

VIA FIRST CLASS MAIL AND E-MAIL

Carole Washburn
Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive SW
PO Box 47250
Olympia, Washington 98504-7250

May 3, 2003

Re: Docket No. UE-030423, request for proposals - electric (WAC 480-107)

Dear Ms. Washburn,

Thank you for the opportunity to provide initial scoping comments on behalf of the NW Energy Coalition with regard to the above-referenced rulemaking docket. The Coalition supports review of the subjects listed on page 2 of the April 18 notice of opportunity to file written comments in this docket. Overall, we support increased specificity in the rules. We suggest the following additional items for review in this rulemaking. We are separately submitting comments on related dockets UG-030312 and UE-030311.

1) Modify the rules to be consistent with designated state and regional energy resource preferences.

WAC 480-107-001 describes the purpose of this chapter in part to “provide an opportunity for conservation and generating resources to compete on a fair and reasonable basis to fulfill a utility’s new resource needs.” We urge modification of this provision to prioritize energy efficiency and renewable energy resources in accordance with state and regional energy policy.

According to RCW 43.21F.010, “The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.” Further, “it is the policy of the state of Washington that: (1) The development and use of a diverse array of energy resources with emphasis on renewable energy resources shall be encouraged; ... (3) The development and use of energy resources shall be consistent with the statutory environmental policies of the state; [and] (4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged, and this conservation should include, but is

not limited to, resource recovery and materials recycling.” (RCW 43.21F.015)
The Pacific Northwest Electric Power Planning and Conservation Act of 1980

requires the Northwest Power Planning Council to prepare and adopt a regional conservation and electric power plan that gives “priority to resources which the Council determines to be cost-effective. Priority shall be given: first, to conservation; second, to renewable resources; third, to generating resources utilizing waste heat or generating resources of high fuel conversion efficiency; and fourth, to all other resources. [§4(e)(1) of the Act, 94 Stat. 2705.]

While an express purpose of the current rule is to enable efficiency, renewables and other generating technologies to compete on a fair and reasonable basis, this purpose does not appear to be fulfilled given the current RFP process. For example, in 2000, a regulated Washington electric utility issued an RFP for generating resources. That RFP allowed bids from efficiency, renewables and other generation. The results: approximately 32 bids from 23 parties, including 8 demand side management, 6 renewable, and 18 other generation sources. The utility pursued a natural gas power plant and 2-4 small demand side programs to meet its assessed needs. For comparison, a non-regulated electric utility also issued an RFP in 2000 solely for renewable resources. That RFP resulted in approximately 62 bids from 39 parties, and the utility purchased approximately 100 aMW of renewable resources. By focusing solely on renewable resources, the utility succeeded in generating more interest from developers and soliciting more options for consideration. Further, the resources that bid were able to compete with each other on a more level basis than if the RFP also had included fossil fuel resources with different resource characteristics.

One option for consideration is a requirement for a utility to issue requests for proposals (RFP) for energy efficiency resources and renewable energy resources first, prior to issuing requests for other generating resources. Such a policy would be in line with state and regional energy preferences and enable clean energy resources to receive fair and reasonable treatment.

2) In addressing the role of risk and uncertainty in resource planning, be specific with regard to assignment of risks.

WAC 480-107-070 requires utilities to rank project proposals according to various criteria, including risks imposed on ratepayers. In particular, “the ranking procedures shall recognize differences in relative amounts of risk inherent among different technologies, fuel sources, financing arrangements, and contract provisions.” We suggest taking the reference to contract provisions a step further to specify, in the case of long-term contracts, which risks the utility (and therefore its ratepayers) will bear and which risks the power provider will bear. For example, who has responsibility for risks related to fuel price volatility, market volatility, carbon and other emissions mitigation, etc. The ranking procedures also should consider the cost to the utility of bearing these risks versus the cost to the utility as a result of the developer bearing these risks.

3) Prioritize consideration of CO₂ emissions mitigation in RFPs for fossil fuel facilities.

WAC 480-107-001 states the Commission’s intent that “bids under these rules shall include the costs of compliance by the project with environmental laws, rules and regulations in effect at the time of the bid and those reasonably anticipated to be in effect during the term of the project.” Section 5 of WAC 480-107-020 echoes that intent. WAC 480-107-070, section 2, lists the minimum criteria used to rank project proposals, including “environmental effects including

those associated with resources that emit carbon dioxide.” We strongly suggest revisiting these provisions to ensure more specificity with regard to how CO2 emissions are considered in project evaluation and selection.

On February 20, Washington State’s Attorney General Christine Gregoire joined the A.G.s from six other states in announcing plans to sue the Bush Administration over its failure to regulate CO2 emissions from the nation’s power plants, claiming that the administration’s current policy regarding CO2 emissions violates the federal Clean Air Act and contributes significantly to global warming. Their intention is to compel the federal Environmental Protection Agency (EPA) to revise national regulations governing power plant emissions. A Gallup poll conducted March 3-5 found that 75% of Americans favor “imposing mandatory controls on carbon dioxide emissions and other greenhouse gases.” Oregon adopted a CO2 standard in 1997 for new fossil fuel facilities. Washington’s Energy Facility Site Evaluation Council already has required CO2 emissions mitigation for several new gas power plants and is in the process of developing a CO2 standard for future plants. The Puget Sound Clean Air Agency, which provides permits for plants smaller than 350 MW in the Puget Sound area, also is developing CO2 emissions mitigation requirements and the Department of Ecology may pursue a related rulemaking. These are indicators of the strong potential for standardized CO2 emissions mitigation requirements for power plants in the foreseeable future. Washington’s electric utilities need clear specific guidelines from the Commission for addressing this issue in RFPs and resource selection processes, including treatment of CO2 emissions mitigation costs, risks and environmental implications.

4) Reexamine provisions related to qualifying facilities.

Several provisions in WAC 480-107 focus on qualifying facilities. These should be reexamined and potentially updated in light of significant changes since the 1980s and early 1990s when the relevant statutes and rules were adopted.

Thank you for your consideration of these comments. A representative of the NW Energy Coalition will attend the stakeholder workshop on June 13.

Sincerely,

Danielle Dixon
Policy Associate