

Docket No. UE-190652 - Vol. II

**Rulemaking to amend the Energy Independence Act
(EIA) WAC 480-109**

November 6, 2020



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BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

RULEMAKING TO AMEND
THE ENERGY INDEPENDENCE ACT
DOCKET NO. UE-190652

VIDEOCONFERENCE ADOPTION HEARING, VOLUME II

Pages 30-42

November 6, 2020

9:30 a.m.

Lacey, Washington 98503

REPORTED BY: CRYSTAL R. MCAULIFFE, RPR, CCR, #2121

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A P P E A R A N C E S

COMMISSIONERS:

DAVE DANNER, Chair
ANN E. RENDAHL, Commissioner
JAY BALASBAS, Commissioner

COMMENTS OFFERED BY:

ANDREW RECTOR, Regulatory Services
ANN PAISNER, Public Counsel
JONI BOSH, NWEA

* * * * *

1 LACEY, WASHINGTON; NOVEMBER 6, 2020

2 9:30 a.m.

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4 CHAIR DANNER: Let's begin. Good morning,
5 everyone. And thank you for being here today. Today is
6 Friday, November 6, 2020. And this is a meeting of the
7 Washington Utilities and Transportation Commission to
8 consider adoption of rules in Docket UE-190652. And
9 today we're going to be considering rule changes that
10 require changes to the Energy Independence Act that was
11 enacted in 2006 and that are required because of changes
12 brought about by the Clean Energy Transformation Act in
13 2019.

14 I'd like to say -- first, let me say I'm
15 joined by colleagues, Commissioner Ann Rendahl and
16 Commissioner Jay Balasbas who are also on the line.

17 So unless my colleagues have any opening
18 statements, I would like to turn it over to Andrew
19 Rector.

20 Any -- any comments from my colleagues?

21 COMMISSIONER RENDAHL: I have no comments.
22 No.

23 COMMISSIONER BALASBAS: No comments from me
24 either.

25 CHAIR DANNER: So let me turn it over to

1 Andrew Rector on the UTC regulatory staff who has been
2 working with the team in developing these rules.

3 Andrew, go ahead and give us a summary of
4 the process so far.

5 MR. RECTOR: Sure. No problem.

6 Thanks Chairman. Thanks Commissioners.

7 And just as an FYI, I have begun recording
8 this adoption hearing.

9 So I am an Andrew Rector. I'm with
10 Regulatory Services. I've been heading up the EIA
11 rulemaking for the last year and change.

12 A little bit of housekeeping for everyone
13 before we continue. Please make sure to mute yourself
14 if you're not talking. You can do so if you're using
15 the mute button on Teams. If you are calling in by
16 phone, please just use the star-six function on your
17 phones to mute and unmute yourself. If someone's phone
18 is not on mute and we hear noise coming through the
19 line, we will put you on mute from our end and you won't
20 be able to speak unless you call back in.

21 So before I go any further, I just want to
22 once again thank all of the superb rulemaking team that
23 I've been working with throughout this process and
24 without whom these proposed rules would not exist. And
25 they include Andrew O'Connell, Deborah Reynolds, Jeff

1 Roberson, Jennifer Snyder, Jim Woodward, Kate Griffith,
2 Kendra White, and Nikita Benkoti.

3 And then I would also like to thank all of
4 the stakeholders who have stuck through it -- stuck with
5 us throughout this rulemaking and provided a lot of
6 great comments for us to chew on.

7 So to review the process. The rulemaking
8 came about after the passage of the Clean Energy
9 Transformation Act or "CETA," in the last -- in the 2019
10 legislative session. CETA included a number of changes
11 to the chapter of the Revised Code of Washington that
12 contains the EIA which is Chapter 19.285. And staff
13 undertook the rulemaking to incorporate those edits into
14 Washington Administrative Code Chapter 480-109, which
15 houses the EIA and also to make a few other updates to
16 the WAC.

