

**. WAC 480-100-107 POE Rulemaking UE-190837
Notice of Opportunity to File Written Comments on the Questions and Second Draft
by September 14, 2020**

Summary of Comments

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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?

Party	Summary of Comment	Staff Response
Avista	No suggested revisions.	

<p>Pacific Power</p>	<p>Recommends the removal of the term “repowering” as the term is vague, not comprehensive, and limits utility’s flexibility and innovation. Also seeks clarification that repowering will not necessitate a request for proposals (RFP) when considered separately from an identified near-term resource need in an IRP.</p> <p>If repowering is retained, the definition should be limited to rebuilds or refurbishments that are due to an identified near-term resource need in a utility IRP.</p> <p>Considerations of repowering in the rule should be based on the net customer benefit and a consideration of the incremental energy and capacity from the repowering as a new resource.</p>	<p>Staff disagrees with the recommendations. Staff believes that the differing views on the interpretation and usefulness of the definition of repowering arise from a divergent interpretation of what contributes to the resource need or “gap” identified in an IRP.</p> <p>The reasons for the need to repower that Pacific Power identifies and claims are not covered by the rule are reasons that are considered in the IRP as the utility identifies the gap between its load and generation. If an existing resource is no longer least cost when compared to generic repowering costs (or the utility’s estimate costs) on a standalone basis then the resource should be removed from the utility’s existing resources and the potential repowered resource should be included in the set of resource options that could fill that gap.</p> <p>The removal of the existing resource contributes to the resource need that is used to determine in an RFP. The case is similar if the additional capacity of the repowering is considered as a means of filling a portion of the resource need.</p> <p>It appears some utilities envision the consideration of repowering to be excluded from the IRP process. While the analysis of the repowering costs may be done by a different department within the utility, that information is</p>
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		<p>fed into the IRP to allow the IRP to determine the overall lowest reasonable cost portfolio.</p> <p>The PoE rule read in combination with the IRP rule does require consideration of what PacifiCorp calls “net customer benefit.” Such consideration is required to be included in the IRP in the company’s estimate of the repowering costs. The purpose of the PoE is to require the utility to consider third party bids with project risk included in the bid price of the repowering.</p> <p>The language PacifiCorp proposes to strike is supported by the other stakeholders and striking it would result in less specificity rather than more.</p>
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PSE	<p>Definition leaves too much room for stakeholders to argue with the utility’s stated purpose for a repowering project. Repowering projects are often undertaken for reasons unrelated to an RFP, such as monetization of available tax incentives, improvements to plant operation flexibility, emission reductions, safety enhancements, maintenance and other plant cost reductions, correction of an identified failure mode, and efficiency improvement programs.</p> <p>Add a materiality threshold to the repowering requirement to reduce the potential challenges to the utility repowering an existing plant. PSE suggests striking the clause that repowering “not materially affect the physical or economical longevity of the generator” and add that a project is not repowering if it does not “increase the nameplate capacity of the facility by more than 20 percent, or (ii) extend the estimated useful service life of the facility by more than seven years.”</p>	<p>Staff disagrees. See staff response to Pacific Power’s comments above. The purpose of the rule is to require bids for repowering where the utility has a self-interest, and it is issuing an RFP.</p> <p>The reasons for repowering that PSE identifies and claims are not covered by the rule are reasons that should be considered in the IRP as the utility identifies its resource need. If an existing resource is no longer lowest reasonable cost when compared to generic repowering costs (or the utility’s estimated costs) on a standalone basis then the resource should be removed from the utility’s existing resources and the potential repowered resource should be included in the set of resource options that could fill the resource need.</p>
Public Counsel	Supports the definition of repowering.	
Climate Solutions	Supports including repowering and especially where replacement is described as extending “the physical or economic life of the facility.” However, the definition as written may miss circumstances where the project replacement occurs before the end of its useful life. Climate Solutions proposes rule language that defines repowering as any extension of a generator’s useful live or useful reasonable economic life.	Staff agrees but addresses the concern through the definition of “resource need” found in the UE-161024 rulemaking, which requires any change in existing resources to be included in the IRP analysis.
Front and Center	No direct response. See general comments in part 3 below.	

