

Invenergy LLC  
1401 17<sup>th</sup> Street  
Suite 1100  
Denver, CO 80202

*Submitted Via UTC Web Portal (www.utc.wa.gov/e-filing)*

September 14, 2020

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

**RE: Docket No. UE-190837; Comments by Invenergy LLC**

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State Of WASH.  
UTIL. AND TRANSP.  
COMMISSION

Dear Mr. Johnson,

Invenergy LLC (“Invenergy”) appreciates the opportunity to respond to the Washington Utilities and Transportation Commission (“Commission”) Notice of Opportunity to File Written Comments, on the Second Draft Purchases of Electricity Rule (“Notice”), Docket No. UE-190837, issued on August 14, 2020.

Invenergy supports the Commission’s efforts to develop clear, workable rules for utility purchases of electricity (“POE”) under the Clean Energy Transformation Act (“CETA”).

#### **Comments on Questions for Consideration**

In the Notice, the Commission specifically requests comments on two questions for consideration. Following are Invenergy’s responses to the two 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?

Comment:

Invenergy strongly agrees that utility decisions to repower or refurbish owned generation should be done on the same basis as decisions to acquire other available resources. We are encouraged to see that the second draft rules begin to provide guidance on how to achieve that requirement.

Reference to Draft Rule:

*WAC 480-107-007 Definitions*

*“Repowering” means a rebuild or refurbishment, including fuel source changes, of a utility-owned generator or generation facility that is required due to the generator or facility reaching the end of its useful life or useful reasonable economic life. The rebuild or refurbishment does not constitute repowering if it is that is not part of either routine major maintenance, federal or state regulatory*

*requirements, or replacement of equipment that does not materially affect the physical or economical longevity of the generator or generation facility.*

Comment:

Invenergy generally agrees with the first sentence of the definition. However, the second sentence provides exceptions that are overly broad. For example, relicensing or renewal of permits for existing utility-owned generating resources often include regulatory conditions that would require the utility to make major investments in order to allow continued use of the resource. In certain circumstances, it would be more cost-effective for the utility to retire the generating resource and replace it with other resources rather than continue making further investments in it under the guise of those investments being required by regulation, either because the replacement resources are not subject to those same regulations or because they are able to meet those regulations at a lower cost than the utility's "repowered" resource.

Suggestion:

Invenergy suggests removing "federal or state regulatory requirements" from the second sentence from the definition of repowering. In conjunction with this change, Invenergy recommends that the Commission develop rules (e.g., for integrated resource planning) regarding utility decision-making when regulatory requirements would require major investments or impose other significant cost increases in order to allow continued use of an existing utility-owned generating resource.

Reference to Draft Rule:

*WAC 480-107-024 Conditions for Purchase of Resources from a Utility, a Utility's Subsidiary or Affiliate*

*(2) In the case of a utility considering repowering a resource in 480-107-024 (1) it must submit its repowering project as a bid in the RFP.*

Comment:

Invenergy agrees with and supports this rule.

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 filed IRP." Please provide comments on whether you support or oppose this provision and why?

Comment:

If a utility's two year IRP update demonstrates an increased resource need of at least 80 megawatts compared to its most recent IRP, and if the timing of the resource need is such that waiting until the utility's next IRP would create unacceptable risks (e.g., for resource adequacy), then the utility should be required to issue an RFP to meet the newly-identified resource need. However, if the timing of the increased resource need is sufficiently far enough into the future to allow it to be

addressed in the utility's next IRP and any resulting RFPs, then it would not be necessary to issue a more immediate RFP.

Suggestion:

Invernergy suggests revising the draft rule to limit the requirement for issuing an RFP following a two-year IRP update only to situations where the timing of the resource need is immediate enough that waiting until the utility's next IRP and resulting RFP processes to fill that need would create unacceptable risks (e.g., for resource adequacy).

### **Additional Comments**

Comment:

To ensure consistency and transparency of utility decision-making in the RFP process, it is important that to the fullest extent possible all bids be evaluated using the same models, assumptions, forecasts and other evaluation methods and data that were used in the utility's most recent IRP. This practice will help ensure that the RFP process is open and fair, and will also assist bidders to make their bids meet the utility's resource need as closely and cost-effectively as possible.

Suggestion:

Invernergy encourages the Commission to include in the POE rules a requirement that, with limited exceptions, each utility must evaluate all bids using the same models, assumptions and data that it used in its most recent IRP. When any changes are needed, the utility should be required to provide to Commission staff, bidders and interested persons clear documentation of the changes and the utility's rationale for making such changes.

Reference to Draft Rule:

*WAC 480-107-024 Conditions for Purchase of Resources from a Utility, a Utility's Subsidiary or Affiliate*

*(3) A utility must not disclose the contents or results of an RFP or competing project proposals to its own personnel involved in developing the utility's bid, or to any subsidiary or affiliate prior to such information being made public. The utility must include in the RFP and notice the methods used to assure that information is controlled and not communicated to its own personnel involved in developing any bid under WAC 480-107-024(1).*

Comment:

Invernergy agrees with and supports this rule. Invernergy also believes that utilities should be required to take affirmative steps to make independent evaluators subject to similar prohibitions on disclosure.

Suggestion:

Invernergy encourages the Commission to add language to WAC 480-107-24 (3) requiring utilities to prohibit independent evaluators from disclosing the contents or results of an RFP or competing

project proposals to the utility's personnel involved in developing the utility's bid, or to any subsidiary or affiliate prior to such information being made public. This prohibition should be included in the utility's contract with any independent evaluator and should identify procedures for controlling the information to protect it from disclosure. The contract should also impose monetary penalties if the independent evaluator fails to properly control the information.

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Invenergy looks forward to further participation in the Commission's POE rulemaking activities.

Sincerely,/s/ Orijit Ghoshal

Orijit Ghoshal  
Senior Manager, Regulatory Affairs  
Invenergy LLC  
[oghoshal@invergyllc.com](mailto:oghoshal@invergyllc.com)  
303-800-9340