BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of Amending, Adopting, and Repealing WAC 480-100-238, Relating to Integrated Resource Planning	DOCKET UE-190698

INITIAL COMMENTS ON BEHALF OF THE OFFICE OF THE ATTORNEY GENERAL PUBLIC COUNSEL UNIT

December 20, 2019

I. INTRODUCTION

1 Pursuant to the Commission's November 7, 2019, Notice of Opportunity to File Written Comments regarding Integrated Resource Planning (IRP), the Public Counsel Unit of the Washington State Attorney General's Office ("Public Counsel") respectfully submits the following comments.

II. NOTICE QUESTIONS

Procedural Questions

1. **RCW 19.280.030(1) requires a utility to develop an IRP at least every four years, and, at a minimum, a progress report reflecting changing conditions every two years. The Commission's rules require that investor-owned utilities file a full plan every two years (WAC 480-100-238(4)). CETA requires a utility to file a CEIP for approval by the Commission, informed by its Clean Energy Action Plan (CEAP) which itself is an output of the IRP, every four years. CETA's additional requirements will necessitate a lengthier and more time consuming administrative process for all parties. In the discussion draft, Staff is proposing to require utilities to file IRPs every four years, with a limited progress report every two years.**
    a. **Should the Commission only require a full IRP every four years, with a limited IRP progress report every two years? Why or why not?**
    b. **If the Commission were to require only a progress report every two years, filed two years after the full IRP, which components of an IRP do you think should be updated? Which components do you think only need to be updated every four years?**

2 Given the new requirements in the Clean Energy Transformation Act (CETA) for a four-year filing timeline for the Clean Energy Implementation Plans (CEIP), Public Counsel believes it is appropriate to revise the IRP filing date from every two years to four years and requiring a progress report every two years. We believe that this new change is important for fluidity and coordination between the IRP and the new CEIP and CEAP requirements.

ATTORNEY GENERAL OF WASHINGTON
PUBLIC COUNSEL
800 5TH AVE., SUITE 2000
SEATTLE, WA 98104-3188
(206) 464-7744

3 Regarding the two-year progress report, Public Counsel believes that several components should be updated every two years. First, we believe that the demand side resources, such as the conservation potential assessment, should continue to occur every two years to be cohesive with the biennial conservation planning process. Second, we believe that the load forecast should be updated in the progress report. Finally, an updated resource adequacy requirement must be updated in the progress report. We do not believe that all components of WAC 480-100-610 should be updated, but progress on the other subsections should be included in the two-year progress report. Given that Public Counsel's recommends substantive progress reports, stakeholders should determine the process by which the Commission reviews and comments on the two-year updates.

4 For example, Colorado requires annual progress reports for IRPs filed in the state. The reports are intended to "inform the Commission of the utility's efforts under the approved plan and the emerging resource needs and potential utility proposals that may be part of the utility's next electric resource plan filing."[1] These progress reports include annual updates to the demand and energy forecast, planning reserve margins, resource need, evaluation of existing resources, and a report of the competitive resource acquisition process.

[1] Electric Resource Planning, Reports, 4 COLO. CODE REGS. (CCR) 723-3, § 3618(a), available at https://www.sos.state.co.us/CCR/generaterulepdf.do?Ruleversionid=6403&filename=4%20CCR%20723-3.

2. The discussion draft proposes that a utility must file a work plan at least fifteen months prior to the due date of its IRP, and a completed draft IRP four months prior to the due date. Does this proposed schedule allow sufficient time for a thorough IRP with robust public engagement? If not, please provide a preferred timeline.

5 Public Counsel believes that the proposed timeline is sufficient and allows for public participation. In addition to providing more adequate time for meaningful public participation, filing a draft with the Commission provides more transparency to the IRP formation process and any changes utilities make based on public input or other factors. However, we are open to extending the timeline further if other stakeholders believe it is necessary. We look forward to reviewing other stakeholders' comments.

3. Please describe:

a. An ideal timeline on when a utility files an IRP and a CEIP;

b. The relationship between an IRP and a CEIP; and

c. How the CEAP in the IRP will <u>inform</u> the CEIP.

6 Public Counsel does not currently have a position regarding an ideal timeline on when a utility files an IRP and its CEIP. However, we do believe that the filings should occur at the same time, considering that the CEIP must be consistent with the utility's long-term resource plan and resource adequacy requirements.[2] It is Public Counsel's understanding that the IRP will inform the 10-year CEAP, which will then produce the targets and short-term four-year implementation plan proposed in the CEIP (which will be approved, rejected, or approved with conditions by the Commission in a separate proceeding).

[2] Clean Energy Implementation Plan, RCW 19.405.060(1)(b).

