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Via Electronic and United States Mail

June 30, 2014

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Dr. S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

RE: *Puget Sound Energy, 2014 Renewable Resource Report*
Docket UE-140800
Avista Corporation d/b/a Avista Utilities, 2014 Renewable Resource Report
Docket UE-140801
Pacific Power & Light Company, 2014 Renewable Resource Report
Docket UE-140802

Dear Mr. King:

Enclosed for filing in the above-referenced docket are the original and two copies of the Comments of Commission Staff and Certificate of Service.

Sincerely,

PATRICK J. OSHIE
Assistant Attorney General

PJO:klg
Enclosures
cc: Parties

COMMISSION STAFF COMMENTS REGARDING
EVALUATING ELECTRIC UTILITY RENEWABLE PORTFOLIO STANDARD
REPORTS UNDER THE ENERGY INDEPENDENCE ACT,
RCW 19.285 and WAC 480-109
(2014 RENEWABLE RESOURCE REPORTS)

JUNE 30, 2014

DOCKET UE-140800 – Puget Sound Energy
DOCKET UE-140801 – Avista Corporation
DOCKET UE-140802 – Pacific Power and Light Company

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Background

In 2006, Washington voters approved Initiative 937, also known as the Energy Independence Act (EIA). Now codified in RCW 19.285, the EIA created a renewable portfolio standard (RPS) that requires electric utilities with more than 25,000 customers to serve an increasing percentage of their retail load with eligible renewable resources and to file an annual compliance report (RPS report) by June 1 of each year.[1]

In 2014, utilities are required to provide three percent of their retail load from eligible renewable resources. The target will increase to nine percent in 2016 and 15 percent in 2020.[2] In calculating its target, a utility must use its average retail load for the two years prior to the target year[3] (i.e., the 2014 target is three percent of the utility's average load in 2012 and 2013).

RCW 19.285.060(6) charges the Washington Utilities and Transportation Commission (commission) with determining whether investor-owned utilities met their annual RPS target; the commission has adopted administrative rules in WAC 480-109 to implement its responsibilities under the EIA.

In September 2013, the commission opened a rulemaking proceeding, Docket UE-131723, to amend its rules in WAC 480-109. The purpose of the rulemaking is to incorporate legislative changes to the EIA and to update the rules for clarity and consistency with current commission practices and procedures. The rulemaking is also addressing several issues that staff has previously identified with the companies' RPS reports.

When the commission approved the investor-owned utilities' 2012 RPS reports, it adopted a two-step compliance process.[4] This process prescribes that each year, a utility will file a report to calculate its target for that year and demonstrate that it has acquired or contracted to acquire sufficient resources to meet the target. Then, no later than June 1 two years after the initial report, the utility will file a second report that lists the specific generation and renewable energy credits (RECs) that the utility used to meet its target, and requests a determination from the commission that the utility complied with its target.

Washington's three investor-owned utilities – Avista Corporation (Avista), Pacific Power & Light Company (PacifiCorp), and Puget Sound Energy (PSE) – filed RPS reports on May 30, 2014. Staff has reviewed these filings to determine whether they meet the reporting requirements under RCW 19.285.070 and WAC 480-109-040.

In these comments, staff will summarize each company's RPS report and discuss any outstanding issues specific to each company, then briefly discuss the broad issues that are being addressed in the EIA rulemaking that will affect compliance reporting in the future. After

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[1] RCW 19.285.070.
[2] RCW 19.285.040(2).
[3] RCW 19.285.040(2)(c).
[4] Docket UE-120802, Order 01 ¶ 24; Docket UE-120813, Order 01 ¶ 38.

reviewing the comments of other parties, staff will present a recommendation at the July 24, 2014, open meeting as to whether the commission should issue an order in each company's docket finding that the utility met its reporting requirements and accepting the utility's calculation of its 2014 RPS target.

Company reports

In this section, staff summarizes each company's RPS report, including its target and the resources that it plans to use in meeting its target. Generally, a company has four categories of resources that can be used to meet the EIA: incremental hydro, previous-year RECs, target-year RECs, and purchased RECs. The EIA also allows for the application of future-year RECs in meeting a target, but none of the utilities are doing so at this time.