17 We kicked off the rulemaking with a CR 101
18 and draft rules about a year ago, October 2019. The
19 draft rules elicited 19 sets of comments from
20 stakeholders. And then after a January technical
21 workshop to consider how to incorporate a number of
22 definitions from CETA, the UTC released a CR 102 form
23 and proposed rules in late March of 2020.

24 The CR 102 received comments from seven
25 stakeholders; including Avista Corporation, PacifiCorp,

1 Puget Sound Energy, Public Counsel, The Energy Project,
2 the Northwest Energy Coalition, and Front and Centered.

3 From that set of CR 102 comments, the
4 Commission made several non-substantive edits and one
5 substantive edit to the proposed rules. Those rules
6 were incorporated into a second CR 102 that was filed in
7 early June of 2020. And that CR 102 led to three sets
8 of comments. They came from Puget Sound Energy, The
9 Energy Project, and the Northwest Energy Coalition.

10 The Commission then held an adoption hearing
11 in this docket on July 28, 2020. At that adoption
12 hearing, two stakeholders expressed concern with the
13 proposed language in WAC 480-109-200(2).

14 After discussion with stakeholders, the
15 Commission addressed these concerns by deleting the
16 controversial rule language from the proposed
17 subsection. This required a third CR 102 which was
18 filed on September 1st of 2020.

19 Avista -- Avista and Public Counsel
20 responded with comments but did not propose any
21 additional amendments to the rules.

22 So in conclusion, staff recommends that the
23 Commission adopts the proposed changes to WAC 480-109.
24 And that ends my comments. I and the rulemaking team
25 are available for questions now and throughout the

1 hearing. Thanks.

2 CHAIR DANNER: All right. Thank you very
3 much, Andrew.

4 Are there any questions for Andrew or for
5 the rulemaking team from the Commissioners?

6 Okay. Let me then turn and get the public
7 comments. Let me start by asking, Public Counsel, are
8 you on the line? Do you wish to make any comments
9 today?

10 MS. PAISNER: Yes. This is Ann Paisner
11 here. I'm an Assistant Attorney General with the Public
12 Counsel unit of the Washington State Office of the
13 Attorney General. And on the line with me today is
14 Corey Dahl, who's a regulatory analyst at Public
15 Counsel.

16 We would like to, again, express
17 appreciation for this process, and thank the Commission
18 for the opportunity to provide comments today.

19 And also on the record regarding the
20 September 1st notice proposing to delete
21 480-109-200(2)(a).

22 We would just like to express our
23 appreciation and also express our support for this
24 proposed deletion. In particular, we believe this
25 proposed deletion will promote clarity in the rules and

1 also clarify the ability that utilities can minimize
2 costs that would be passed on to the customers for
3 satisfying the EIA RPS requirements for our target year.

4 But also in that September 1st notice
5 proposing this deletion, it did not propose any other
6 changes to the draft rules. So we're not providing any
7 additional comments on the remainder, which we continue
8 to support consistent with the comments we filed on
9 July 28, 2020.

10 So we're here for questions. But generally
11 expressing our support. Thank you.

12 CHAIR DANNER: All right. Thank you.

13 Commissioners, are there any questions for
14 Public Counsel; either Ms. Paisner or Mr. Dahl?

15 COMMISSIONER RENDAHL: No. I thank you for
16 your participation in the process.

17 CHAIR DANNER: All right. Thank you very
18 much.

19 Let me ask -- I see Puget Sound Energy is on
20 the line. Do you have any comments you want to make
21 today?

22 MS. DURBIN: Good morning, Chairman. Kara
23 Durbin. No, we don't have any comments at the time.
24 Happy to be available for questions.

