

January 13, 2004

VIA E-MAIL & FIRST CLASS MAIL

Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
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Re: Comments on Puget Sound Energy's Electric Energy Efficiency RFP,
Docket UE-031353

Puget Sound Energy's (PSE) issuance of an energy efficiency request for proposals (RFP) is consistent with the company's integrated resource plan (IRP); with existing state energy policy RCW 43.21F.015(4); and with the widespread call for attention to energy conservation as a resource that was voiced by multiple parties at last June's WUTC IRP rulemaking workshop. We commend PSE on its confident steps toward innovative and wide-reaching conservation acquisitions, and hope that other utilities will follow PSE's example.

We understand that this RFP is a step in a new direction, and accordingly we have some concerns about the way this new step should be taken. We are concerned that the RFP does not adequately recognize the distinction between near-term acquisitions and long-term exploration, that the language restricts the possibilities for long-term exploration, and that the treatment of the penalty clause may discourage otherwise desirable bidders.

Distinguishing between near-term acquisitions and long-term exploration

In conformance with Settlement Terms for Conservation of general rate case UE-011570 (the Settlement), PSE has worked closely with the Conservation Resources Advisory Group (CRAG) to create a reasonable, low-cost portfolio of conservation programs for the 2004-2005 planning period. The RFP, as written, will hopefully attract cost-efficient, technology-based resources, which would be appropriate for reducing costs and/or increasing conservation during this period.

But the RFP instead calls for contract commencement at the beginning of the next planning period, in 2006. An RFP looking forward to the next planning period should instead be exploratory, written so as to attract and uncover new and interesting resources that PSE does not currently have access to, or is unaware of.

PSE can rectify this mixed message by either (1) retaining language similar to the current language, but advancing contract commencement to a much earlier date, during the 2004-2005 period, (2) retaining the 2006 commencement date, but modifying language to attract much more exploratory submissions, or (3) a combination of both of these. The current RFP seems to attempt a combination, but rather than fully committing to both near-term acquisitions and exploratory offers, it discourages immediate acquisitions by focusing on the 2006 commencement date, while simultaneously discouraging exploratory offers through constraining language.

Public Counsel recommends that PSE pursue the combination of short-term acquisitions and longer term exploration. There are ways to create a combination RFP (or even multiple RFP's) that will attract both types of submissions with integrity. This is especially true given PSE's institutionalized distinction between programs and pilots, which provides another useful vehicle for distributing near-term and long-term offers. The content of the near-term acquisitions portion is largely present in the current language of the RFP, or can be augmented per existing, published outcomes in the current IRP, and does not need comment from our part. However, we do have some specific suggestions for the long-term, exploratory portion.

Encouraging exploration

For the 2006-2007 period, PSE can broaden the RFP to allow unexpected innovations by permitting non-material resources, paying closer attention to respondent risk, and staying open to less proven technologies.

Allow for non-material resources

In section 3, "Products Requested," it is stated that "Proposals are to involve installation of equipment and technologies..." and in section 5.6 that "PSE will not accept bids for...education, information or operations and maintenance programs...." We believe that this and other language in the RFP limits the scope of discovery that PSE may achieve through the RFP. Material products that increase energy efficiency are well-known and are already carefully tabulated by the Regional Technical Forum. It is precisely the non-material resources like power management services, administrative systems, educational programs and the like that may provide unexpected, pleasant surprises.

We understand that non-material resources present evaluation, measurement and validation challenges, but the two-year time frame prior to implementation of offerings provides room for PSE to navigate these challenges effectively.

Include respondent risk in evaluation

In PSE's recent RFP for all generation sources, respondent risk is explicitly listed as a criterion in Stage II evaluation, and elaborate requirements for legal & financial reporting in Section 5.4 are included to support the assessment of respondent risk. The inclusion of non-material, service resources in the efficiency RFP would likely lead to offerings that depend on the continuous functioning of the respondent for the duration of the proposed measure life (at least 5 years). Taking respondent risk seriously, as it was in the all-sources RFP, would allow PSE to assign a true and safe measure life to non-material offerings, so that they may be compared on an equal footing with material ones.

Stay open to less proven technologies

The RFP emphasizes that only proven technologies will be accepted, even for the pilot program offerings. We understand that an RFP like this one can attract dubious, conjectural inventions and plans that are of little use to a large utility. However, PSE's broad engineering experience will make such proposals easy to identify and weed out during stage 1 evaluation, so that it is not necessary to discourage them so strongly in the exploratory portion of the RFP. We suggest that with respect to the pilot programs and post-2006 offerings, the RFP's language be loosened so as not to prohibit offerings that may be very effective, but lie outside the conventional wisdom.

Do not discourage bidders with penalty clauses

In the draft RFP PSE prominently states the penalties associated with the Settlement, and implies that bidders can be subject to proportional parts thereof, or to a special "team" penalty for interference with PSE's ability to achieve its own efficiency goals (section 5.7). These threatened penalties are likely to discourage some bidders. We suggest that PSE only assign penalties to the extent that the penalties are no different from those assigned to existing providers, if any.

Just as PSE appreciates clarity from its regulators, we imagine respondents would appreciate clarity from PSE. If the existence of the Settlement penalty clause makes it imperative for PSE to make particularly strong contracts with its providers, we suggest that this be handled with specific, numeric contract language, including an objective and measurable criterion for application of any proposed "team" penalty.

We hope that these comments, if acted upon, will lead to a broadened and enlightened understanding of energy efficiency products and services available to PSE, and that this understanding will inform future opportunities for the utility.

Sincerely,

MATT STEUERWALT
Public Counsel Section
Washington Attorney General