



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

621 Woodland Square Loop S.E. • Lacey, Washington 98503

P.O. Box 47250 • Olympia, Washington 98504-7250

(360) 664-1160 • TTY 1-800-833-6384 or 711

February 6, 2020

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By 5 p.m. on March 13, 2020)

AND

NOTICE OF WORKSHOP
(Set for 1 p.m. on February 25, 2020)

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

TO ALL INTERESTED PERSONS:

On February 5, 2020, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) in Docket UE-190837 to update its purchases of electricity (PoE) rules in WAC 480-107. The purpose of the rulemaking is to consider whether additional rules are necessary to implement the Clean Energy Transformation Act (CETA), and to account for: 1) forecasted regional resource adequacy deficiencies, 2) the growth in the number and diversity of new price competitive resources, 3) a significant rise in the number and sophistication of developers, and 3) an increase in the diversity of the type of generation projects and contract structures available in the market.

In 2016, the Commission began updating its rules in WAC 480-107 in Docket U-161024 to reflect statutory changes and developments in the industry since the Commission initially adopted its rules in 2006.¹ Following the passage of CETA in 2019,² the Commission terminated that rulemaking and incorporated its existing review of Chapter 480-107 into this proceeding.

¹ That rulemaking successfully moved rules that detailed the purchases of electricity from qualifying facilities to comply with the Public Utility Regulatory Policies Act from WAC 480-107 to WAC 480-106.

² SB 5116, Laws of 2019, ch. 288.

The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's <http://www.utc.wa.gov/190837>. If you are unable to access the Commission's web page and would like a copy of the CR-101 mailed to you, please contact the Records Center at (360) 664-1234.

ISSUE DISCUSSION

CETA requires electric utilities to transition to 100 percent renewable or non-emitting energy by 2045, and to demonstrate compliance with interim targets along the way. The purchase of electricity rules are important for governing how a utility solicits its resource bids and may be useful for demonstrating an incremental cost of compliance.

The Pacific Northwest region faces resource adequacy deficiency issues while also experiencing an expansion in the availability and offer of resources from independent resource suppliers. The Commission is initiating this rulemaking so that it may adapt current rules for purchases of electricity to the changes in the industry.

The Commission intends to conduct this rulemaking in tandem with its integrated resource plan (IRP) rulemaking in Docket UE-190698, and with its Clean Energy Implementation Plan and Compliance (CETA) rulemaking in Docket UE-191023, to enable stakeholders to consider and comment on the relationship between the procedural and substantive issues in the three dockets.

QUESTIONS FOR CONSIDERATION

In Docket UE-161024, the Commission developed draft PoE rules that were issued for comment. With this notice, the Commission re-issues those draft rules in this Docket. To provide a record for its decision in this proceeding, the Commission encourages stakeholders to re-submit, or revise and re-submit, their comments filed in Docket UE-161024.

In reissuing these rules for comment, the Commission also requests comment on how these rules will address reliability indicators of the need to pursue resource purchases, CETA requirements (including ensuring that all customers are benefiting from the transition to clean energy), and the use of an independent evaluator. Specifically, the Commission is asking stakeholders for feedback on the following questions provided below, and encourages stakeholder observations on the procedural relationship between the requirements set out in WAC 480-107 and those in the IRP and CETA rulemakings:

Procedural Questions

1. RCW 19.405.040(8) states: *In complying with this section, an electric utility must, consistent with the requirements of RCW 19.280.030 and 19.405.140, ensure that all customers are benefiting from the transition to clean energy: Through the equitable distribution of energy and nonenergy benefits and reduction of burdens to vulnerable*

populations and highly impacted communities; long-term and short-term public health and environmental benefits and reduction of costs and risks; and energy security and resiliency.

Do the requirements of RCW 19.405.040(8) affect how utilities acquire resources? If yes:

