



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

September 14, 2020

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

Dear Mark L. Johnson,

Thank you for the opportunity to submit comments and answer questions on the direction of the rulemaking for the Purchase of Electricity, Docket UE-190837.

Front and Centered is a statewide coalition of organizations and groups rooted in communities of color and people with lower incomes. Our mission is to advocate for and represent these communities in connection with economic and environmental change, because communities of color and people with lower incomes are the first hit by extraction, pollution, and climate change, which exacerbates existing health and economic disparities. Frontline communities are often left out of or are the last to be included in the transition to a healthy, resilient, and sustainable future. We are committed to an equitable transition to a clean energy future based on principles of restorative, procedural, and distributive or structural justice.

In carrying out our mission, we comment here in approval of the provisions for open, inclusive, transparent and just RFP process in the CETA rules on Purchase of Electricity, Docket UE 190837. We also comment in favor of strengthening the mechanisms for protecting the equity interest at the heart of the pursuit of the lowest reasonable cost options to meet resource needs. The Commission will recognize the features of our Benefits for All framework for energy equity: restorative justice, meaningful participation, adequate reporting, and accountability mechanisms. Our review of the second discussion rules is conducted with reference to these four elements and with the expectation that the rules will provide substantial and actionable channels for fulfilling the legislative mandate to ensure that all customers are benefiting from the transition to

clean energy. This mandate requires clear direction to utilities on their procurement processes. Without this direction, it is possible that equitable distribution considerations stop at the planning phase. The Commission must retain and further fortify the regulation of acquisition of electricity to (1) meet an expansive definition of resource need, (2) through an all-sources bidding process, (3) communicated to potential underrepresented bidders through targeted outreach, (4) in a solicitation with accessible language and inclusive criteria, (5) that encourages a diversity of resource types for a mixed portfolio, (6) centers clear equity standards in line with CEIP obligations, and (7) is evaluated by independent interveners applying clear rubrics, (8) finally concluding with a thorough justification of selection and rejection decisions, (9) reported in a transparent manner.

RFP Requirement – restorative justice in equitable distribution standard for resource need

Front and Centered highly approves of the Commission’s inclusion of an equitable distribution standard in the rules for all-source RFPs, which “must allow resources that provide a subset of the characteristics or attributes of the resource need, including but not limited to unbundled renewable energy credits, conservation and efficiency resources, demand response or other distributed energy resources, regardless of ownership structure, or other resources identified to contribute to an equitable distribution of energy and nonenergy benefits to vulnerable populations and highly impacted communities.” [WAC 480-107-010(2)(b)]. CETA’s equity mandate is advanced substantially by a more expansive and inclusive understanding of resources and resource need which will allow for the diversification of participants, particularly from underrepresented groups, for a just transition. We strongly recommend that further action for engaging new ideas, alternative and community-based renewable sources, and multi-resource portfolio building be required of utilities.

Solicitation - Reasonable Efforts to Reach Underrepresented Bidders

Front and Centered appreciates the rules supporting meaningful communication of solicitations by utilities. While an open and inclusive bidding process does often result in competitive pricing favorable to cost considerations, it is also valuable for expanding the marketplace of ideas for how to approach this fundamental concern in 100% clean energy goals – the need to acquire 100% clean energy. This aspect of the RFP system allows for the best resource options to be considered in competition as well as in complement, when diverse participants propose responsive resource solutions that may fit together in a mixed portfolio.

Having diverse participants in an RFP bidding process also furthers the meaningful participation element of energy equity. That utilities must conduct outreach to potential underrepresented bidders is a constructive feature of the solicitation rules because it imposes a positive obligation on utilities to put effort into making the RFP bidder pool more diverse and inclusive. Yet that effort is codified at a “reasonable” standard, which can be vague. A utility publishing the solicitation on their website and informing suppliers already known and familiar to them would not qualify as a reasonable outreach

effort. We recommend that Commission require that utilities direct solicitations to underrepresented bidders explicitly outside of the network of suppliers they already work with. This may include non-traditional corporate entities, such as community-based suppliers with alternative structures for access to and ownership of energy sources. It should be required that utilities actively engage in capacity-building measures to support potential bidders to meet the competitiveness criteria to meet the “reasonable effort” standard.

Evaluation Criteria – Equity Indicators

Utilities should be required to align their procurement process with their Clean Energy Implementation Plan and specifically with the indicators required under WAC 480-100-640 (4)(f)(iii)(g). Solicitations should require sufficient information from resource suppliers related to the indicators. The indicators should inform an equity impact analysis of the potential supply channels and should be used in evaluating proposals, as it ties directly to demonstrating progress on the indicators WAC 480-100-640 (4)(f)(iii)(g).

Evaluation Criteria – Lowest Reasonable Cost

Equity is a necessary element in the calculus of lowest reasonable cost and must be considered as an RFP bid evaluation criterion in the selection of the winner. We are strongly in favor of the rule that utilities must analyze the equitable distribution of the resource mix selected to meet the resource need of customers at the bid review stage. Under WAC 480-100-605 “analysis of the lowest reasonable cost must ... include[e] a demonstration that the mix of resources will be clean, affordable, reliable, and equitably distributed.” Reaffirmed in WAC 480-100-615, the purpose of the IRP is to ensure the “lowest reasonable cost mix of conservation and efficiency, generation, distributed energy resources, and delivery system investments to ensure the utility provides energy to its customers that is clean, affordable, reliable, and equitably distributed.” Utilities must secure an assessment of the projected equitable distribution of resources per competitive bid.

Evaluation - Transparent decision-making and reporting on process

Front and Centered agrees with the rules to require a utility-funded independent evaluator to review bids when the utility is a participant in the bidding process. Mandatory Commission approval of the IE should be based on that evaluator’s complete independence from the utility, knowledge of energy procurement and equitable resource management, and competency to provide a fair and proper evaluation.

Restorative justice is present in the rules requiring that utilities allow bids of different types of resources that may fill a resource need. A diversified resource mix provides for innovative and responsive technologies for energy need management. And it allows for a

more diverse group of suppliers to participate in the broader, interconnected energy system, including highly-localized smaller and community-based renewable sources. Meaningful participation is advanced through an accessible and inclusive solicitation opportunity. The rules provide for adequate reporting to a degree in requiring that utilities file a summary report responses to losing bidders, a report that includes bidder information about the “(g) number of bids received by location, including locations designated as highly impacted communities; [and] the (h) number of bids received and accepted by bidder type, including women-, minority-, disabled-, or veteran-owned businesses” (WAC 480-107-145). The rules provide several mechanisms besides these reports for the Commission to hold utilities accountable, or at least review adherence to the rules prior to granting significant approvals along the way. Front and Centered strongly urges the Commission to retain and enhance a strong and pro-equity regulatory posture in the finalization and future development of Purchase of Electricity rules and oversight.

We appreciate the Commission’s effort to embed equity considerations into the Purchase of Electricity rules, and we look forward to supporting the development of further guidance from the Commission on an equity-oriented definition of ‘underrepresented’, data collection on supplier diversity, facilitating utility engagement in capacity-building for community-based energy generation, and other procurement-related equity opportunities.

Thank you again for the opportunity for us to submit our comments on the second discussion draft of the Purchase of Electricity rules. If you have any further questions, need further clarification or additional information, please do not hesitate to reach out to me at deric@frontandcentered.org and via phone at (206) 422-2597.

Sincerely,



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