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Purchases of Electricity Rulemaking

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Invenergy	Strongly supports the inclusion of the repowering requirement but considers the exclusions provided in the second sentence overly broad. Suggests removing “federal or state regulatory requirements” and that the commission develop regulatory requirements for utility decisions on major investments that continue use of an existing utility-owned generating resource.	Staff agrees that “federal or state regulatory requirements” is too broad and supports its removal and replacement.
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<p>NIPPC</p>	<p>The repowering definition is sufficiently clear to use in rule. NIPPC is concerned that a refurbishment could be defined as “routine major maintenance” and thereby be excluded from the definition of repowering. NIPPC recommends defining “routine major maintenance” to prevent any overly broad interpretation.</p>	<p>Staff disagrees that routine major maintenance needs to be defined. Routine major maintenance is maintenance that is expected to be performed during the designed life expectancy of a generation facility. By way of example, at the time of installation, the manufacturer of a natural gas plant specifies major maintenance that needs to be performed over the design life of the plant in order to maintain the operational soundness of the plant during its designed life expectancy. In contrast, major maintenance resulting from plant monitoring that detects a deterioration in the plant that threatens the plant’s future reliability does not meet the “routine” standard in the term “routine major maintenance.” If the plant is needed for reliability but the repair needed to maintain reliable plant operation is not identified early enough to allow for bidding in the next issued RFP, the utility may perform the major maintenance without getting bids through an RFP.</p> <p>The repowering definition is applied in a setting where the utility is required to monitor plant reliability in a manner that meets good utility practices.</p>
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<p>NWEC</p>	<p>Supports the inclusion of the definition of repowering but seeks two clarifications. First, why is the replacement of a single wind turbine treated differently than the replacement of a turbine of a hydroelectric facility? Second, what is the meaning of “federal or state regulatory requirements”?</p> <p>Recommends that all repowering options be evaluated through an all source RFP but notes that the requirements to an issue an RFP may not happen under the rule as part of the two-year IRP update.</p>	<p>One wind turbine in a wind facility with dozens of turbines may break and be worth replacing. The turbine is a mass-produced component with well-known costs. Replacing it is more akin to maintenance than a rebuild of the facility. In contrast, a hydroelectric facility generally does not have more than a half dozen turbines at the most and often only a few. The replacement of the turbine is a unique component needing specialized design with much harder to estimate replacement costs.</p> <p>Staff recommends removing “federal and state regulatory requirements” because it is too broad.</p> <p>Staff supports including the repowering definition as part of an RFP if the RFP is otherwise required or issued by the utility and the repowering is to fill an identified resource need.</p>
<p>RNW</p>	<p>Remove from the definition of repowering the requirement that the project be “reaching the end of its useful life.” It narrows the definition too much.</p>	<p>Staff disagrees. The end of a plant’s useful life is only one of the elements in the definition, and it is one of the common reasons a plant repowering is considered.</p>
<p>Washington State Labor Council and Washington Building Trades</p>	<p>No comment provided.</p>	

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?

Party	Summary of Comment	Staff Response
Avista	An energy threshold for when an RFP is needed would be helpful. Refers to comments filed June 29.	Staff is sympathetic to this recommendation but believes there should be a limit to the breadth of the rule.
Pacific Power	<p>The rule contains too many different sets of requirements governing RFPs and too many differing conditions that trigger a need for issuing an RFP without any apparent reason or benefit for the distinctions.</p> <p>Pacific Power recommends a single set of rules for all RFPs that are issued due to a need of 80 MW in size and five years or greater in length. For smaller and shorter acquisitions, a subset of rules can govern an RFP, if a utility chooses to issue one.</p> <p>An RFP for conservation and efficiency should be issued simultaneously with but separately from any RFP required to be issued from any type of IRP.</p> <p>Hydro slices are offered for 5-year terms. The rule as written would prevent the acquisition of those resources.</p>	<p>Staff has simplified the rule. An all-source RFP, which may be accompanied by supplemental targeted RFPs, will be required after the filing of the IRP. All other RFPs are voluntary.</p> <p>Staff declines to create an exemption for purchases with a duration of 5 years or less from existing hydro facilities, as it would further complicate the rule.</p> <p>The proposed rule envisions that a targeted RFP for conservation and efficiency is not required to be included with the all-source RFP if the company has developed a competitive procurement framework for conservation and efficiency resources. Notwithstanding this element, utilities must still accept conservation and efficiency resources if they are submitted to an all-source RFP.</p>