25 CHAIR DANNER: All right. Thank you.

1 And I will assume my colleagues will speak
2 up if they have any questions for you.

3 Let me see, Joni Bosh from Northwest Energy
4 Collision, are you here?

5 MS. BOSH: Yes, Commissioner, I'm hear.

6 Can you hear me?

7 CHAIR DANNER: Yes, I can. Thank you.

8 MS. BOSH: Yes. We just wanted to thank
9 staff for reaching out to us about this question when it
10 was raised. It is the only change from the last
11 version. And we appreciate the time they took to work
12 out to ensure that it really doesn't change existing
13 practice. That the utilities have to meet their targets
14 by January, but they can change those recs as time goes
15 on. We really appreciate the time that staff took to
16 help us work that out.

17 CHAIR DANNER: All right. Thank you very
18 much.

19 Are there any questions for Joni Bosh?

20 Okay. I don't have a sign-in sheet in front
21 of me. What I'm going to do is I'm going to ask anybody
22 whose last name begins with A through E. Is there
23 anybody on the line whose last name begins A through E
24 who wishes to comment on these rules, proposed rules?

25 All right. Anybody with the last name

1 starting F through L?

2 All right. Last name starting M through P?

3 Anybody whose last name starts with Q
4 through T?

5 All right. And then U through Z?

6 All right. This is my last APB then.

7 Is there anybody -- anybody who I have not
8 called on so far who wishes to comment on these proposed
9 rules?

10 All right. That brings us then to the end
11 of the public comments. And at this point, what I would
12 propose to my colleagues, is we have proposed rules. I
13 think they are in very good shape and I'm in favor of
14 their adoption.

15 What I would like to do, though, is take
16 this under advisement so that we could prepare an order.
17 And I also want to make sure that we time the release of
18 the order in such a way that it's -- that we have
19 some -- some definitions that are affected here and in
20 another rulemaking. And I want to make sure that we do
21 this in a consistent way so that we don't have to go
22 back and do any kind of adoption by rule or any
23 unnecessary administrative procedure as we go forward on
24 that.

25 So colleagues, let me ask if you're okay

1 with that approach?

2 COMMISSIONER RENDAHL: This is Commissioner
3 Rendahl, and yes, I'm -- I support that approach.

4 I want to thank everyone for their sticking
5 to it with this rulemaking and the several -- several
6 versions at the end here. But, yes, I think we need to
7 delay issuing any -- any order until we make sure all of
8 the definitions can be synced up, so I support that.

9 COMMISSIONER BALASBAS: Yes. This is
10 Commissioner Balasbas. I also support that approach.
11 And I think that makes sense to make sure that we've got
12 all of -- any references and other things, technical
13 things as well of the rule to get those, get those
14 synced up before issuing the order.

15 CHAIR DANNER: Okay. Then that is what we
16 will do.

17 I want to thank everybody who participated
18 in this; especially the UTC rulemaking team. Really, a
19 very, very good job. And also the stakeholders who have
20 been involved throughout the process.

21 At this point, we are going to take it under
22 advisement. Although, I will just signal that I'm very
23 comfortable with these proposed rules. And we will
24 issue an order in due course.

25 Again, we need to be -- we need to consider

1 that we have some other rulemakings going on and we
2 don't want to step on those or have those interfere with
3 this one, so we need to sync those up. So that will
4 inform the timing of the release of our order.

5 Mr. Rector, is there anything else we need
6 to consider this morning?

7 MR. RECTOR: I don't believe that there is,
8 Chairman. I think that's everything.

9 CHAIR DANNER: All right. Then without
10 further adieu, we can adjourn this meeting. And I want
11 to thank everyone again. So we are adjourned.

12 MR. RECTOR: All right. Thanks everyone.
13 Have a great weekend.

14 CHAIR DANNER: Thank you. You too.

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16 (Hearing concluded at 9:44 a.m.)

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STATE OF WASHINGTON)
) ss.
COUNTY OF KITSAP)

I, CRYSTAL R. McAULIFFE, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the Videoconference Adoption Hearing on NOVEMBER 6, 2020, is true and accurate to the best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 18th day of November, 2020.

Crystal McAuliffe



CRYSTAL R. McAULIFFE, RPR, CCR #2121