The first category that a utility must look at when determining how it will meet its target is incremental hydropower, because the EIA does not allow for incremental hydropower to generate a REC.[5] Since a REC is required for a resource to be set aside for another year's compliance or traded to another entity, incremental hydro should be viewed as a "use-it-or-lose-it" resource and should be the first resource applied to a utility's target each year. Beginning with a full accounting of incremental hydro resources also ensures that no RECs are unnecessarily retired and the ability to bank or sell them is lost. This includes all incremental hydro generated by the company or acquired from another utility. Depending on the methodology the company has used to calculate its incremental hydropower production, the amount of incremental hydro it claims each year may be fixed or may vary slightly.[6]

The second category of EIA compliance is any previous-year RECs that were set aside for future compliance. The EIA allows for RECs to be used toward compliance in the year they are generated, one year before, or one year after. RECs may not be used in any other year, which means that any RECs left from the previous year will expire if not used in the current year. In summarizing this resource, staff has counted excess RECs that the company created or acquired in 2013 that could be applied to its 2014 target, net of 2014 incremental hydropower generation.

The third category is 2014 bundled RECs.[7] In the summary tables below, staff has estimated the generation from non-hydro resources during 2014, whether company-owned or acquired through a power purchase agreement. Staff has estimated the value of this category by taking the three-year average of each non-hydro facility in the company's renewable portfolio to provide a rough estimate of what production the utility might expect in 2014.

The fourth resource is unbundled RECs.[8] Staff's summary of this category includes the RECs that a utility has purchased from other entities that are available for use toward the 2014 target.

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[5] RCW19.285.030(20).
[6] See the EIA Rulemaking section for additional discussion of incremental hydro calculation methodologies.
[7] A bundled REC is owned by the utility that used the energy associated with that REC.
[8] An unbundled REC is traded independent of its energy component.

The final column in staff's summary tables is the total estimated amount of eligible resources that will be available for the company to apply toward its 2014 target.

Puget Sound Energy (Docket UE-140800)

PSE reported an average load in 2012 and 2013 of 21,173,388 megawatt-hours (MWh), yielding a 2014 target of 635,202 MWh. Table 1 summarizes PSE's 2014 compliance report:

Table 1: PSE's 2014 Renewable Resource Target and Compliance Plan

Company	2014 Target (MWh)	Incremental Hydro (MWh)	2013 RECs	2014 RECs	Purchased RECs	Total Resources (MWh)
PSE	635,202	40,144	595,058	2,144,605	N/A	2,779,807

As Table 1 indicates, PSE has exceeded the EIA's three percent requirement by a wide margin, and is generating about 10 percent of its load from renewable resources. By staff's analysis, the company will not need to acquire additional resources for RPS compliance until 2023 or 2024.

PSE obtains most of its incremental hydropower from company-owned dams Snoqualmie Falls and Lower Baker, which were upgraded in 2013. The company also obtains a small amount from a contract with Grant County PUD. For the company-owned facilities, PSE proposes to calculate its incremental hydro using a one-time calculation based on long-term average water conditions. The company essentially locks its production in at a set annual amount for each facility. However, the company is using a prorated projection for the output from its facilities in 2014, due to issues at each facility that have caused them to operate below capacity in 2014. A summary of each facility's status is available in PSE's current power cost-only rate case.[9]

The vast majority of PSE's renewable generation comes from the company's wind resources. PSE owns six wind facilities and contracts for a portion of the output at a seventh facility. The company is not claiming any new resources in its report.

Staff believes that PSE's initial 2014 RPS report, filed on May 30, 2014, was deficient in three areas. First, PSE did not identify the resources and generation that the company planned to use to reach its target as required by the EIA.[10]

Second, the initial report omitted the company's recently completed incremental hydropower projects at the Snoqualmie Falls and Lower Baker facilities. Staff expressed a similar concern with the company's initial 2013 report, which also omitted those facilities, and PSE filed an amended report to include them.[11] At staff's request, PSE filed an amended report on June 26, 2014, to address the first two issues.

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[9] *Prefiled Direct Testimony (Nonconfidential) of Douglas S. Loreen*, Docket UE-141141, pages 7 and 10.
[10] RCW 19.285.070(1).
[11] Docket UE-131072, Staff Memo, July 26, 2014; pages 1-2.