4. The discussion draft proposes holding a public hearing on the draft IRP rather than the final IRP, as has been the Commission's historic practice. One benefit of this proposal is that the utility could make changes to its final IRP based on the feedback it receives from its stakeholders and the public.

a. Should the Commission move the public hearing to a date between the utility's submission of its draft IRP and the final IRP? Is there any other point in time that public comment hearings are most beneficial to public engagement?

b. Given the integration of the IRP, the CEAP, and the CEIP, is there any other point in time that public comment hearings are most beneficial to public engagement?

7 Public Counsel believes that the Commission should hold a public hearing on the draft IRP. At this time, Public Counsel does not have an opinion on the timing of coincidental hearings for the CEAP or CEIP. However, given that these plans are interdependent, one hearing could address multiple plans, but this depends on the process for developing CEAPs and CEIPs. Public Counsel looks forward to continued discussion on this topic.

5. Draft WAC 480-100-615(2) states that a utility must file a draft of its integrated resource plan four months prior to the due date of the final plan. Are there requirements in WAC 480-100-610 that are not necessary or which reduce a utility's flexibility in their preparation of a draft IRP?

8 As indicated in response to Question 2, Public Counsel supports the proposal for utilities to file a draft IRP at least four months prior to the due date. In general, the requirements for IRP content enumerated in WAC 480-100-610 are not unduly prescriptive. Many of the content requirements are either current practice among utilities or are now required by statute. However, there are a few items that may need clarification in order to provide utilities with better guidance.

- WAC 480-100-610(3) establishes the requirements around distributed energy resource assessment and planning. Public Counsel recommends the following change to the

proposed rule: "Utilities shall~~are strongly encouraged to~~ engage in a distributed energy resource planning process ~~and process~~ as described in RCW 19.280.100."

- Proposed WAC 480-100-610(7) is duplicative of WAC 480-100-610(8) and, therefore should be deleted in its entirety.
- WAC 480-100-610(10) states: "The utility must define its cases, scenarios, and sensitivities modeled and examined, including those that are informed by public participation processes." Based on Public Counsel's experience participating in the various IRP advisory groups, the use and definition of the terms "cases," "scenarios," "portfolio," "preferred portfolio," and "sensitivities" can vary from utility to utility. In order to maintain consistency between utilities and eliminate any confusion in interpreting the proposed rules, definitions for each of the aforementioned terms should be included in WAC 480-100-600.
- Proposed WAC 480-100-610(12) describes the components of Clean Energy Action Plans. Generally, Public Counsel supports the content listed in the draft rules. However, we believe the following changes will strengthen the rules for electric utilities to follow as they implement the Clean Energy Transformation Act. To maintain consistency with the statutory mandate for equitable distribution of benefits from the clean energy transition, WAC 480-100-610(12)(c) should be amended as such: "Demonstrate that all customers are benefitting from the transition to clean energy through the equitable distribution of benefits, consistent with RCW 19.405.060(1)(c)(iii)."
- Second, Public Counsel suggests clarifying WAC 480-100-610(12)(g), which would require utilities to "Identify four-year energy efficiency, demand response, and renewable

energy goals." In terms of energy efficiency, utilities are currently required to set biennial conservation goals based on a two-year pro rata share of their 10-year conservation potential assessments. The rules should address whether the energy efficiency goals include the conservation goals of the two-year BCPs in the four-year energy efficiency interim targets within the CEAPs. Finally, proposed WAC 180-100-610(12)(j) should include a reference to the statutory requirement to include the social cost of greenhouse gas emissions in resource planning. The text should read as follows: "Incorporate the social cost of greenhouse gas emissions consistent with RCW 19.280.030(3)."

- Public Counsel supports the requirement for utilities to provide a summary of and response to public comments on draft IRPs in WAC 480-100-610(16). The proposed rule should clarify whether the requirement includes comments offered orally at a public hearing or at an advisory group meeting, or if the requirement refers to written comments filed with the Commission.

6. Historically, the Commission has used an acknowledgment letter with comments to affirm that the utility has met the legal and regulatory requirements for filing an IRP. Given the advent of the CEIP, which is informed by the IRP and approved by the Commission, should the Commission consider a different type of response to an IRP, including but not necessarily limited to a compliance letter, an acknowledgment letter with comments, or Commission approval? Please explain your reasoning.

Public Counsel supports continuing the current practice of acknowledging IRPs and providing acknowledgment letters with comments. Historically, this has served as a way for the Commission to provide constructive feedback, in addition to providing policy guidance for subsequent plans. Furthermore, Public Counsel strongly cautions against Commission approval of IRPs. The primary concern is that Companies would equate Commission approval of IRPs

with pre-approval for resource acquisitions and capital investments. Although IRPs provide well-informed guidance for investments and resource acquisitions, utilities must still monitor current conditions and determine the lowest-cost option to meet resource needs. Signaling pre-approval exonerates utilities from making prudent business decisions over the planning horizon and deviating from plans when circumstances dictate. Furthermore, because RCW 19.280.030(9) prohibits using IRPs as a basis to bring legal action against electric utilities, Commission approval of IRPs could significantly reduce the ability of stakeholders to oppose ratepayer responsibility for imprudent capital investments in the approved resource acquisitions in a litigated context. If approval of IRPs is viewed as pre-approval for resource acquisitions or capital investments, this problem is exacerbated.

