under the base credit assignment list in 173-424-REG, electric vehicle manufacturers are “third in line.” Based on our current understanding, this language results in credit assignment that is internally inconsistent and programmatically concerning. We would welcome a continued conversation on the mechanics of this interaction between metered and unmetered residential credits.

4. Multi-family dwellings are and should be considered “residential”

As discussed above, EV charging that occurs at multi-family properties should be considered residential. About 28 percent of Tacoma Power’s residential customer accounts are associated with multi-family dwelling (MFD) units. Relatedly, roughly 39 percent of residents in Tacoma Power’s service area are renters. Multi-family properties house utility customers who are often more difficult to reach, primarily due to the lack of authority and incentive to make investments and augmentations to the unit being rented. Including multi-family properties as residential ensures that utilities are incentivized to make EV charging available to multi-family dwelling residents.

As an example, Tacoma Power has completed eight MFD installations, has paid \$116,396 to install 23 charger heads, and has three additional signed agreements for 12 more charger heads with a utility commitment for an additional \$102,145 of incentive spending. This program has proven to be extremely popular and currently has a waitlist of 60 additional multi-family properties. We plan to continue with this program with the current budget providing an additional \$300,000 to \$400,000 in program spending.

Through this pilot, Tacoma Power has learned that many property owners need significant project assistance to understand their alternatives, as well as engineering support to select the best configuration of chargers. Properties in areas identified by the City of Tacoma Equity Index (where properties were eligible for up to 100 percent of approved funding) struggled to find contractors willing to work with them. Several lacked any funds whatsoever to support project expenses. The pilot demonstrated the critical role utilities can fill in overcoming challenges unique to MFD to make EV charging accessible for these customers. For more information, follow this link for program details: <https://www.mytpu.org/community-environment/clean-renewable-energy/electric-vehicles/multifamily-dwelling-ev-charging/>

Tacoma Power recognizes variation in multi-family buildings creates different charging scenarios and the priority should be ensuring that charging in multi-family buildings should be designed to suit the residents, and will vary based on many factors, including level of service, billing structures, and physical access. We would like the opportunity to further discuss how the CFP credit system recognizes these varying situations and administrative complexities, while also continuing to prioritize and incentivize low-income EV adoption and usage.

5. Non-residential EV charging credit generation should allow flexibility regarding who can claim credits

In cases where they own and operate charging infrastructure, both utility and non-utility EVSE owners/operators should have the first claim to CFP credits for non-residential EV charging (including both on-road and off-road vehicles such as forklifts, refrigeration transport units, yard trucks, etc.). If non-utility EVSE owners/operators decline credit ownership, then utilities should be next in line to claim CFP credits.

It is imperative that the rules do not prevent utilities from entering into agreements with customers who generate credits (such as non-residential EVSE owners or operators) that allow utilities to claim credits from those entities' activities for the purposes of managing, banking, expending, or utilizing credits in a manner agreed to by both parties.

To illustrate this point, Tacoma Power's TE Plan directs Tacoma Power to support TE through special rates to encourage EV adoption and to provide substantial technical support to customers. Without this level of engagement and incentive, a project may not be as successful or may not happen at all. We strive to play a crucial role in making electrification projects customer-friendly through education and outreach and customer-focused policies. Tacoma Power hopes to work with these customers to claim CFP credits on their behalf and to leverage the additional funding to provide expanded incentives and support. We believe this CFP credit arrangement would be attractive to many customers, so we want to ensure that the Draft Rules allow this programmatic flexibility.

6. Draft Rules should clarify that electric utility CFP revenues may augment existing TE investments

Our governing board adopted Tacoma Power's TE Plan in July 2020. To accelerate our TE programs, CFP revenues must be available to complement existing TE projects and programs. The Draft Rules should clarify that CFP revenues can be used to augment and expand existing programs, where existing programs have been established. Clarity on this issue in the Draft Rules would give Tacoma Power the ability to expedite and expand on TE investment, leveraging the planning efforts and program development work already done.

