



September 14, 2020

Mr. Mark Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
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Re: Climate Solutions comments on second draft rules on Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases Electricity, Docket UE-190837.

Dear Mr. Mark Johnson,

Climate Solutions thanks you for the opportunity to submit comments and recommendations on Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity, UE-190837. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is at the center of the movement as a catalyst, advocate, and campaign hub.

A clean and efficient grid serves as the foundation of deeply decarbonizing Washington's economy and achieving science-based greenhouse gas limits. It is important that as utilities engage in profoundly restructuring their system and many of their operations to reflect the new public interest criteria incorporated within the Clean Energy Transformation Act ("CETA") that the Commission provide both the ability to move swiftly as well as ensures robust accountability to customers, stakeholders, and legal obligations. We're supportive of the Commission's proposed rule, but note some improvements below.

I. Response to Commission 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?*

Climate Solutions supports the inclusion of a definition for the term "repowering" and appreciates the Commission's addition in this regard. In response to comments from stakeholders, Staff states that the intent of the definition is to cover instances where a replacement "extends the physical or economic life of the facility". We agree that this is the correct standard to evaluate whether a given capital project should be considered repowering, but we do not believe the provided definition accurately matches this intent.

The test provided in the rules instead states that a repowering occurs only when a "generator or facility [reaches] the end of its useful life or useful reasonable economic life". In the event, then, that a project takes places *before* such time it would not appear to meet the provided definition. We recommend instead amending the definition to track more closely with language Staff provides in comment responses:

“Repowering” means a rebuild or refurbishment, including fuel source changes, of a utility-owned generator or generation facility that ~~is required due to extends~~ the generator or facility’s ~~reaching the end of its~~ useful life or useful reasonable economic life.

This modification removes the temporal limitation on the project, focusing instead on the long-term impact of the project on a resource’s expected lifespan.

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?*

While Climate Solutions’ strong preference is restoring the original rules’ 50 MW threshold for RFP issuance, we do support the requirement to issue RFPs if a new resource need is identified during the biennial IRP update. Omitting such a requirement could result in a utility needing to rush an RFP after the full IRP two years later, or acquiring a resource without the benefit of an RFP.

However, we note that the previous subsection provides a time delimitation for when a resource need must appear in the IRP in order to compel RFP issuance—RFPs must be issued if a utility identifies a resource need within four years. This subsection, however, omits this time limit. The written text therefore appears to require issuance of an RFP no matter when the utility identifies a resource need during its IRP update, even if this need is far out into the future. Climate Solutions recommends adopting the four-year limitation present in (a) into (b) as well.

Finally, we recommend extending the same requirements for RFPs issued following full IRPs to those issued following the IRP update. WAC 480-107-017(1-2) provides certain timeline and reporting requirements for RFPs issued under WAC 480-107-010(1)(a) – full IRPs – but not those issued under WAC 480-107-010(1)(b). We recommend generalizing the language under these two subsections to apply to both required RFPs.

II. Additional Comments

“Subsidiary:” The Commission’s draft rules envision requiring an independent evaluator in the event that a utility’s RFP includes bids from which the utility stands to benefit, including bids from subsidiaries that include a purchase option. This is a necessary protection for customers and we support its inclusion. However, a utility’s self-interest is not limited to situations where a utility controls a bidder. In the event that a company that otherwise meets the definition of subsidiary bids into an RFP process, the utility will benefit from selecting that proposal regardless of whether the utility does or does not have control over this bidder. The issue at hand is financial interest, not corporate control. For this reason, Climate Solutions recommends removing the last sentence in this definition, instead focusing only on whether the utility is a financial beneficiary of that entity as provided in the first part of the definition.



"Subsidiary" means any company in which the utility owns directly or indirectly five percent or more of the voting securities, and that may enter a power or conservation contract with that electric utility. ~~A company is not a subsidiary if the utility can demonstrate that it does not control that company.~~

Circumstances requiring an independent evaluator: We're disappointed to see the Commission substantially reduce the circumstances in which an independent evaluator is required. We agree strongly with the Commission's statement that an independent evaluator should be required for situations "where the utility has a financial self-interest". This is certainly the case when a utility is acquiring from a subsidiary, but it is also true in any circumstance where a utility ultimately owns or has an option to own the resource and therefore earn a rate of return on it. For this reason, we strongly prefer the original construct that required utilities to retain the services of an independent evaluator for resources above a certain size threshold. We recommend that said threshold be restored and set at 50 MW.

