September 14, 2020

Mark L. Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
6221 Woodland Square Loop SE
Lacey WA 98503

Re: In the Matter of Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity, Docket UE-190837

The NW Energy Coalition appreciates this opportunity to comment on the specific questions posed by Staff regarding the 2nd Draft rule released August 14th, 2020. We also submit additional comments on parts of the redrafted rules as well as a separate redlined version of the rule itself.

NWEC is generally supportive of the 2nd draft discussion rules. Many of the changes made since the first draft, such as the additional definitions and expanded equity language. Our following recommendations are intended to further clarify the rules.

Responses to Specific Questions

1. *Draft rule WAC 480-107-007 defines repowering. Is the definition clear and do the rules succeed in assuring that a utility's decision to rebuild generation it owns is evaluated on an equal basis with other alternatives available in the market?*

   NWEC is pleased to see the addition of a definition for repowering included in the rules, as suggested by several stakeholders. We request two clarifications.

   In the Summary of Comments on the 1st Draft, staff explained "*The repowering definition is intended **not** to include replacement of individual wind turbines, but is written to include turbine replacement at a hydroelectric facility if doing so extends the physical or economic life of the facility.*" (page 20). It is not clear why a utility owned wind turbine at the end of its economic or useful life would be treated differently than a utility owned hydropower plant at the end of its economic life, if the repowering extended the physical or economic life of the generator. It may well be that a wind turbine at the end of its useful economic life cannot be repowered, but must be replaced, which would clearly then not constitute repowering.

   We would also appreciate some further clarity on what is intended by the qualifier "….The rebuild or refurbishment does not constitute repowering if it is part of …..federal or state regulatory requirements….". Does that mean if the generator was originally built in response to state or federal requirements, any upgrades to that generator would not qualify as repowering, even if limited to the end of life of the generator? Or does it mean any upgrade would not constitute repowering if the reason for the repowering action is because of federal or state regulatory requirement(s)?

We think the rule is clear that a repowering proposal (or other utility proposal) must be treated non-preferentially, as simply one of many other resource choices in an all source RFP. As we have noted before, there will be a variety of resources that will be able to meet part or all of a utility's resource needs. Finding the optimal combination of resources should be the goal of an all source IRP, which requires a fair and effective evaluation of all possible resources, including any utility investment in repowering end-of-life resources the utility owns, per 480-107-024 (1) and (2).

We strongly support the requirements at 480-107-023 Independent evaluator for large resource need or utility or affiliate bid, that any repowering proposals of any size triggers the need for an Independent Evaluator (IE) to oversee the solicitation (480-107-023(1)(b). The rule should be clearer that repowering proposals should always be considered in an all source RFP, not just in an IE monitored RFP, which might not happen if the new need is revealed in the two-year update and is under the threshold that triggers an all source RFP. If an unusual situation or time sensitive opportunity concerning repowering arose outside of the four-year IRP/RFP schedule, the utility could always request an exemption from an all source RFP.

2. *Draft rule WAC 480-107-010(1)(b) requires a utility to issue an RFP if "the utility's two-year IRP update demonstrates a new or unfilled resource need of 80 MW compared to the utility's most recently file IRP". Please provide comments on whether you support or oppose this provision and why?*

We suggest the threshold for conducting an RFP based on new needs discovered in a two-year update of an IRP be 50MW. While the fairest way to acquire resources that lead to the best outcome for consumers would be to require an RFP for *all* resource acquisitions, we recognize that might be burdensome for small resource acquisitions. We view a 50MW threshold as an appropriate compromise to allow limited acquisitions, but larger resource needs to be more rigorously evaluated. We look for assurances that a series of small RFPs under the threshold created in order to avoid an all source RFP, will not be allowed. Similarly, a proposal to repower a utility owned resource should always be assessed by an IE monitored all source RFP, no matter what the size of the repowering project.

We would hope that a utility would not underestimate its resource need by 80MW (50MW) or more in its IRP planning. However, we understand that unforeseen changing circumstances might alter the new resource need in the two-year update. If a utility finds it has a need for a new or unfilled resource(s) in the two-year update, then the utility should conduct a second all source RF, as described at 480-107-010(1)(b), under an IE per 480-107-023(1)(b). Waiting to address the need for two more years, until the next IRP, could delay achievement of the interim targets and possibly the achievement of the standards. Addressing the new need in a timely fashion will help keep the utility on track to meet its targets and minimize "lumpy" acquisition of resources.

As 480-107-010(3) appears to address RFPs other than those required by IRPs or by two-year updates, the last sentence should be corrected.
(3) This section does not preclude utilities from soliciting resources outside of the required all-source RFPs. If a utility issues an RFP or solicitation that is not required in WAC 480-107-010(1) as descrbied in WAC, as described in WAC 480-107-011(3) .

Other Comments on the 2nd Draft Discussion Rules

Definitions 480-107-007
The following are additional definitions or edits of definitions we believe will clarify the rule.

1) "Resource": We would urge the inclusion of a definition for "resource". First, the term is used in several placed in the rule; in the definition of an "all source RFP" and mentioned or inferred in the definitions of "resource need" and "resource supplier"; at 480-107-010 and -011; 480-107-015(6) and (7); 480-107-023(1), -024 and -035; and several other sections.