7. Rationale for incremental credits is not yet fully convincing

Tacoma Power understands that the CFP statute requires the inclusion of mechanisms to certify electricity that has a carbon intensity of zero and that may allow the generation of credits from activities that support the reduction of GHG emissions associated with transportation. It seems that the creation of "incremental credits" is not the only way to achieve these requirements given the significant amount of complexity, reporting and expense a division of credits would create. We would appreciate further exploration and discussion on this topic.

II. Comments and Questions on the Draft Rules

WAC 173-424-130 – Applicability

WAC 173-424-130(3)(b) refers to a "section 95483.1" when referring to opt-in fuel reporting. Tacoma Power notes that this section reference cannot be found in the Draft Rules.

WAC 173-424-140 – Exemptions

Like Tacoma Power, Tacoma Rail is a department of Tacoma Public Utilities. WAC 173-424-140(2)(a) and (b) is clear that the CFP does not apply to marine and railroad locomotives applications. Nevertheless, the documentation and reporting obligations under WAC 173-424-140(3) may be an overreach given that these fuel uses are expressly exempt from the CFP. In addition, this language may conflict with exempted maritime uses in marine vessels, per WAC 173-424-140(2)(a) and (b).

Maritime electrification is a priority for Tacoma Power, as demonstrated in our TEP and various grant-funded projects underway. Similarly, we are working with Tacoma Rail on the potential for both battery and hydrogen fuel cell locomotives. We recommend that Ecology clarify its rule language to ensure that efforts to lower the carbon intensity of transportation fuels used in maritime and railroad locomotive applications are eligible to generate credits under the CFP.

WAC 173-424-150 General Requirements

Tacoma Power understands and appreciates that WAC 173-424-150(3)(c)(iii) allows a utility to serve as a potential aggregator for eligible, smaller credit generators who may not choose to generate credits if CFP is difficult to participate in or otherwise not accessible. This language also ensures that credits generated by the utility are reinvested on behalf of the credit generator for TE projects and programs that support local and community TE electrification.

WAC 173-424-210 Fuel Reporting Entities for Gaseous Fuels

WAC 173-424-210(2)(e) designates the first hydrogen fuel reporting entities for motor vehicles and forklifts. We note that in WAC 173-424-210(2)(e)(i) the term “motor vehicles” is used. Tacoma Power believes this language does not adequately capture the many other applications for gaseous hydrogen in addition to motor vehicles, including maritime, rail locomotives, and aircraft. We urge Ecology to expand this subsection to allow for additional gaseous hydrogen end uses.

WAC 173-424-220 Designation of Fuel Reporting Entity for Electricity

WAC 173-424-220(4)(b) requires transit entities to obtain approval from Ecology if the transit agency designates its associated electric as the credit generator. We would like to understand Ecology’s intended purpose for this unique approval process, which is unlike any other specified electricity reporting entity. What would Ecology require in such a designation? What should be contained in a transit agency’s written statement, and under what grounds could it be rejected?

WAC 173-424-220(5) identifies a forklift fleet owner as the fuel reporting entity and the credit generator. The Draft Rule specifies that “... the forklift owner must notify in writing to the forklift operator that the owner operator generating credit for the amount of electricity used in the forklifts.” We believe the Draft Rules’ prescriptive assignment of credits could complicate TE program design. Many forklifts are leased; assigning credits exclusively to the forklift fleet owner could pose a challenge to Tacoma Power’s TE fleet programs and incentive options. We recommend that, at minimum, the forklift owner and the leaseholder should be allowed to negotiate who can claim CFP credits as a part of their lease agreement.

In WAC 173-424-220(7)(a)(i-iii), Tacoma Power is grateful for the order of assignment entities who are eligible to receive residential electric vehicle charging base credits.