PSE	Opposes the requirement to issue an all-source RFP due to an identified need in the IRP update. The cost does not outweigh the benefits. Issuing an all-source RFP twice in a two-year period is too often.	Staff supports eliminating the requirement to issue an RFP in response to the IRP progress report. In part, Staff based its revisions on the tradeoff between the costs and benefits of issuing an RFP.
Public Counsel	Supports the use of an 80 MW threshold for an IE. Public Counsel is interested in knowing if there is clarification of the 80 MW threshold and the Federal Energy Regulatory Commission’s (FERC) distinction between small and large generator interconnection agreements.	Staff disagrees. PURPA requires a utility to purchase the output of a qualifying generator that has a capacity of 80 MW or less. PURPA provides that a utility is not obligated to offer a qualifying generator more than the utility’s avoided cost. WAC 480-106 describes Washington investor owned utilities’ state-enforced obligations. The scope of the Purchases of Electricity rulemaking does not include WAC 480-106. However, a utility may use the RFP processes as described in the draft rule to fulfill its federal and state PURPA obligations including its obligation to offer its avoided costs to qualifying generators.
Climate Solution	Strongly supports restoring the 50 MW trigger for issuing any RFP.	Staff disagrees that an RFP must be issued on the basis of the size of the resource need. See response to PSE above.
	Recommends adding a “within four year” resource need to WAC 480-107-010(1)(b) as a limitation on the requirement to issue an RFP after the IRP progress report.	Staff disagrees and has removed the required RFP after the IRP progress report.

	<p>Recommends extending the same requirements for RFPs issued following the IRP update as are required for RFPs issued following a four-year IRP, i.e., apply the requirements of WAC 480-107-017(1-2) to RFPs issued following the IRP update. Does not differentiate recommendation between all-source and targeted RFP.</p>	<p>Staff disagrees. Staff has recommended language that distinguishes the requirement for approval between a required all-source RFP and a voluntary RFP. Staff also removed the requirement for an RFP following the IRP progress report.</p>
Front and Center	<p>No direct response. See general comments, part 3 below.</p>	
Invenergy	<p>Supports the requirement but notes that if the resource need is far enough into the future and does not affect resource adequacy in the near term, an RFP for the resource need could be issued after the next IRP.</p>	<p>Staff supports eliminating the requirement to issue an RFP in response to the IRP progress report.</p>
NIPPC	<p>Supports the requirement for issuing an RFP after the IRP progress report but suggests lowering the threshold to 50 MW. Whichever threshold is adopted a utility should be required to issue an RFP in response to a new or unfilled resource need of a certain size. Does not address whether the RFP should be all-source or not.</p>	<p>Staff disagrees. Instead, Staff recommends requiring an all-source RFP, which may be accompanied by supplemental targeted RFPs, only after the filing of the IRP. All other RFPs are voluntary. Staff bases its conclusion on the tradeoff between the costs and benefits of issuing an RFP. Without the expectation of additional resource needs being routinely identified in the IRP progress report and the potential existence of an ongoing RFP issued due to the IRP, the costs and burden of requiring an RFP to be issued may not outweigh the benefits. The consequences of deciding not to issue an RFP will lie with the utility.</p>
NWEC	<p>Supports requiring an all-source RFP in response to a need in the IRP progress report and recommends a 50 MW threshold be used.</p>	<p>See Staff’s response to NIPPC on MW threshold.</p>
RNW	<p>Prefers the threshold be 50 MW rather than 80 MW.</p>	<p>See Staff’s response to NIPPC on MW threshold.</p>

Washington State Labor Council and Washington Building Trades	No comment	
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3. Other comments

Party	Summary of Comment	Staff Response
Avista	WAC 480-107-023(2). Strike Commission approval of IE. Rule lacks clear process for how IE is approved.	Staff expects the utility to file a request for approval of the IE which may be processed through an open meeting.
	Strike the requirement in WAC 480-107-023(3) that the IE be “paid by” the utility because it may cause confusion when cost recovery is requested.	Staff does not read “paid by” as altering rate setting methods at the commission. Staff supports the utility paying for the IE and reflecting prudently incurred costs in its rate request filing and for use in determining rates the commission sets.
	WAC 480-107-025(4) – Avista supports providing a detailed explanation of each criterion and suggests providing category summaries and ranges of weightings for each category instead of the specific weight for each criterion.	The rule provides for the possibility that the weight given each criterion is not quantifiable. In such circumstances, the rule provides that an explanation can be provided. Staff does not see evidence that the disclosure of the quantification of the <i>weightings</i> of each criterion will create an opportunity for bidders to game the RFP evaluation method.