   Second, the understanding of what constitutes a resource has evolved to include more than just generation. This is clearly stated in the definition of "resource need" at 480-100-605, in the IRP and CEIP draft rules and should be explicit in acquisition rules.

   Since "resource" is defined in 480-100-605 Definitions, it would make sense to align the two sections of rules with the same or at least similar or compatible definition. That could be accomplished by referencing the definition at 480-100-605 or by using the following, which is the same, with acknowledges how "resources" are to be considered in acquisition processes. See our redlines in the attached document as well.

   Resource includes, but is not limited to, generation, conservation, distributed generation, demand response, efficiency, storage and other electrical system actions or programs, ***either owned by the utility or secured by the utility that alone or in combination can be coordinated by the utility to meet system loads.***

2) Indicator: As we noted in our comments on the IRP/CEIP rule, limiting the definition of indicator to an attribute of resources or distribution investments is too narrow to adequately accommodate the broad directives in CETA to consider equity. For example, some appropriate indicators will be process oriented, which are not attributes of resources or distribution investments. It is also too narrow to accommodate resources allowed under 480-107-010(2)(b) Required RFPs allowed resources.

   The Coalition provides the following redline to clarify the definition of "indicator" given the broader application in CETA.

   "*Indicator" means an variable, either quantitative or qualitative, that is used as a representation of an associated factor or quality and shows what that factor is like or how it is changing.*

WAC 480-107-001 Purpose and scope.
See our comments above in response to question 2 on changing from 80 MW to 50MW.

WAC 480-107-015 Solicitation process for any RFP.
We continue to think a utility should be *required* to consult with the UTC and other interested stakeholders during the development of an RFP and its associated evaluation rubric. Early, rather than

later, involvement of other parties results in more effective use of all stakeholders' time. Further, transparency in discussing needs and understanding evaluation approaches at the front end will reduce the need for lengthy explanations later.

The equity requirements of CETA would suggest that posting any RFP should be in several appropriate languages, not just English, and we so note in the redlines at (3) and (4), 480-107-017(2) and at 480-107-020 (3) Informational filing requirements.

At (8), the new language leaves the determination of whether demand response might meet some of the identified resource need to those preparing the RFP. We suggest restructuring the sentence to require that adequate information be provided so that potential demand response bidders can determine to bid or not, for either part or all of the resource need. See redline edit.

WAC 480-107-023 Independent evaluator for large resource need or utility or affiliate bid.
Earlier versions of this section called for an IE for the development and assessment of *any* all source RFP. That requirement has been dropped from the 2nd discussion rule. We strongly urge the reinstatement of that requirement. Utilities that regularly employee IE have testified in workshops that the IE brings multiple benefits to the RFP process. The IE's role should not be limited to only those instances when the utility wants to bid or repower a resource,

Given the changes in format between the 1st and 2nd discussion rules, the correction in the redline reads:
(a) the utility's most recent IRP demonstrates a need for new resources in the next four years, per 480-107-010(1); or

The original language in this section required the IE submit an initial report to the Commission, before reconciling rankings with the utility. We would prefer to see that requirement reinstated. However, if the Commission chooses not to do so, 480-107-023(5)(c) should be edited to explicitly require the IE to rank the bids independently, otherwise it is not clear which rankings the IE is reconciling at 5(h) and better aligns with 480-107-035(4). See our redline.

The Oregon RFP process allows stakeholders to comment on the bids, prior to final report; in this case that would be prior to the final reconciliation of the IE and the utility rankings. Stakeholder involvement has been very successful in Oregon in accelerating the acquisition of renewables at lowest reasonable cost. That same transparency should be offered to Washington customers of IOUs. This results in a draft report that accepts stakeholder comments and a final report. We believe any potential cost is outweighed by the transparency and robustness brought to the procurement process by involving stakeholders and considering their input in the selection of resources.

WAC 480-107-024 Conditions for purchase of resources from a utility, a utility's subsidiary, or affiliate.
Subsection (1) requires a utility to provide a complete assessment of avoided costs, as identified in WAC 480-100-610(13), but that reference appears to now be 480-107-620(12).

WAC 480-107-035 Project ranking procedure.
We appreciate the changes already made to this section, particularly the consideration of risks and benefits to vulnerable populations and highly impacted communities and the requirement to consider the values of additional net benefits not directly related to the specific need requested. Building on that approach, we have suggested some small edits to (1) to make the non-energy benefit assessment a bit more explicit. Those small changes are contained in the redline.

At (5) we suggest a clarification that the summary of bids made available for public inspection on the website include all bids received, including those rejected.

While a utility must file an executed agreement with the Commission within 20 days of executing that agreement, the rules do not establish time limits for the utility to consider all bids and to act or explain why no proposal is adequate. The review of bids should not be a long, drawn out process that might date the costs included in the bids. We suggest the Commission establish a time frame for this phase of the RFP process.

We appreciate the Commission's consideration of our suggestions and thank the staff for their work in getting these rules to this stage.

Cordially,

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