The third issue staff identified is PSE's requests for determinations of compliance with its 2012 and 2013 RPS targets, which the company included in its 2014 RPS report. This is contrary to the two-step process that the commission adopted in 2012 for determining RPS compliance:

> The Commission agrees with RNP/NWEC and Commission Staff that a two-step process is appropriate for evaluating compliance with RCW 19.285.040(2)(a). In the report it files on June 1 of the target year, 2012 in this case, a utility must demonstrate that it had in hand, as of January 1 of the target year, rights to eligible renewable resources or RECs that are likely to produce the required output for that year. … The utility must file a final compliance report no later than June 1 of the second year after the target year, describing the eligible renewable resources and RECs the utility actually used for compliance during the target year.[12]

The Commission clarified this process in its order regarding PSE's 2013 RPS report:

> To keep these various filings and decisions organized, the Commission will include all filings for a utility's compliance for a given year under one docket number. Accordingly, PSE's compliance with the 2013 target should be made under this docket. Compliance with the 2012 target will be considered under Docket UE-120802.[13]

In emails and face-to-face conversations with PSE prior to the company's filing of the 2014 report, staff reminded the company of this process and asked that requests for determinations of compliance with the 2012 and 2013 targets be filed in those respective dockets. Staff is troubled by the company's disregard of commission orders and staff guidance, and has asked the company to re-file the requests in the appropriate dockets.

Avista Corporation (Docket UE-140801)

Avista reported an average load in 2012 and 2013 of 5,596,132 MWh, yielding a 2014 RPS target of 167,884 MWh. Table 2 summarizes Avista's 2014 compliance report:

Table 2: Avista's 2014 Renewable Resource Target and Compliance Plan

Company	2014 Target (MWh)	Incremental Hydro (MWh)	2013 RECs	2014 RECs	Purchased RECs	Total Resources (MWh)
Avista	167,884	191,235	N/A[14]	323,377[15]	N/A	514,612

[12] *In re Puget Sound Energy, Inc.'s Renewable Energy Target Progress Report under RCW 19.285.070 and WAC 480-109-040*, Docket UE-120802, Order 01, Order Regarding 2012 Renewable Energy Target ¶ 31 (Sept. 13, 2012).
[13] *In re Puget Sound Energy, Inc.'s Renewable Energy Target Progress Report under RCW 19.285.070 and WAC 480-109-040*, Docket UE-131072, Order 01, Order Regarding 2013 Renewable Energy Target page 2 footnote 8 (Sept. 9, 2013).
[14] Avista's contract with Palouse Wind Farm generated more than 350,000 RECs in 2013, but the company met its 2014 target with its incremental hydropower, so it has no 2013 RECs that it can use toward its 2014 target.

As Table 2 indicates, Avista has ample eligible resources – enough to provide about nine percent of its current load. Staff further notes that beginning in 2016, an amendment to the EIA will allow Avista to apply the output of its Kettle Falls biomass facility toward its RPS target. With that addition, Avista is not expected to need any additional resources for RPS compliance until sometime after 2030.

Avista calculates the amount of incremental hydro it produces from company-owned facilities using the same one-time method used by PSE; hence, the company already knows how much incremental hydro generation it will have in 2014.

Avista owns nine eligible hydro facilities and contracts with Grant County PUD for a portion of its incremental hydropower. The company also has a long-term power purchase agreement for all of the output of the Palouse Wind Farm in Whitman County. The company is not reporting any new resources in its 2014 report.

Pacific Power & Light Company (Docket UE-140802)

PacifiCorp reported an average load in 2012 and 2013 of 4,067,293 MWh, yielding a 2014 RPS target of 122,019 MWh. Table 3 summarizes PacifiCorp's 2014 compliance report:

Table 3: PacifiCorp's 2014 Renewable Resource Target and Compliance Plan

Company	2014 Target (MWh)	Incremental Hydro (MWh)	2013 RECs	2014 RECs	Purchased RECs	Total Resources (MWh)
PacifiCorp	122,019	2,526	72,390	77,499	40,371	192,786

PacifiCorp's method of calculating its incremental hydro is based on actual generation, so the 2,526 MWh in the table is a projection. PacifiCorp's portfolio for EIA compliance includes four company-owned incremental hydro facilities, five company-owned wind facilities, a power purchase agreement for a portion of Grant County PUD's incremental hydropower, one power purchase agreement with a wind facility, and one REC-only contract with a wind facility. The eligibility of the resources listed in the company's report was addressed in previous orders in Dockets UE-120813 and UE-131063.