Incorporating job creation and job quality criteria in RFPs: Job creation and the quality of those jobs is a central part of CETA. The law's intent section includes three separate references to jobs – "maximization of family wage job creation" (subsection (2)), "creat[ion of] high-quality jobs in the clean energy sector", and a declaration that the "transition will contribute to job growth in Washington" (subsection (4)). As the implementing agency, this goal should not be secondary for the Commission. To accurately reflect this clear direction, the Commission should require that RFP bids, in addition to reporting on electricity and equity criteria, incorporate information about job creation statistics, including both numbers of jobs and job quality criteria. These criteria should then be reflected in the ranking criteria adopted by utilities in evaluating bids.

We recommend the addition of a new subsection (3) under WAC 480-107-025:

~~(3) The RFP must request information identifying the bidder's past performance in utilization of the office of minority and women's business enterprises certified businesses to the extent permitted by law, the bidder's past performance in utilizing veteran-, and disabled-owned businesses, a bidder's intent to follow the labor standards established in rules pursuant to RCW 82.08.962 and RCW 82.12.962, number of jobs created and over what duration and other information necessary to ascertain economic and job impacts.~~

Include additional criteria as part of RFP bid ranking process: CETA in its intent and throughout the binding sections broadly pursues three aligned but distinct goals—environmental benefit through clean energy deployment, deeply incorporating equity within utility planning, and expanded economic opportunity for Washington workers. The RFPs and their evaluation process should reflect all three of these criteria. We appreciate that the project ranking procedures identified in WAC 480-107-035 include "risks and benefits to vulnerable populations and highly impacted communities" but we note the conspicuous absence of both job benefits and environmental evaluation. We urge you to correct this deficit.

(1) At a minimum, a utility's RFP ranking criteria must recognize resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, credit and financial risks to the utility, the risks imposed on ratepayers, public policies regarding resource preference and



requirements adopted by Washington state or the federal government, including environmental effects inclusive of but not limited to those associated with resources that emit greenhouse gases. The ranking criteria must recognize differences in relative amounts of risk and benefit inherent among different technologies, fuel sources, financing arrangements, and contract provisions, including risks and benefits to vulnerable populations and highly impacted communities, a bidder's intent to follow the labor standards established in rules pursuant to RCW 82.08.962 and RCW 82.12.962, and other job quantity and quality criteria. The ranking criteria must also be consistent with the avoided cost methodology developed in the integrated resource plan the utility uses to support its determination of its resource need. The utility must consider the value of any additional net benefits that are not directly related to the specific need requested.

Order of CEIP/RFP: The current rule proposal envisions RFPs flowing from resource needs identified in integrated resource plans. In order to ensure proper approval procedures are followed before the issuance of an RFP, Climate Solutions recommends that the Commission require the RFP be tied to an approved CEIP. While the IRP takes a broader look at planning for resource needs over a 20-year time horizon, the CEIP will identify specific resource procurement needs necessary to meet the utility's load and comply with the specific and interim targets as adopted by the utility over a four-year time horizon. The four-year CEIP will identify specific targets and interim targets before going through a formal approval process, which should be required prior to issuing an RFP. This order of operations will help avoid a situation in which a utility begins an RFP process on an implementation plan that has not been formally approved, and then must redraft the RFP in the event that the CEIP must be amended to receive approval by the Commission. While we recognize that the current sequence may in some scenarios result in faster procurement than the order we recommend, we believe that in the long term it will be more efficient to hold RFPs until implementation plans have been completed and received final approval.

III. Conclusion

Thank you again for the opportunity to provide comments and recommendations on the Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity. We look forward to continuing to engage with you as this process moves forward.

Sincerely,

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