WAC 173-424-220(7)(b) uses the term “Low-CI electricity,” which is eligible for incremental credit generation. Ecology’s April 13 Draft CFP Rule does not provide a definition for “Low-CI electricity” nor what fuel paths may comprise “Low-CI electricity” as compared to “zero-CI”, and how the potential use of RECs in the CFP to verify “Low-CI” electricity align with requirements under WAC 173-444 (CETA).

We also support language in the Draft Rule assigning a priority to the utility supplying the electricity when multiple requests are submitted for incremental credits in WAC 173-424-220 (7)(b)(iii).

WAC 173-424-SRR – Specific Reporting Requirements

WAC 173-422-SRR(3)(a)(i) references the retirement of eligible REC in the WREGIS tracking system. We would appreciate Ecology’s clarification of the term “eligible RECs”. Is the draft rule referring to the definition in RCW 19.285.030?

WAC 173-422-SRR(3)(a)(iii) requires the annual submission of documentation that vehicle chargers are covered by a Renewable Energy Product or a power purchase agreement that has been approved by Ecology for a carbon intensity. What is meant by “covered by”? It is unclear whether this language is intended to create a connection between electricity supplied to EVs. If so, what are the details of this relationship – a metered or estimated assessment of actual energy delivered, or some after-the-fact accounting? For example, a credit generator could secure a power purchase agreement with a wind generating facility. Is this language intended to set up some relationship between MWh supplied to EVs and MWh generated from a power purchase agreement?

In WAC 173-424-SRR(3)(a), it is unclear how the requirements in subsections (i), (ii) and (iii) interact with the “or” at the end of subsection (i) as well as the “and” at the end of the subsection (ii). What are the intended options under these requirements – is it either (i) or (ii), with (iii) always required, or is it either (i) or both of (ii) and (iii)?

Under WAC 173-424-SRR (3)(b)(i) for non-metered charging, utilities are required to provide “Daily Average EV Electricity Use data” on a quarterly basis, referencing the methodology used in WAC 173-424-CCDFP (which appears not to be included in the Draft Rule) to calculate credits generated for the quarter to be placed into the utility’s account in WA-FRS. We welcome further discussion regarding what comprises this Daily Average EV Electricity Use data. We are concerned that, depending on the data being required, this level of reporting could be burdensome in terms of both staff time and additional expense. It would also be helpful to understand Ecology’s rationale for requiring this data on a quarterly basis.

Draft WAC 173-424-SRR(3)(b)(ii) states “The electric utility *must* provide rate options that encourage off-peak charging and minimize adverse impacts to the electric grid” (emphasis added). This requirement is concerning in that it is potentially broad and burdensome, and it is unclear what kinds of rates or actions might sufficiently satisfy this requirement. Rate options are not the only tool available to utilities to minimize adverse impacts to the grid (e.g., behavioral demand-side

management and distributed resource programs). Tacoma Power has already completed a managed charging study and is in the process of developing a managed charging rate for some customer classes. Nonetheless, we are concerned that these mandates and requirements will impede an electric utility and its governing authority from designing charging rates and other solutions that meet the specific needs and circumstance of their customers.

WAC 173-424-SRR(3)(b)(iii) requires an electric utility to provide the “VIN numbers for each EV claimed and evidence of EV vehicle registration and low-carbon electricity supply at the same location” to claim incremental unmetered credits. We recommend that Ecology revisit this requirement, as the Department of Licensing (DOL) already has VIN and vehicle registration data. It would be far more efficient for Ecology to acquire this information from the Department of Licensing (DOL) and make the necessary calculations than to require each utility to contact DOL for the data and complete their own calculations. It is unclear whether DOL would make this data available to utilities, and if so, whether there might be other requirements made by DOL to safeguard this sensitive information.