- a. Will utilities ever need to solicit requests for proposals (RFPs) solely to comply with RCW 19.405.040(8) (e.g., acquire equity-specific resources)? Or should compliance with RCW 19.405.040(8) be evaluated only with respect to generation, conservation, and other resources acquired by utilities as a result of other regulatory and system needs?
 - b. What, if any, revisions should be made to the solicitation content requirements in WAC 480-107-025(1) to incorporate the provisions of RCW 19.405.040(8)?
 - c. What, if any, revisions should be made to the project ranking procedures in WAC 480-107-035 to incorporate the provisions of RCW 19.405.040(8)?
 - d. What, if any, additional summaries of solicitation responses would assist with understanding bid proposals pursuant to the requirements of RCW 19.405.040(8) (e.g., geographic location of proposed projects, bidder information such as women and minority owned business certifications, etc.)?
2. Utilities may issue an RFP at any time for a wide variety of purchases. Under existing PoE rules, issuing an RFP is only required if the utility's IRP finds a capacity need within a three year horizon. In the draft rules accompanying this notice, a number of refinements to this requirement have been developed. In light of the resource requirements of CETA, such as those for renewable and non-emitting resources, equity, and resource adequacy, and the creation of clean energy implementation plans (CEIPs), what is the relationship between the trigger for requiring utilities to follow the RFP rules in the PoE, and the rules under consideration in the IRP rulemaking and the CEIP?
- a. To what extent should the requirement to issue an RFP under WAC 480-107-015 be tied to the IRP versus the CEIP? Should the PoE rule contain the triggers for invoking sections of the PoE? If so, which rule, CEIP or IRP, should describe the measurement of the metrics on which the threshold trigger is based?
3. The draft rules rely on the results of the of the Northwest Power and Conservation Council's (Council) resource adequacy study in determining whether an exemption from issuing an RFP may be granted (WAC 480-107-015(4)(b)).³ In addition to the work of

³ See: [NW Power Council Resource Adequacy Advisory Committee, at https://www.nwccouncil.org/energy/energy-advisory-committees/resource-adequacy-advisory-committee.](https://www.nwccouncil.org/energy/energy-advisory-committees/resource-adequacy-advisory-committee)

the Council, members of the Northwest Power Pool are working to develop a resource adequacy program.⁴

- a. Should the rules allow the use of a resource adequacy analysis conducted by other entities in addition to the Council?
 - b. To what extent should transmission modeling be required in the resource adequacy analysis?
4. The draft rule at WAC 480-107-AAA requires the use of an Independent Evaluator under certain circumstances.
- a. Should the utility be required to have an independent evaluator examine the utility's performance as a developer in the case of a utility proposing to self-build or a utility's subsidiary or affiliate bidding in a build-to-lease or build-to-own project?
 - b. Should there be a MW or MWh threshold to determine whether an independent evaluator should be used? Should it be different than the threshold triggering a utility to comply with the requirements regarding an RFP?
 - c. The draft rule at WAC 480-107-035 provides a list of items that must be included in the ranking criteria. Those items may expand under CETA, especially for RCW 19.405.040(8). What items should be in the criterion list and included in the independent evaluator's scope of work?

WRITTEN COMMENTS

The Commission gives notice of your opportunity to submit written comments no later than **5 p.m., Friday, March 13, 2020**.

Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in WAC 480-07-140(5), those comments must be submitted via the Commission's web portal at www.utc.wa.gov/e-filing. If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at records@utc.wa.gov or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (Docket UE-190837).
- The commenting party's name.
- The title and date of the comment or comments.

⁴ See: [Northwest Power Pool Resource Adequacy Program](https://www.nwpp.org/adequacy), at <https://www.nwpp.org/adequacy>.

The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.utc.wa.gov/190837>.

If you are unable to file your comments electronically the Commission will accept a paper document.

STAKEHOLDER WORKSHOP

The Commission will hold a workshop to allow interested persons to discuss the re-issued PoE draft rules and the questions posed for comment. All interested persons are invited to attend this discussion, which will be held on **February 25, 2020, beginning at 1 p.m.**, in the Richard Hemstad Hearing Room, 621 Woodland Square Loop S.E., Lacey, WA 98503. The Commission's teleconference bridge line will be available at (360) 407-3810, conference ID 347351. An agenda for workshop will be issued by COB Friday, February 21, 2020.

The Commission is committed to providing reasonable accommodations to participants with disabilities at its facilities. If you need a reasonable accommodation for these workshops, please contact the Commission at least one business day prior to the workshop by calling 1-360-664-1132 or by sending an email to human_resources@utc.wa.gov. For TTY service, please call the Washington Relay Service at 7-1-1 or 1-800-833-6384.

To receive future information about this rulemaking, please email records@utc.wa.gov and ask to be included on the mailing list for Docket UE-190837. You may also receive further information on this rulemaking by:

- Calling the Commission's Records Center at (360) 664-1139
- Emailing the Commission at records@utc.wa.gov
- Mailing written comments to the address below

When contacting the Commission, please refer to Docket UE-190837 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE, Lacey, WA 98503.
P.O. Box 47250
Olympia, WA 98504-7250

If you have questions regarding this rulemaking, you may contact the staff lead Steve Johnson at 360.481.1573, or by email at steven.johnson@utc.wa.gov.

NOTICE

If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Executive Director and Secretary in one of the ways

described above and ask to be included on the mailing list for Docket UE-190837. If you do not do this, you might not receive further information about this rulemaking.

MARK L. JOHNSON
Executive Director and Secretary