



DATE: July 21, 2020

TO: Chair Danner, Commissioner Rendahl, and Commissioner Balasbas

FROM: Energy Independence Act Rulemaking Team – Andrew Rector, Nikita Bankoti, Kate Griffith, Andrew O’Connell, Deborah Reynolds, Jeff Roberson, Jennifer Snyder, Kendra White, and Jim Woodward

SUBJECT: Energy Independence Act Rulemaking, Docket UE-190652

ATTACHMENTS:

- A. CR-102 Energy Independence Act rules, redline
- B. CR-102 comment matrix

Recommendation

Commission Staff (staff) recommends that the Utilities and Transportation Commission (commission) adopt staff’s proposed edits to chapter 480-109 WAC. Staff also proposes one edit to the rules filed along with the June 5, 2020, CR-102, consistent with this memo and attachment A.

Summary of Rulemaking Process

On October 4, 2019, the commission filed with the Code Reviser a Preproposal Statement of Inquiry ([CR-101](#)) to clarify and streamline the rules in Washington Administrative Code (WAC) chapter 480-109; and incorporate changes to the Energy Independence Act (EIA) found in the Laws of 2017, Chapter 315, and the Laws of 2019, Chapter 288. The commission filed the CR-101 in Docket [UE-190652](#).

The commission issued [draft rule language](#) and a [Notice of Opportunity to Comment](#) along with the CR-101. The notice requested feedback on the draft rules. The commission received responses from 19 stakeholders, including four investor-owned utilities: Puget Sound Energy (PSE), Avista Corporation (Avista), PacifiCorp, and Cascade Natural Gas (Cascade). The [CR-101 comment matrix](#) was posted to the docket on March 30, 2020.

On January 16, 2020, the commission issued a [Small Business Economic Impact Statement Questionnaire](#). The questionnaire received no responses.

The commission held a joint workshop and discussion with the Department of Commerce on January 28, 2020. The workshop addressed four definitions enshrined in the Clean Energy Transformation Act of 2019 (CETA, Senate Bill 5116): energy assistance, energy assistance need, energy burden, and low-income.

On March 27, 2020, the commission filed a Notice of Proposed Rulemaking ([CR-102](#)) with the Office of the Code Revisor, along with [proposed rules](#) and a [Notice of Opportunity to File Written Comments](#). The notice received comments from seven stakeholders, including PSE,

Avista, and PacifiCorp. Based on this feedback from stakeholders, the commission revised the [proposed rules](#).

[On June 5, 2020, the commission](#) filed a second [CR-102](#) and [Notice of Opportunity to File Written Comments](#). At the same time, the commission issued a Notice of Proposed Rule Virtual Adoption Hearing (set for July 28, 2020, at 9:30 a.m.), which explained that the commission will conduct the adoption hearing in this docket via telephone and online only due to the ongoing COVID-19 public health crisis.

Stakeholder Comments and Proposed Changes to CR-102 Rules

The commission received three comments in response to the June 5, 2020, Notice of Opportunity to File Written Comments on the proposed rules included with the second CR-102. Attachment B summarizes the stakeholders' comments from both CR-102 forms, including staff's responses. Staff has reviewed stakeholder comments from the June 5, 2020, CR-102¹, and recommends the following modification to the proposed rules:

1. WAC 480-109-100(10)(a) Low-Income Conservation

Replace the sentence “For purposes of this subsection, “fully fund” may include the agency leveraging other funding sources, in combination with utility funds, to fund low-income conservation projects.” with “For purposes of this subsection, “fully fund” does not prohibit the agency leveraging other funding sources, in combination with utility funds, to fund low-income conservation projects.” (emphasis added)

Conclusion

Staff recommends the commission adopt revisions to WAC 480-109, as shown in Attachment A.

¹ From the comments received from the March 27, 2020, proposed rules, the commission incorporated four non-substantive edits and one substantive edit into the proposed rules issued on June 5, 2020.