Under WAC 173-422-SRR(3)(c)(ii), in order to generate incremental credits for “low-CI electricity” (which is not defined in the current Draft Rules), the incremental credit generator must provide records that demonstrate whether an EV is leased or owned by an individual dwelling at the claimed residence. Once again, this is information that those who register EVs are required to report to DOL. This information should be more easily and securely available to Ecology by collaborating with its fellow state agency. Requiring credit generators to collect and report duplicative information raises privacy and data security issues for any utility or non-utility entity.

WAC 173-424-SRR(3)(d) bundles multifamily charging with other EV charging use cases in a way that does not align with common MFD EV charging arrangements. Under this requirement, an MFD credit generator must report kilowatt-hours dispensed to vehicles for each fueling supply equipment (FSE). Further, FSE for “non-residential EV charging” as described in draft WAC 173-424-REG(h)(iii)(C) would require EV chargers capable of metering, and must be reported separately for every device with its own serial number. This means credit generators developing multifamily residential EVSE installs would have to report all serial numbers for all chargers, and that those chargers must be able to meter energy use. This requirement is onerous and may dissuade MFDs from complying with Ecology’s requirements because many MFD will not have separately metered charging, or may be installed such that multiple chargers are metered by a single meter. Tacoma Power recommends that Ecology consider either removing MFD from this reporting requirement or develop separate reporting requirements for MFD.

WAC 173-424-SRR(3)(f) requires electric forklift charging data at a level of granularity that would cause significant administrative burden, as well as EVSE installation complexity and cost. We also do not understand the required separation by model year 2015. As we interpret this language, each forklift charger would need to have its own metered, networked charger and each forklift would need to use the same charger. In a warehouse setting, it will be difficult to determine which forklift used which charger at all hours of the day. Lastly, we believe there may be an inconsistency with draft WAC 173-424REG(h)(iii)(F) as an FSE can simply be the facility using the forklifts.

WAC 173-424-ASRM Authority to Suspend, Revoke, or Modify

WAC 173-424-ASRM(2) - Tacoma Power notes that there does not seem to be a process to address a non-utility credit generators failure to submit the necessary data associated with credit proceed expenditures as required in WAC 174-424-SRR(3)(b)(iv). As previously discussed, we believe all credit generators should be similarly regulated. We recommend that Ecology add language to provide an enforcement action that applies to non-utility credit generators.

WAC 173-424-DCIE Determining the Carbon Intensity of Electricity

WAC 173-424-DCIE(1)(a), as required by statute, Tacoma Power wishes to emphasize its continued support for calculating a utility's individual carbon intensity based its unique mix of generating resources or an asset-controlling emissions factor certified or approved by a similar program to reduce GHG emissions associated with transportation fuels in another state.

WAC 173-424-DCIE (5), Tacoma Power asks Ecology to review this subsection to ensure that it does not allow for double counting. We recommend that Ecology consults with Green-e to ensure that this subsection meets the requirements of Green-e. We believe this is necessary to prevent the possibility of double counting and ensure that REC investments are eligible for Green-e certification.

WAC 173-424-DCIE (5)(a), Tacoma Power would appreciate clarification of the definition being used for the term "unbundled RECs" in the Draft Rule, and how it compares to the term's use in the Green-e program, and in the Clean Energy Transformation Act. Additionally, we believe that the term "Utility Renewable Electricity Product" is currently undefined and request a clarification of its meaning.

WAC 173-424-DCIE(7)(c), Tacoma Power wished to better understand the type of proof being asked for in this subsection. Again, we encourage Ecology to consult with Green-e to ensure that the program can provide the documentation required by Ecology.

WA GREET Model

We continue to educate ourselves on the WA GREET and we request additional time to provide comments. Of particular interest to us is how the model will treat unspecified electricity wholesale purchases in a manner that is consistent with the Climate Commitment Act.

Tacoma Power appreciates Ecology's effort to develop the CFP implementation rules. We appreciate your time and consideration of our comments and look forward to continued collaboration on this rule.

Sincerely,
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