<p>Pacific Power</p>	<p>WAC 480-107-010 and 480-107-001. The rule should require an RFP for large scale resources need (80 MW and greater than 5 years) with an accompanying single source RFP for specific resource types, i.e. demand response or conservation. The same size threshold should be used for the need identified in the four-year IRP and IRP update. Pacific Power opposes requiring an RFP due to any level of resource need identified in the IRP or IRP update.</p> <p>Pacific Power opposes the blanket requirement for issuing all RFPs. If the RFPs resulting from both types of IRPs are required to be all source RFPs allowances for the issuance of an accompanying single-source IRP should be provided.</p> <p>Supports an IE if the resource need is a significant energy resource need (80 MW and greater than 5 years) or if the RFP allows a utility ownership option.</p> <p>If Staff chooses not to incorporate the suggested modification above, PacifiCorp would appreciate specific responses explaining those decisions, including why Staff believes that compliance with a utility’s various obligations – including CETA, rate control and stability, and efficient procurement of low-cost resources – will be materially advanced with the requirements proposed in these draft rules.</p>	<p>Staff recommends allowing targeted RFPs in conjunction with the required RFPs or where an all-source RFP is required. The elimination of the requirement to issue an RFP after an IRP progress report substantially reduces the burden of the rule.</p> <p>Staff distinguishes between hedging a portfolio that is resource sufficient, but which still has price risk, and a utility making choices between filling portfolio needs with long-term resources versus short-term resources. Staff agrees that 3-year term purchases, in certain circumstances, may be necessary to hedge a portfolio. However, choices to purchase resources for terms longer than three years is inherently a tradeoff between long-term resources and mid-term resources. Such tradeoffs should be considered in light of the bids solicited in an RFP.</p>
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	<p>If biennial, all-source RFPs are required, bidders should be prohibited from bidding the same project into all-source RFP and the single source RFP.</p>	<p>Staff does not agree that blanket rules on when and where bidders may or may not bid will encourage competition and least cost offers from the development community. It is the responsibility of a utility to manage the relationship between itself and the bidders to achieve the lowest reasonable cost portfolio of resources if it chooses to issue multiple RFPs.</p>
	<p>Multi-state utilities should be provided specific waiver language in rule.</p>	<p>This option is provided in the commission’s power to exempt a utility from commission rule if doing so is in the public interest.</p>
	<p>Draft WAC 480-107-001 and 480-107-065(3) are contradictory and Pacific Power supports the former and seeks clarification on staff’s intent.</p>	<p>Staff reads the sentence in Section 001 regarding “sole procedure” to mean that where these rules do not proscribe requirements the utility may acquire resources in a manner of its choosing subject to a prudency review when and if the acquisitions are proposed for recovery in rates.</p>
	<p>WAC 480-107-015(6). QFs under contract with the utility should not be allowed to bid into an RFP to prevent the QF from getting a better price and canceling its existing contract.</p>	<p>It is unclear to staff that QFs can “cancel” their contracts. It is unclear to staff why a utility needs regulatory protection from contract terms that it chooses to enter.</p>
	<p>The equity provisions in WAC 480-107-025(2) remain vague and ambiguous causing difficulty in the bid evaluation process.</p>	<p>The rules outline the process elements related to equity provisions. Clarity on equity components will be developed through utility actions (<i>e.g.</i>, determining indicators and weighting factors through engagement with customers), policy guidance, and Commission order.</p>