As the report indicates, the amount of eligible energy and RECs directly allocated to Washington under the company's methodology is insufficient to meet the EIA target. PacifiCorp has relied on banked and purchased RECs to meet its current target, and expects to rely heavily on REC purchases for future compliance.[16] Other than some minor solar acquisitions in Oregon, which would not be applicable to the EIA, PacifiCorp does not have any long-term plans to build or

[15] Average of 2013 production and 2014 forecast production for the Palouse Wind Farm, since the facility's first year of service was 2013.
[16] PacifiCorp 2013 Integrated Resource Plan, Docket UE-120416, page 225.

acquire additional renewable resources in the Western Control Area (WCA), which includes Washington, Oregon, and California.[17]

EIA Rulemaking

During the 2012 and 2013 legislative sessions, the Washington State Legislature made a number of amendments to the EIA. In September 2013, the Commission opened a rulemaking proceeding to update its rules based on the statutory changes, incorporate Commission practices that have emerged in orders regarding the RPS reports, and address reporting issues and inconsistencies that various parties have identified since reporting began in 2012.

The Commission shared an informal draft rule with stakeholders on April 9, 2014,[18] and conducted a workshop on May 15, 2014, to receive stakeholder feedback. Staff is working to address stakeholder comments. The commission expects to release a proposed rule later in 2014.

This section will briefly summarize the issues under consideration in the rulemaking that could affect future RPS reports and their current status. The full text of the Commission's informal draft rule is available in Docket UE-131723, in the Notice of Opportunity to Submit Written Comments dated April 9, 2014.

Incremental hydropower calculations

In 2011, the Commission convened a workgroup to identify and, where possible, resolve issues related to the EIA's renewable energy reporting requirements before the first reports were filed in 2012.[19] The group consisted of representatives from Commission staff, the utilities, other state agencies, and stakeholder groups.

One of the group's primary purposes was related to RCW 19.285.030(12)(b), which identifies hydropower as an eligible renewable resource under the EIA so long as it is:

> Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

The workgroup identified three methods for the utilities to use in calculating the share of incremental hydropower produced by upgraded facilities. In general terms, Method 1 is an annual calculation based on actual flow data, Method 3 is a one-time calculation based on historical data, and Method 2 is a hybrid. More specifically:

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[17] PacifiCorp 2013 Integrated Resource Plan Update, Docket UE-120416, page 54.
[18] *Notice of Opportunity to File Written Comments*, Docket UE-131723, April 9, 2014.
[19] The workgroup's proceedings and findings are in Docket UE-110523.

- Method 1 is an annual calculation in which the utility measures the actual generation of the upgraded facility, then runs a model representing the pre-upgrade facility to determine what it would have produced with the same water conditions. The difference between actual generation and the modeled generation is the incremental generation.
- Method 2 identifies a historical period and models both the upgraded facility's output and the pre-upgrade facility's output using the water conditions from those years. The difference between each model's average output is expressed as a percentage; that percentage is applied to the upgraded facility's actual generation each year to determine the incremental generation. For example, if the modeling exercise found that the upgraded facility generated 10 percent more energy, then 10 percent of the energy that the facility generates each year is incremental hydropower.
- Method 3 also identifies a historical period and models what the upgraded facility would have produced over that period versus what the pre-upgrade facility would have produced. The incremental generation is the arithmetic difference between the average of each model's output; this is a one-time calculation that effectively locks in a facility's incremental generation at a set value.

PacifiCorp has adopted Method 2 for its reporting. Avista adopted Method 3; PSE proposes the use of Method 3 in this filing. Since the reporting began in 2012, staff has expressed reservations with Method 3, which as a one-time calculation, would not capture any future variations in stream flow. In response to staff's concerns, the Commission indicated in the 2013 order accepting Avista's RPS target that the company would have to provide an analysis in 2017 showing how much incremental hydropower the company claimed from 2012-2016 using Method 3 and comparing it to what the company would have claimed using one of the other methods. The order also stated that Avista would need to seek the Commission's permission at that time to continue using Method 3.[20]

The informal draft rule issued in Docket UE-131723 would make Method 3 a pilot method that would expire in 2017. Staff envisions that a utility would still be able to seek a waiver from the Commission to use Method 3 by demonstrating that Method 3 is reliable. Staff believes that the Commission's procedural rules allow this kind of flexible approach.