Equitable Distribution of Benefits

7. Should the requirements for assessments in RCW 19.280.030(1)(k) and the requirements to ensure all customers benefit in RCW 19.405.030(1)(k) be connected in Commission rules? If so, how might this integration work?

9 Upon review of RCW 19.405.030, Public Counsel does not believe any integration would need to occur.

8. What types of information should a utility provide in its IRP to document that the utility is ensuring all customers are benefitting from the transition to clean energy?

10 In order to fully understand the data and information utilities will need to demonstrate that the benefits of the energy transition are distributed equitably, understanding the terms "vulnerable populations" and "highly impacted communities" is essential. WAC 480-100-600 defines "vulnerable populations" with the following characteristics:

(a) Adverse socioeconomic factors, including unemployment, high housing and transportation costs relative to income, access to food and health care, and linguistic isolation; and

(b) Sensitivity factors, such as low birth weight and higher rates of hospitalization.

11 On the other hand, the definition of "highly impacted communities" is not yet fully determined, given that the Department of Health will be completing the mandated cumulative impact analysis by December 31, 2020.[3]

12 This will require the utilities to use available data from the U.S. Census Bureau and, in particular, the Washington Department of Health's Environmental Disparities. Utilities will be able to leverage this publicly available data to direct investments in particulate reductions and grid enhancements, for example, to segments of their service territory that are considered vulnerable or highly impacted. Describing what investments will be and have been made, in conjunction with this geographic information system (GIS) data, can and should be included in IRPs.

13 Given that the concepts of "highly impacted communities" and "vulnerable populations" are evolving, Public Counsel offers these comments as preliminary in nature and looks forward to continuing conversation with stakeholders to collaboratively develop the criteria for the information utilities will need to provide in their IRPs to demonstrate efforts to equitably distribute energy and non-energy benefits. Furthermore, as we have mentioned in other proceedings before the Commission, we believe that this is a critical topic that requires further discussion and data before draft rules are proposed.

[3] RCW 19.405.140.

ATTORNEY GENERAL OF WASHINGTON
PUBLIC COUNSEL
800 5TH AVE., SUITE 2000
SEATTLE, WA 98104-3188
(206) 464-7744

9. What level of guidance do utilities need from the Commission to implement the equitable distribution of benefits in the IRPs?

a. How should the Commission guide the type of information included in the utility's assessment (e.g. rule, policy statement, or some other method)?

b. How should the Commission guide how utilities incorporate the assessment into the IRP (e.g., rule, policy statement, or some other method)?

14 Public Counsel believes this topic deserves a longer more in-depth discussion before draft rules are proposed. However, we recommend any information or guidance on equitable distribution of benefits should be given through a policy statement. We believe the components of the assessment may be fluid and amendable; thus, we believe a policy statement would offer the needed flexibility for addressing any changes.

10. RCW 19.280.030(9) prohibits using IRPs as a basis to bring legal action against electric utilities. That is, an IRP cannot be adjudicated before the Commission. Considering this statutory prohibition, where and when should a utility report compliance ensuring all customers are benefitting from the transitions to clean energy?

15 RCW 19.405.040(8) and RCW 19.405.060(1)(c)(iii) require utilities to ensure all customers benefit from the transition to clean energy though the equitable distribution of energy and nonenergy benefits and reductions of burdens to vulnerable populations and highly impacted communities. Given the statutory prohibition against using IRPs as a basis to bring legal action against electric utilities, Public Counsel believes that the utility compliance report regarding the benefits should occur outside the IRP. While we agree that the IRP must include the assessment of economic, health, and environmental burdens and benefits,[4] the assessment can and should remain separate from the compliance report associated with ensuring all customers benefit from

[4] Initial Discussion Draft Rules, WAC 480-100-610(9).

the transition to clean energy. If a stakeholder does not agree with a utility's assertion that they have met the statutory requirement to ensure all customers are benefiting from its actions to transition to clean energy, placing the compliance report within the IRP would limit that stakeholder's ability to challenge the utility's assertions. Public Counsel believes that the CEIPs may be a more appropriate location to assess whether a utility is addressing equitable distribution of benefits of clean energy investments, particularly given the CEIP is subject to hearings and Commission approval.