	<p>PacifiCorp recommends the California Supplier Diversity Requirements outlined in General Order 156 (GO 156) as a useful model for the PoE rules.</p> <p>For reference, the CPUC’s current procurement goals for diverse suppliers are:</p> <ul style="list-style-type: none"> • 15% minority-owned businesses • 5% woman-owned businesses • 1.5% for service-disabled veteran-owned businesses • Carve-outs for large contracts for which there are no eligible WMLGBTBE bidders, with alternate targets established in a subcontractor program 	<p>Staff appreciates this information, which may be useful for future policy guidance. Staff supports utilities in developing supplier diversity targets but believes this rulemaking does not offer sufficient time to develop language for specific targets with utilities or stakeholders engaging in this docket.</p>
	<p>WAC 480-107-035(5). Strongly recommends deleting the requirement to post bid information. If not deleted, the requirement should allow a summary of the bid results on an average/cumulative basis. The deadline for posting information should be increased from 10 days to 30 days.</p>	<p>Staff agrees utilities may need more time to post the summary but disagrees with removal of requirement entirely because the requirement has a provision for confidential data. Staff is unclear how a summary would have a chilling effect on bidders as the proposed language does not require utilities to provide confidential information. Staff notes that rules currently in place require utilities to make this information available to the public at their place of business.</p>
	<p>A provision for protective orders should be added to the rule.</p>	<p>The commission issues protective orders during adjudicative proceedings. Without an adjudication, the commission does not issue protective orders. However, this does not prohibit a utility from creating and requiring Nondisclosure Agreements to protect confidential information, which staff would support utilities doing voluntarily.</p>

	<p>WAC 480-107-015(5). Clarify what communications between the IE and the utility are prohibited prior to the opening of the bids under WAC 480-107-015(5). In other states, Pacific Power is required to notify the IE when it receives a bid and employees begin to review but may not evaluate bids prior to the closing of the bidding window.</p>	<p>The proposed rules remove the prohibition on communication between a utility and its IE and allow utility employees to process but not begin evaluating bids prior to the close of bidding. The proposed rules also provide that the utility may communicate to the IE information about the receipt of bids and other administrative matters that include bidder information for the purpose of preparing for evaluating the bids.</p>
	<p>Clarify recovery of independent IE costs. If not recovered through bid fees, the IE costs should be recovered in rates. Pacific Power requests clarification on Staff’s concern regarding the effect on equity of charging a bidder’s fee.</p>	<p>Staff does not read “paid by” as altering rate setting methods at the commission. Staff supports the utility paying for the IE and reflecting prudently incurred costs in its rate request filing and for use in determining rates the commission sets. The requirement for an IE does not preclude the utility from having a bidder fee. Consideration of the effect on equity of a bidder fee can be considered in the context of a specific filing.</p>

	<p>Proposes that if the rule allows bidders to use utility property the rule should be modeled after Oregon’s OAR Division 860-089.</p>	<p>The rule does not allow the bidders to use utility property. The utility must use its property to achieve the least cost electric service including the use of that property in conjunction with projects bid by independent power developers. The proposed rule language clarifies that the bidder is not using utility property.</p> <p>Staff does agree that the value of utility assets when used in combination with a bidder project should be considered in the evaluation process. If the assets are in use and providing value to the utility portfolio, then the value lost due to their use in combination with a new resource that is being added to the portfolio should be included in the evaluation of the cost of the new resource. If, however, the asset is not being used to reduce the cost of the utility portfolio then it is of no value and no cost should be included in the evaluation.</p> <p>Whether the utility is using its resources or not, if greater value can be achieved by combining some portion of its existing resources with new resource(s) then the utility should seek to do so as part of its day-to-day practice or from third party entities that propose projects (i.e., in an RFP) for the purpose of saving ratepayers money.</p>
	<p>WAC 480-107-020(1). RFP filing deadline should be 120 days after the IRP is acknowledged by the commission to prevent delays and/or rework of the RFP.</p>	<p>Staff is concerned that the IRP analysis will become stale if the issuance of an RFP is 120 days after the acknowledgement of the IRP.</p>

