

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Petition of
Commission Staff for an
Exemption From WAC 480-109-
300

DOCKET UE-200380

ORDER 01

GRANTING EXEMPTION FROM
RULE

BACKGROUND

- 1 On April 24, 2020, regulatory staff (Staff) of the Washington Utilities and Transportation Commission (Commission) filed a petition on behalf of utilities requesting an exemption from WAC 480-109-300 (Petition). WAC 480-109-300 requires Avista Corporation, d/b/a Avista Utilities (Avista), PacifiCorp, d/b/a Pacific Power & Light Company (PacifiCorp), and Puget Sound Energy (PSE) (collectively Companies) to report on carbon dioxide emission through energy and emissions intensity reports (EEI Reports) to be provided to the Commission on or before June 1st of each year. The Petition requests an exemption for the Companies from the requirement that the Companies file EEI Reports with the Commission on or before June 1, 2020.
- 2 Staff consulted with the Companies, the Northwest Energy Coalition, and the Sierra Club prior to filing the Petition and found that there was no objection to the request for an exemption. Staff states that it notified Public Counsel when it filed the Petition.

DISCUSSION

- 3 The Commission may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes.¹ We determine that granting the requested exemption meets each of these requirements.
- 4 Under WAC 480-109-300, the Companies must file EEI Reports with the Commission on or before June 1st of each year. The rule sets forth the required contents and metrics to be calculated by the Companies and provided in EEI Reports, including that “[t]he report must include annual values for each metric for the preceding ten calendar years.”²

¹ WAC 480-07-110; *accord* WAC 480-109-030 (incorporating WAC 480-07-110).

² *Id.*

- 5 Staff argues it would be inefficient to require the Companies to submit EEI Reports this year, by June 1, 2020. Staff notes that the Commission is considering amendments to WAC 480-109 in Docket UE-190652 and that the Commission intends to consider adopting these amendments on June 2, 2020, the day after EEI Reports would be required. Staff asserts that these proposed amendments could render EEI Reports submitted this June “outdated and not reflective of the most recently applicable legislation and rules.” Staff also notes that the Department of Ecology rulemaking on the issue of greenhouse gas content calculations is still pending.
- 6 Staff also observes that the EEI Reports required next year, by June 1, 2021, would capture information from this year.³ Staff submits that granting an exemption for this year’s EEI reports would not pose a burden on the Companies.
- 7 We agree with Staff that the pending rulemaking warrants granting an exemption from WAC 480-109-300. An EEI Report submitted under that rule would not comply with the revised rule the Commission proposes to adopt or the Department of Ecology’s own rulemaking. It would not be an efficient use of the Companies’ or Commission resources to require the reports by this year’s deadline.
- 8 This exemption is consistent with both the public interest, the purposes underlying regulation, and applicable statutes. The 2019 amendments to the Energy Independence Act require that the Companies’s EEI Reports must provide greenhouse gas content calculations in accordance with Department of Ecology rules.⁴ The Commission’s proposed amendments to WAC 480-109 reflect these amendments. Requiring EEI Reports based on soon-to-be-superseded requirements would be of little value, particularly when the information the Companies would provide this year will be included in the EEI Reports they file in 2021 and subsequent years.
- 9 Accordingly, we find that granting Staff’s request for an exemption is consistent with the public interest, the purposes underlying regulation, and applicable statutes.

³ EEI Reports must “include annual values for each metric for the preceding ten calendar years.” WAC 480-109-300(1).

⁴ RCW 19.405.070.

FINDINGS AND CONCLUSIONS

- 10 (1) The Commission is an agency of the State of Washington vested by statute with the authority to regulate rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.
- 11 (2) Avista, PacifiCorp, and PSE provide electric services within the state of Washington and are a public service companies subject to Commission jurisdiction.
- 12 (3) This matter came before the Commission at its regularly scheduled meeting on May 7, 2020.
- 13 (4) Under WAC 480-07-110 and WAC 480-109-030, the Commission may grant an exemption from the provisions of any rule in Chapter 480-109 WAC if consistent with the public interest, the purposes underlying regulation, and applicable statutes.
- 14 (5) Avista, PacifiCorp, and PSE are subject to WAC 480-109-300, which requires the companies to submit EEI Reports to the Commission on or before June 1st of each year.
- 15 (6) Granting Avista, PacifiCorp, and PSE an exemption from filing the annual EEI Reports due on or before June 1, 2020, is reasonable and consistent with the public interest, the purposes underlying regulation, and applicable statutes.

ORDER

THE COMMISSION ORDERS:

- 16 (1) The Commission grants Staff's Petition for an exemption from WAC 480-109-300 and relieves Avista Corporation, d/b/a Avista Utilities, PacifiCorp, d/b/a Pacific Power & Light Company, and Puget Sound Energy from the obligation in that rule to file energy and emissions intensity reports on or before June 1, 2020.

- 17 (2) The Commission retains jurisdiction to effectuate the provisions of this Order.

DATED at Lacey, Washington, and effective May 7, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner