**WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

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| Rulemaking to Consider Possible Corrections and Changes in Rules in Chapter 480-107 WAC, Relating to Procedural Rules | ) | Docket No. UE-030423 |

**Comments by the Cogeneration Coalition of Washington**

The Cogeneration Coalition of Washington[1] (CCW) hereby provides comments on the Proposed Rules on solicitations and QF procurement issued by the Commission on October 5, 2005.

## I. Introduction

CCW proposes revisions to the proposed regulations on procurement in three areas: 1) determination of avoided costs, 2) obligation to sell to QFs, and 3) consideration of debt equivalence.

## II. Determination of Avoided Cost

The proposed regulations in WAC 480-107-055(2) require the utility's avoided cost schedule filed within 12 months of an RFP to be based on the results of that RFP. CCW suggests several refinements. First, the regulation states that the avoided cost schedule will be "based directly" on the proposals received. The regulations should be clear that the utility cannot manipulate the

[1] **Error! Main Document Only.**CCW represents the cogeneration and customer interests of March Point Cogeneration Company, Sumas Energy Company and Tenaska Ferndale Cogeneration.

RFP prices with deductions or adjustments, such as for imputed debt. WAC 480-107-055(2) should be modified to read:

> 2) Avoided cost schedules required within 12 months after an RFP is filed will be based directly on the project proposals received pursuant to that RFP, without adjustment for any imputed costs not included in the RFP proposals.

Second, CCW remains concerned about the application of the avoided cost schedules to resources of varying characteristics. This is particularly a problem for the small projects for which the avoided cost schedule is "the basis for prices offered." WAC 480-107-055(6). The RFP may have sought bids for wind resources while the new resource to which the avoided cost would apply is a baseload gas-fired facility providing valuable capacity. Paragraph (6) of WAC 480-107-055 should be revised to allow the project the option to accept the published rate or to negotiate a different rate.

Third, it is implied in Paragraph (1) of 480-107-055 that the avoided cost schedule will include prices for both energy and capacity. CCW strongly supports separate pricing for the two components. Therefore, if the language was not intended to require both prices, it should be clarified to do so.

## III. Obligation to Sell to QFs

The second issue on which CCW wishes to comment deals with the utility obligation to serve QFs. FERC regulations impose on utilities an absolute obligation to sell to QFs, while the proposed rule may qualify that absolute requirement. In WAC 408-107-095, the current proposed rule provides:

> (2) A utility must sell to any qualifying facilities, in accordance with WAC 480-107-105, Rates for sales to qualifying facilities, any energy and capacity requested by the qualifying facilities on the same basis as available to other customers of the utility in the same class.

As a preliminary matter, it is arguable whether there are any customers in a class equivalent to QFs. But more fundamentally, this proposed wording in Washington's regulation qualifies the absolute obligation. It is unclear whether the phrase "on the same basis" refers to the availability of the service or its pricing terms and conditions. CCW recommends revising this paragraph to mirror the FERC regulation, at 18 CFR §292.303 and 292.305, to clearly make it an absolute service obligation. The appropriate pricing would be determined pursuant to WAC 480-107-105, which can consider service to comparable customers. WAC 480-107-095 would read:

> (2) A utility must sell to any qualifying facilities, in accordance with WAC 480-107-105, Rates for sales to qualifying facilities, any energy and capacity requested by the qualifying facilities ~~on the same basis as available to other customers of the utility in the same class~~.

## IV. Consideration of Debt Equivalence

CCW interprets the proposed regulations as implicitly accepting the inclusion of debt equivalence in the criteria to be used in reviewing proposals. The proposed rule allows the utility to *"evaluate and rank project proposals [based on], among other items, the credit and financial risks to the utility."* (WAC 480-107-035). While this is a generic reference to any financial risk, it can easily include imputing additional costs to long-term purchase power agreements on the basis of debt equivalence. This would allow a utility, such as Puget, to

include in the criteria by which proposals are ranked a factor for imputed debt. CCW's concern is that the Washington Commission has never determined that imputed debt is an actual cost for which a PPA proposal should be penalized. While draft RFPs and their proposed ranking criteria are filed for Commission review, that Commission review may simply determine that some "consideration" of imputed debt is permissible. There would be no direct and final determination of how imputed debt should be applied or quantified, or that it is justified in any particular circumstance. The utility's evaluation of the RFP responses may never be filed at the Commission, and there may be no opportunity for Commission review of how Puget applied the criteria of financial risk. And if the evaluations are filed with the Commission, it would likely be under seal so that none of the suppliers could review and question the treatment of imputed debt.

CCW recommends that the consideration of imputed debt be judiciously regulated and restricted until the Commission can conduct further inquiry into how this factor should be applied.

## VI. Conclusion

CCW recommends:

1) the rule governing the calculation of avoided costs be amended to prohibit any adjustment for extraneous costs not reflected in RFP responses,

2) the avoided cost rule be amended to allow projects less than 1 MW to either accept pricing under the avoided cost schedule or opt to negotiate,

3) the utility obligation to sell to QFs be made absolute, and

4) any consideration of debt equivalence in evaluating RFP responses be limited until the Commission can conduct an inquiry and give direction in how any such consideration should be made.

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Respectfully submitted,

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