Content of the IRP

11. In the portfolio analysis and preferred portfolio section of draft WAC 480-100-610(11), should the Commission include criteria in the narrative explanation in addition to those listed in subsections (a) through (f)?

16 RCW 19.405.060(1)(c)(iii) Adding "vulnerable populations" to the narrative requirement maintains consistency in the discussion of equitable distribution of benefits and, thus, reduces ambiguity for utilities and stakeholders.

12. Should the Commission provide more specific guidance in these rules on how and where a utility incorporates the social cost of greenhouse gases? See draft WAC 480-100-610(6) and WAC 480-100-610(12)(j). Why or why not?

17 Yes, more specificity would be beneficial for both utilities and their customers. As we have seen in the current IRP development process, the utilities are taking differing approaches for how to account for the social cost of greenhouse gas emissions. For example, some utilities have treated it like a "tax" added into cost consideration and others have built it into the assumed cost of resources as they are run through models and considered for selection. Providing specific guidance into how the social cost of greenhouse gases will provide more consistent portfolio

results across the state. The Commission should continue to engage stakeholders to determine the most effective way to account for these costs in modeling.

13. The draft rules mirror statutory language requiring utilities to assess resource adequacy metrics and identify a specific metric to be used in the IRP, but the draft does not provide any specific guidance to utilities. See draft WAC 480-100-610(7), (8), and (12)(d).

a. Should the Commission address resource adequacy metrics in rule by identifying the scope of allowed metrics or identifying the specific metric utilities should use? Alternatively, should the Commission allow utilities the flexibility to change their resource adequacy requirement to meet current best practices without going through a rulemaking? Please explain why one method is preferred over the other.

18 Rules can highlight various resource adequacy metrics that utilities can choose to include in their IRPs, but should not dictate a single, specific metric to use. Rules should be flexible enough to recognize that best practices in determining resource adequacy will evolve with a changing energy policy landscape in Washington, in neighboring western states, and at a federal level, in addition to the development of new technologies.

b. If the Commission does not establish specific guidelines in rule, it is possible different utilities will use different resource adequacy metrics, which may make effective comparisons among utilities more difficult. If not by rule, should the Commission provide more specific guidelines through another process, such as a policy statement?

19 Public Counsel understands the need for consistency between utilities in measuring resource adequacy. This will not only better ensure that utilities are preparing for the transition in a more uniform way, but will also provide Washington residents with more confidence in the reliable provision of electric utility service. That said, rulemaking is a relatively inflexible process and the Commission should provide a policy statement for utilities to follow. Not only

will this allow utilities to have clear guidance in developing resource adequacy requirements and consistency in measuring resource adequacy, but it also affords the Commission the flexibility it needs to adapt to changes in the policy environment and technology.

14. Should the Commission provide additional guidance regarding cost-effective demand response and load management? See WAC 480-100-610(2)(b) and (12)(e).

20 Yes, Public Counsel believes that the Commission should provide additional guidance to utilities for both demand response and load management. Specifically, the Commission should issue a policy statement on demand response with some of the learnings from ongoing and planned demand response pilots. A policy statement should include programmatic guidance, direction in determining cost effectiveness, and funding mechanisms. For example, Puget Sound Energy's demand response pilot is currently rolled into conservation programs and is funded through the conservation tariff. While this is a workable solution in the short term and for the duration of the pilot, the utility and its customers will need more clarity in determining how demand response will be funded and how programs will operate.

21 Additionally, a policy statement can address concerns around customer privacy and data security related to the implementation and ongoing operation of demand response programs. Permitting utilities to throttle or affect the energy consumption of appliances (i.e. water heaters) raises privacy concerns that should be investigated and addressed by the Commission before utilities roll out demand response on a wider scale.

15. Draft WAC 480-100-610(12) includes a requirement for utilities to identify in the IRP the CEIP's four-year energy efficiency, demand response, and renewable energy goals in the CEAP. This is the only listed requirement of a CEAP that is not in statute. Is it necessary and appropriate for the utility to identify proposed four-year CEIP targets in the CEAP?

22 Yes, we do believe that the four-year CEIP goals should be mentioned in the CEAP in order to have general context regarding the short term and long plans of meeting these goals. However, we do not believe that it is necessary.

III. CONCLUSION

23 Public Counsel appreciates the opportunity to comment on the IRP Discussion Draft. We look forward to reviewing other stakeholder comments and further discussions on these topics. If there are any questions regarding these comments, please contact Corey Dahl at Corey.Dahl@atg.wa.gov or (206) 464-6380.

/S/ Nina Suetake
NINA SUETAKE, WSBA No. 53574
Assistant Attorney General
Public Counsel Unit
800 Fifth Avenue, Suite 2000
Seattle, WA 98104
(206) 389-2055
nina.suetake@atg.wa.gov