PSE	PSE strongly supports WAC 480-107-001 that provides a utility may purchase resource in other ways as it chooses.	No need for a response.
	WAC 480-107-010(2)(a). Change the permission to issue a “single-source RFP” to a “targeted RFPs.” PSE does not believe that combining the analyses of certain types of resources from the all-source RFP and the single source RFP is practical and would like Staff to provide an explanation of how to conduct such analysis.	The proposed rules include the change to targeted RFPs. The modeling analysis need not be done jointly. Rather, at a minimum, the utility must be able to compare the modeling outcomes in the two RFPs in a combined analysis as it determines the lowest reasonable cost resources.
	WAC 480-107-010(3). clarification of typographical error.	The proposed rules fix the error.
	WAC 480-107-017(1)(a). The requirement to issue an RFP within 120 days of filing an IRP is not realistic considering the expectation that the IE be hired and involved in the RFP development. For the first RFP required under the rule the initial RFP should be submitted 90 days after the commission approves an IE. In subsequent RFPs required under the rule, the timing under WAC 480-107-017(1)(a) as written can apply.	Staff agrees with the timing issue of the first filing. The adoption order can address the timeline for the first RFP under the rule.
	IE could not produce meaningful independent evaluation without duplicating PSE’s work. PSE believes that the IE and the utility could select reasonable but different projects. PSE believes the IE should create a short list but not independently score and rank the bids.	Staff believes the effort of the IE to “score and produce a ranking” is well worth the cost to ratepayers.
	The utility should have an opportunity to review the IE’s report for clear and obvious errors prior to finalization and filing at the commission. The intent is not to influence the report but to correct any clear and obvious errors. Resulting changes to the report would be identified by the IE.	The rules do not prevent the IE from getting clarification and fact checking from the utility without sharing the draft. Staff supports adding a requirement that the utility be responsive to those requests and the proposed rules include such a requirement.
	Change 2022-2024 to 2022-2023 in WAC 480-107-065(3)(a).	Staff agrees and the proposed rules include this change.

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Public Counsel	WAC 480-107-023. The rule should include the use of an IE for resource needs above 80 MW for both the four-year IRP and IRP update.	Staff does not agree that an IE is needed, <i>by rule</i> , for the RFP requirement triggered by an IRP or an RFP a utility voluntarily issues in response to its IRP progress report or identified need.
	WAC 480-107-017. Agrees with the 45-day public comment period and the 120-day RFP development period.	
	WAC 480-107-015(1). Prefer a requirement for utilities to consult with stakeholders but hope utilities will follow the guidance to consult with stakeholders.	Staff does not believe it is necessary for the rule to be this prescriptive.
	Rule should require consideration of contracts with minority-, women-, disabled-, and veteran-owned businesses when determining a utility’s compliance with CETA’s equity requirements. Contracting goals should be set as a percent increase over the current level of contracting. Targets should be set on a percentage of total contract issued and on total dollar amount of contracts. Report on contracting should be on a granular level.	Staff appreciates this information, which may be useful for future policy guidance. Staff supports utilities in developing supplier diversity targets but believes this rulemaking does not offer sufficient time to develop language for specific targets with utilities or stakeholders engaging in this docket.
	WAC 480-107-007. Update definitions citing WAC 480-100-600 to WAC 480-100-605.	Staff agrees and the proposed rules include these changes.
Climate Solutions	WAC 480-107-007. A utility’s financial interest is not limited to bids from subsidiaries. The term subsidiary should be replaced with a focus on whether the utility is a financial beneficiary of the entity bidding.	Staff disagrees. The scope of the draft rules is broad enough to include all but the most unusual type of utility financial interest. No categorical examples were provided to the record. The commission can address unique conflicts of interest as they arise, but Staff does not believe all would necessarily require an IE.
	Restore a 50 MW threshold for the requirement to use an IE.	The use of an IE is essential in every RFP in which a utility submits a bid. It is not necessarily essential to require the use of an IE in every RFP. The Commission has the authority to require an IE if necessary.

	<p>WAC 480-107-025 (new subsection 3). Quoting the intent section of CETA, Climate Solutions proposed language to incorporate information about job creation statistics that include the number of jobs and job quality criteria created by a project.</p>	<p>Staff disagrees. Intent sections do not create new statutory rights. The Commission can consider job- and environment-related criteria in its review of (1) proposed indicators within utility CEIPs, that flow through to utility RFPs, and (2) proposed scoring criteria within RFPs.</p>
	<p>Proposes job benefits and environmental evaluation be added to the project ranking criteria identified in WAC 480-107-035 and provides language.</p>	
	<p>Tie the RFP to an approved CEIP rather than the IRP.</p>	<p>Staff disagrees. The RFP is directly linked to the need identified in an IRP.</p>
<p>Front and Centered</p>	<p>Front and Centered sets out nine goals and actions that need strengthening in the regulation of acquisition of electricity:</p> <ul style="list-style-type: none"> (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) concluding with a thorough justification of selection and rejection decisions, (9) reported in a transparent manner. 	<p>Staff recommends additional guidance be provided through the adoption order and policy guidance as well as developed through Commission orders.</p>