One of the unresolved issues related to incremental hydro methodologies is the proper length of the historical periods required by methods 2 and 3. The 2011 workgroup agreed on a period of five consecutive years, but the Commission asked in the rulemaking whether a longer period might be a better representation of long-term average water conditions. Staff is particularly concerned with the length of the historical period used in Method 3, given its one-time approach. Staff is reviewing the comments of stakeholders in response to the Commission's request and will make a recommendation in the rulemaking. Given that Method 2 has a component based on actual generation, staff may recommend a shorter historical period than what it recommends for Method 3.

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[20] *In the Matter of Avista Corporation's Renewable Energy Target Progress Report Under RCW 19.285.070 and WAC 480-109-040,* Docket UE-131056, Order 01 ¶ 44.

Incremental cost calculations

RCW 19.285.070 requires each utility's RPS report to include the incremental cost of complying with the EIA's renewable resource target. The law defines incremental cost as "the difference between the levelized delivered cost of the eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life."[21]

Staff's comments on the 2012 and 2013 renewable filings took issue with the companies' use of the Mid-Columbia spot market as the non-renewable substitute resource that forms the baseline of the incremental cost calculation. Staff believes that use of the spot market may not satisfy the statutory language that requires a substitute resource to be of "the same contract length or facility life" as the eligible renewable resource.[22]

Furthermore, while all three utilities use the same substitute resource, they employ different methodologies in calculating their incremental cost, which makes it difficult to compare the results. Given the inquiries that the Commission has received from legislators, interest groups and the general public, staff believes that it is in the public interest for the utilities to use a common method to calculate their costs so that policymakers and the public can have a reliable metric for evaluating Washington's RPS.

The informal draft rule issued in the EIA rulemaking outlined a uniform methodology that would explicitly prohibit the use of spot markets as the substitute resource. Staff is working with the utilities and other stakeholders on possible refinements of the informal draft language.

REC bifurcation

The EIA allows utilities to count RECs from certain resources at a higher value when meeting their EIA target. RECs from distributed generation resources may be counted at twice their value;[23] RECs from facilities that used approved apprenticeship programs may be counted at 1.2 times their value.[24]

In Docket UE-111663, PSE requested a declaratory order regarding the treatment of the extra credits from its facilities that used approved apprenticeship programs. The company asked whether it could sell the base RECs generated by the facilities and keep the extra RECs for its own compliance.

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[21] RCW 19.285.050(1)(b).
[22] *In the Matter of Evaluating Electric Utility Renewable Portfolio Standard Reports Under the Energy Independence Act,* Dockets UE-131056, UE-131063, and UE-131072; Staff Comments, July 1, 2013, pgs. 12-15.
[23] RCW 19.285.040(2)(b).
[24] RCW 19.285.040(2)(h).

The commission concluded that the EIA clearly intended for multiplier RECs to be tied to their base RECs, and that the two cannot be transacted separately.[25] The informal draft rule incorporated this order into the rule, and applied its interpretation to the multiplier RECs associated with distributed generation.

Reporting requirements

The informal draft rule incorporated a number of minor procedural changes to how the companies report their RPS compliance to the Commission and what information the reports include. It contained language incorporating the two-step method that the Commission has adopted for determining RPS compliance, which was described above. The draft rule also included provisions that would require the companies that operate in more than one state to explain how they allocate RECs to Washington and require all companies to report the proceeds of the RECs they sell.

Legislative changes

The EIA rulemaking will incorporate changes that were mandated by four legislative amendments to the EIA in the 2012 and the 2013 sessions. Staff discussed the legislative changes in its comments on the 2013 RPS reports.[26] Generally, these changes were related to legacy biomass projects, the use of eligible renewable resources located outside the Pacific Northwest, the treatment of coal transition power, and the treatment of methane capture credits from biogas facilities that also generate RECs.

The Commission received no feedback on how the changes were incorporated into the draft rule.

Conclusion

Staff will review comments filed by other parties in these dockets prior to the July 24, 2014, open meeting. At that time, staff will recommend whether the commission should issue an order in each company's docket finding that the company correctly calculated its 2014 renewable resource target and complied with its reporting requirements.

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[25] *In the Matter of the Petition of Puget Sound Energy, Inc. for a Declaratory Order on the Extra Credtis for Apprentice Labor Provision,* Docket UE-111663, Order 01 ¶ 24-25.
[26] *In the Matter of Evaluating Electric Utility Renewable Portfolio Standard Reports Under the Energy Independence Act,* Dockets UE-131056, UE-131063, and UE-131072; Staff Comments, July 1, 2013, pgs. 7-8.