

April 18, 2013

Re: Docket A-130355 Rulemaking to Consider Possible Corrections and Changes in Rules in WAC 480-07, Relating to Procedural Rules.

Title: Participant's Experiences Relating to Current IRP Rules

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Thank you for this opportunity to comment on the possible changes to the procedural rules. I would like to comment into problems that I have experienced re the rules and my participation in the IRP Process.

In general State and Local governments grant monopoly status to utilities. In exchange these utilities are regulated in order to prevent abuse of that monopoly status and to prevent extension of that monopoly into new areas of commerce. One would expect utilities to try to stretch their monopoly powers as far as possible, and in turn ratepayers push back in a number of areas against that perceived abuse, including against costs that the utility imposes on human society, both directly via rates, and also indirectly, through abuse of monopoly powers, and via the imposed external costs of environmental damages caused by the utilities choice of generating technology and fuels. WUTC and AG in turn have the role to weigh these two competing forces, allowing utilities a fair profit, and only a fair profit, while at the same time minimizing external costs, including the abuse of monopoly powers and environmental damages raising costs, including existence costs, to human society.

As we have come to understand that traditional utility behavior in burning fossil fuels is extremely destructive to human society, and that this behavior needs to change immediately, one can expect strong pushback from utilities in trying to protect their existing fossil fuel generation from the requirement to change – even if only to avoid or delay recognizing retirement costs. This then leads to a very strong conflict between: those who believe that the on-going preservation of the planet as required for the continued existence human race is a prime legal, religious, and moral imperative, and that being forced as ratepayers by the powers of government to buy a product strongly in conflict with this imperative is highly morally offensive; and conversely the utilities' belief that they should be permitted to continue their "Business As Usual" as they have done for the last 100+ years. This conflict in turn reflects the well-known "Prisoner's Dilemma" aspect of the environmental damages: One solution (supported by ratepayers and by the legislature's findings) says that we must do our part so that the planet and the human race can be saved. The Utilities state the other possible solution to the Prisoner's Dilemma: That the planet and the human race will not be saved, and therefore we should act selfishly to minimize our internal costs and maximize our external costs at the expense of all others. Either position, the utilities' selfish one, or the ratepayers' altruistic one, is entirely self-

consistent: If we believe the planet and the human race can be saved, then they can be saved. If we believe they cannot be saved, then they cannot be saved. But the legislature has consistently found that we need to “do our part” to save the planet and the human race. Does WUTC staff and Commission need to support the legislative findings, or to ignore them? Ignore I-937 as merely coming from the voters, or support it as a statement of law?

The question then becomes what are the rules of “fair play” in this conflict, particularly in the context of the IRP which requires “Public Participation” in creation of the IRP, and which requires consideration of the environmental damages imposed on human society in WAC 480-100-238 (b) “Lowest reasonable cost” means the lowest cost mix of resources determined through a detailed and consistent analysis of a wide range of commercially available sources. At a minimum, this analysis must consider ... the cost of risks associated with environmental effects including emissions of carbon dioxide.’

Again, is “lowest reasonable cost” one that dictates the destruction of the planet and the human race, including our own children and grandchildren? Or which precludes their ability to start their own families, and live healthy and happy lives? And do they have to pay the price for the external costs that we “The Ratepayers of Today” impose on “The Ratepayers of Tomorrow”? Is “Lowest Cost” on a “Pay as You Go” basis, or is it permissible to lower rates today at the expense of making them larger to our children and grandchildren? And what discounting should be used for these future costs/benefits? Utility discount rates, or Societal discount rates?

Below find a list of examples where I believe, as an IRP participant, my utility is not “playing fair” in this conflict, which I would hope would be addressed by the proposed rule changes. By “not playing fair” Utility prevents fair and actual “public participation.”