	The “reasonable” standard for outreach to under-represented bidders is too vague. The commission should explicitly require utilities to direct solicitations to underrepresented bidders explicitly outside of the network of suppliers they already work with.	Staff agrees utilities should broaden the network of suppliers they work with. Staff recommends replacing language with “best efforts” and believes this language requires increased outreach efforts. Additional supplier diversity guidance, if needed, may come outside of this docket.
	Supports the inclusion of the equitable distribution standard in WAC 480-107-010(2)(b).	Staff agrees.
	Rules should require the utility to align its procurement process with its CEIP and specifically with the indicators under WAC 480-100-640 (4)(f)(iii)(g).	The rules require the utilities to request information related to the indicators developed in the CEIP to align its procurement process, as appropriate.
	Strongly supports the inclusion of an analysis of the equity distribution of the resource mix at the bid review stage as part of the lowest reasonable cost as found in WAC 480-100-605.	Utilities bear the burden of ensuring that their resource acquisitions comply with statute and other requirements, including the equitable distribution of benefits. The Commission will review acquisitions through cost recovery proceedings, CETA compliance filings, and during other appropriate proceedings.
	Supports IE for self-bids and an IE with knowledge of equitable resource management. Also, strongly encourages the commission to retain the reporting requirements in WAC 480-107-145.	No Staff response required.

Invenergy	<p>All bids should be evaluated with the same models, assumptions and data used in the utility’s most recent IRP, and any changes from those elements should be clearly communicated to bidders.</p>	<p>Staff does not agree with a generic all-encompassing requirement for the utility to divulge its modeling changes and input assumptions to bidders as it is simultaneously negotiating or preparing to negotiate with bidders.</p> <p>In constructing this rule, Staff views the rules in concert with the commission practice in a prudence proceeding of expecting the utility to provide a list of changes to the model, assumptions, and data that occur between the IRP analysis and analysis performed in the RFP evaluation.</p> <p>Even without this proposed addition to the rule, prudent utility practice requires that the utility communicate any changes that would improve the bidders’ ability to supply a least cost bid.</p>
	<p>Commission should add language to WAC 480-107-024(3) prohibiting the IE from disclosing bid information to employees involved in the utility’s bid.</p>	<p>Staff agrees the IE should not disclose the information. It is the utility’s responsibility to ensure the IE does not disclose bid information that has not yet been made public. Staff supports the clarifying language that is included in the proposed rules.</p>
NIPPC	<p>No additional comments.</p>	
NWECC	<p>Strongly supports the use of an IE for RFP in which the utility has a financial self-interest.</p>	<p>Staff believes the rule covers all reasonably expected circumstances of utility financial self-interest.</p>

	Seeks certainty that the utility will not be able to avoid an all-source RFP by issuing a series of small scale or targeted RFPs.	Staff believes the intent of the rule is clear and that the commission has sufficient authority to enforce the rule’s intent.
	Correct sentence in 480-107-010(3)	The correction is included in the proposed rules.
	Include a definition of “resource” as it is used multiple times in the rule.	Staff agrees a resource definition is needed but declines to adopt the language suggested as it is unnecessary. Instead, the proposed rules include the definition of both resource and resource need from the draft rules in WAC 480-100-605.
	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. NWECC supplies a definition.	Staff disagrees. The definition is intentionally specific to the benefits and burdens that must be equitably distributed. Additional directives of CETA are addressed through assessments and additional information included in the CEIP rules.
	In WAC 480-107-015 the utility should still be required to consult with the UTC and other interested stakeholders as it develops its RFP.	Staff disagrees that it is necessary to be this prescriptive in the rule.
	The RFP should be posted in several different languages.	Staff agrees that providing RFPs in various languages could be useful, depending on supplier and developer needs. However, staff believes this rulemaking does not offer enough time to discuss this issue, including how many languages would be used and the process to determine which languages are used. Staff would support utilities exploring this topic outside of this rulemaking.