- Utility’s on-going refusal to permit public discussion within the IRP process of the above-mentioned “cost of environmental effects.” Utility simply asserts that the rule does not apply to them, and therefore they will not permit discussion of the issue during the public participation process. When I attempt to discuss this requirement Utility engages literally in a “shout down” of my attempts to raise the question.
- Using the Administrative Procedures Act to “End-Around” the IRP/RFP process, thereby avoiding public participation, or even public viewing/reading the process.
- Within the APA, refusing to actually produce the public versions of confidential documents “minimally redacted as to only names, places, and planning details” as required by Judge’s Orders, instead submitting “Dummy Documents” which claim to be the required public versions but which instead only contain a header letter followed by a dummy document stating “This document has been 100% redacted.” When the Judge tasked WUTC staff to be on the lookout for these kinds of documentation problems and to raise objections to the submitted evidence if the rules are not followed, staff refuses to do so. Staff refusal to police per Judge’s orders prevents public viewing of required public evidence of what is supposed to be public testimony in a public meeting [since that testimony is prefiled [and then improperly 100% redacted so the public cannot see it at all]]

- Utility on their company website represents to their ratepayers that the company is using Renewables to reduce their CO2 emissions, whereas their IRP documents instead show they are increasing their CO2 emissions by 45%. State legislature says that we should reduce emissions to 1990 levels by 2020, but Utility increases emissions by 45% over 1990 levels instead. Rules should prevent Utility misrepresentation on company websites of actual Utility behavior re emissions, so that ratepayers can be fairly informed of the reality of the situation, and choose to participate in the IRP process, or the political process, as they see fit. Rules should further clarify Utility requirements to contribute to “1990 levels by 2020.”
- Utility assertion that their Renewables Costs is literally 10X larger than industry standards, but are then not willing to produce any documentation supporting that assertion.
- Use of CRAG to avoid public participation in what is supposed to be part of the public IRP process.
- Consistent use/abuse of so-called wink-wink nod-nod “Technical Discussions” by Utility, selected parties, and WUTC staff in order to avoid public meeting laws, resulting in “private settlements” which are then presented fait accompli to Commission without reasonable possibility of public participation, comment, or even public viewing.
- Utility substitution of IRP required “public participation” by instead a “public presentation” where during large blocks of the presentation the Utility denies opportunity for public comment. Utility during these times spends large amounts of time presenting in areas which are not issues of contention in order to “run out the clock.”
- Utility “content censorship” of public participation during the IRP process, denying opportunity to discuss contentious issues, while “running out the clock” spending large amounts of time presenting on issues that are not bones of contention.
- WAC 480-107-035 (3) requires an actual ranking and a summary statement of each RFP project. Utility refuses to produce such an actual ranking when requested, and WUTC staff refuses to require Utility to actually do so.
- Utility presents multiple possible future “scenarios” to IRP participants and represents to participants that Utility considers all such scenarios equally likely. But then in a cover letter to WUTC when submitting the IRP document changes the interpretation of that document by instead stating that the “Business as Usual” scenario is the only one that actually counts.
- IRP document contains no actual required plan of action stating “we plan to retire these resources and we plan to acquire these other resources.” While we understand that plans can change based on RFP opportunities, this does not avoid the IRP requirement that an actual plan actually be produced and clearly documented within the IRP document. A statement “We need X amount of additional generation” is not a plan within the IRP

requirements. A plan would be how does a Utility actually intend to cover those additional generation requirements, including actual retirements.

- Use of APA requirements for participants to have legal representation, in conjunction with only a one-week turn-around allowed on those requirements, to prevent public participation. In turn using the APA to avoid IRP public discussion of contentious resource acquisitions.
- Representation to the public during the IRP process that the Utility has no intention to acquire additional coal resources, followed immediately after that IRP by the Utility using APA to acquire coal resources, bypassing the public IRP process.
- In general consistent over-assertion by Utility that “Everything” is “Proprietary Information” and therefor Utility should not be required to make “Anything” public.

In summary, what I see is that, uniformly, State requirements for public meetings, for public participation in IRP, for actual disclosure of required public documents, and that public meetings actually be held in public and not “behind closed doors” – that these requirements are being consistent ignored and thwarted by Utility, WUTC staff, and by selected parties. I ask that changes in the rules be made, with penalties, to enforce that public meetings are actually public, that public participation in IRP actually be public participation, that documents clearly required to be produced are actually produced, and that WUTC staff actually works to enforce these requirements, and not take “short cuts” intended to prevent public viewing of and participation in contentious issues – under the assumption that somehow WUTC staff and Utilities “Father Knows Best” for the ratepayers and voters and therefor that the required public participation should be uniformly thwarted.

Thank you for your consideration,

James Adcock