	WAC 480-107-015(8) leaves the determination of whether demand response might meet some of the identified resource need to those preparing the RFP. Instead information should be provided sufficient for a DR bidder to determine if it should bid.	Staff believes that “may” means the possibility that it could. It is difficult to rule out a possibility, especially in advance. If the resource need has a very narrow characteristics it might be possible that DR cannot contribute to a solution (whether economic or not), but Staff believes those circumstances are very uncommon.
	The use of an IE should be required when a four-year IRP shows a need within four years.	Staff disagrees. The proposed rule requires an IE when the utility has a substantial interest. This in no way prevents the commission from requiring the use of an IE on a case-by-case basis.
	Reinstate the IE’s submittal of an initial report to the commission. The rule should clarify that the IE ranks bids independently so the IE rankings that the IE is reconciling in - 023(5) are those it ranked.	Staff does not agree with reinstating the IE’s initial report. The purpose of the IE is to improve the utility’s decision making and provide an independent report for use in rate requests.
	Stakeholders should be able to comment on the bids prior to the IE’s final report (see Oregon rules).	Staff disagrees. The acquisition process under the required RFPs is for a utility to conduct. Staff supports an IE whose analysis is unfettered by the utility or stakeholders.
	Reference in WAC 480-107-024(1) to the avoided costs is to 480-107-620(12) but should be 480-100-610(13).	There is no reference to WAC 480-100 in WAC 480-107-024(1). There is a reference to WAC 480-100-615(12) in WAC 480-107-025(1). Staff agrees it should be to WAC 480-100-615(13).
	WAC 480-107-035(1) Project ranking procedure. Suggested edits to make the non-energy benefit assessment more explicit.	Staff is neutral on the proposed language. The proposed rules include NWECs addition of “and benefits” to the rules requirement to recognize “demand-side resource uncertainties”.

	WAC 480-107-035(5) Project ranking procedure. Add clarification to require summary of bids to include any bids rejected.	The rule states that "...the utility must make available...a summary of each project proposal." Staff interprets that language to include rejected bids. Staff supports and the proposed rules include new language that states, "...the utility must post on its public website a summary of each bid the utility has received."
	Rules should have timeline for the utility to consider all bids, and act on them or explain why they are not acting.	Staff disagrees that such timelines should be placed in rule. The range of resource needs and RFPs among the utilities will be large and a utility's negotiations should not be disadvantaged by having a deadline.
RNW	The language in WAC 480-107-023 should include build-transfer projects to trigger an IE as does WAC 480-107-024.	Staff agrees with this change and the proposed rules reflect this suggestion.
Washington State Labor Council and Washington Building Trades	<p>The RFP must request information identifying the bidder's past performance in using the office of minority and women's business enterprises certified business.</p> <p>Suggested addition to WAC 480-107-025(3): (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.</p>	<p>WAC 480-107-025(2) requires the RFP to "request information...that may be relevant to identifying the costs and benefits of each bid, such as a bidder's past performance utilizing diverse businesses," which would be inclusive of OMWBE certified businesses as well as veteran- and disabled-owned businesses.</p> <p>The proposed rules include language for RFPs to solicit information related to labor standards in RCW 82.08.962 and RCW 82.12.962.</p> <p>Additionally, information related to labor standards or job creation may be required if indicators related to labor standards or job creation are approved through a utility's CEIP.</p>

	<p>The information on the bidder's performance in utilization of the office of minority and women's business enterprises certified businesses should be part of the utility's scoring process.</p>	<p>Staff does not agree that changes to the rules are needed. The Commission can review the evaluation rubric proposed by the company and make modifications as appropriate. Additionally, while the OMWBE certification is a useful identifier of diverse businesses in Washington, diverse businesses may choose not to certify with OMWBE for various reasons. Staff is therefore unclear if OMWBE certification alone is best way to scope a utility's use of diverse businesses. Additional conversations on this topic may come outside of this docket.</p>
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	<p>CETA added three categories to the public interest as applied in the regulation of the provision of electricity: public health, risks and benefits to vulnerable populations and highly impacted communities and workers’ working conditions. To reflect these in regulation at WAC 480-107-035(1) (RFP ranking criteria) add the following to the ranking criteria.</p> <ol style="list-style-type: none"> 1. environmental effects inclusive of but not limited to those associated with resources that emit greenhouse gases. 2. 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. 	<p>Staff does not agree that changes to the rules are needed. Staff recognizes the high-quality jobs language in RCW 19.405.010(4), but notes that intent language does not create new rights. Additionally, RCW 82.08.962 and RCW 82.12.962 are not requirements, but incentives. The Commission can review the evaluation rubric proposed by the company and make modifications as appropriate, including evaluating job standards within the context of CETA’s equity provisions, among other considerations.</p> <p>WAC 480-107-035(1) requires ranking criteria to recognize public policies regarding resource preference and Washington state or federal government requirements, which cover environmental effects including those associated with resources that emit greenhouse gases.</p>
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