

Small Business Economic Impact Statement (SBEIS)
Interconnection Rulemaking
Docket UE – 112133
April 16, 2013

I. Introduction:

In early 2011, at the request of the House Technology, Energy, and Communications Committee, the Utilities and Transportation Commission (Commission) conducted a study of distributed electric generation and offered recommendations for changes in statute and rules to encourage development of cost-effective distributed generation within investor-owned utility service territories. As a result of those recommendations, the Commission initiated a rulemaking in December, 2011 in Docket UE-112133 to determine if amending the rules in WAC 480-108 governing the interconnection of distributed generation facilities within utility electric systems was warranted.

Over the last eighteen months, the Commission has held several stakeholder workshops with interested persons to discuss draft rule language, receive comments, and explore options. The Commission has prepared three sets of draft rules and submitted them to stakeholders for comment. The draft rules are now sufficiently developed to publish them as proposed rules, and proceed to the next phase of the rulemaking. When issuing a notice of proposed rules, agencies must provide a copy of the small business economic impact statement (SBEIS) prepared in accordance with Chapter 19.85 RCW, or explain why an SBEIS was not prepared. *RCW 34.05.320(1)-(k)*. The Commission has prepared this small business economic impact statement in compliance with the requirement.

II. SBEIS Requirements:

The Regulatory Fairness Act, codified in Chapter 19.85 RCW, provides that an agency must conduct an SBEIS “if the proposed rule will impose more than minor costs on businesses in an industry.” *RCW 19.85.030*. An SBEIS is intended to assist agencies in evaluating any disproportionate impacts of the rulemaking on small businesses. A business is categorized as “small” under the Regulatory Fairness Act if the business employs 50 or fewer employees.

Under *RCW 19.85.040(1)*, agencies must determine whether there is a disproportionate impact on small businesses in the industry, and under *RCW 19.85.030(2)*, consider means to minimize the costs imposed on small businesses. In determining whether there is a disproportionate impact on small businesses, agencies must compare the cost of compliance for small businesses with the cost of compliance for the ten percent of businesses that are the largest businesses required to comply with the rule using either the cost per employee, the cost per hour of labor, or the cost per \$100 of sales revenue, as a basis for comparing costs. *See RCW 19.85.040(1)*.

III. SBEIS Evaluation Procedure:

The Commission has prepared an SBEIS for the proposed rules in Docket UE-112133 to determine whether the rule would impose a disproportionate impact on small businesses and, if so, to consider means to minimize costs to small businesses.

On December 21, 2012, the Commission mailed a notice to all stakeholders interested in the Commission's interconnection rulemaking, providing a link to the draft rules and an opportunity to respond to an SBEIS Questionnaire. The notice requested that the affected companies provide information concerning the cost impact of draft rules, and to provide specific information for each draft rule that the company identified as causing an impact. The Commission received comments from a total of fifteen stakeholders, including the three investor-owned electric companies regulated by the Commission: Puget Sound Energy (PSE), Pacific Power d/b/a PacifiCorp, and Avista. None of the investor-owned electric companies regulated by the Commission are small businesses. The responses from the fifteen stakeholders are discussed below in Section's IV & V.

To conduct an SBEIS pursuant to the Regulatory Fairness Act, the Commission must either determine the cost per employee, the cost per hour of labor or the cost per \$100 of sales revenue. This rule making does not require that information to be known or required for the Commission to effectively revise the interconnection rules under Chapter 480-108 WAC. Therefore, although the results of this survey are based on limited quantitative data, there was a wealth of experience and history of interconnection activities and resultant impacts expressed by the Commission's stakeholders throughout this process.

The Commission conducted its analysis by considering the purpose of the rule, the reason for the new rule revisions, and the cost of compliance asserted by the companies and other stakeholders. Commission staff evaluated whether the estimated cost was reasonable or whether it is already a cost of compliance, and in weighing all the information, determined if any mitigation of the requirements of the draft rules were appropriate. Given the limitation of available economic data, the Commission made every effort to evaluate the impacts of the revised rule, to ensure that the effect of the rulemaking is fair and does not impose a disproportionate burden on the affected companies.

IV. Compliance Requirements of the Draft Proposed Rule:

The Commission initiated this rulemaking in late December, 2011 by issuing a CR-101 Rulemaking Notice. The Commission has taken the following steps in pursuing this rulemaking:

- The Commission received comments on the CR-101 notice, summarized those comments, and held a workshop for interested parties on March 26, 2012.
- A Stakeholder Workgroup was formed to determine if representatives from private and public utilities, as well as other stakeholders, could reach agreement on rule changes.

- The Stakeholder Workgroup held a number of meetings and produced a July 13, 2012, Report recommending new Model Rules to replace WAC 480-108.
- In late July, 2012, the Commission circulated the Stakeholder Workgroup's Model Rules and received comments on September 7, 2012.
- Based on the Stakeholder Workgroup's Report and the September 7, 2012, comments, the Commission determined that the existing rule language should be amended and the format be replaced, to the extent practicable, with the proposed Model Rule developed by the Stakeholder's Workgroup, and the September 7, 2012, comments.
- On November 21, 2012, the Commission issued a notice requesting comments on draft amended rules, including an opportunity to respond to a Small Business Economic Impact Statement Questionnaire.
- The Commission received comments on December 21, 2012, from fifteen different parties that totaled about 55 pages.
- In incorporating the December 21 comments into the existing draft rule, it became clear that substantial editing and formatting changes were necessary.
- As a result of the December 21 comments, the Commission issued a second set of draft rules on February 5, 2013, for stakeholder review and technical editing.
- On March 6, 2013, the Commission received the last round of comments on the second set of draft rules and is now ready to publish and circulate proposed rules, filing a CR-102 with the Office of the Code Reviser.

V. Results of Analysis:

During the CR-101 comment and review process, the Commission's analysis centered on the following:

- During the process the Commission identified six major policy areas requiring analysis. The Commission's analysis about the costs of rules resulting from resolution of these issues is as follows:
 - 1.) External Disconnect Switch- The issue in the rulemaking stems from a dispute about the need for this switch as a safety requirement necessary for facility maintenance given the technological advances in automated shutoffs on modern inverters. Some stakeholders requesting removal of the requirement arguing that the requirement imposes additional costs, although not substantial, on the person interconnecting with a utility. In the proposed rules, the Commission resolves this debate by providing that a utility may not require an external disconnect switch for small inverter systems unless such an external switch is required by the Washington State Department of Labor and Industries (LNI) rules. Removing the utilities' discretion to require the switch installation imposes no additional costs on the person installing the equipment, or the utility in the proposed rule. Regardless of the Commission's rule, if the LNI require an external disconnect switch, one must be installed. This provision does not result in any additional cost nor the shifting of costs to any other person or utility as a result of the interconnection. LNI has separate authority for determining if a disconnect switch or any other safety measures are required on distributed generation interconnections.
 - 2.) Tiered Application System – The current rule includes a two-tiered application process with limited discretion to deviate from the prescribed paths. This requires

- very simple interconnection facilities to be subject to lengthy and costly application processes were found to be no longer necessary. The proposed rules include a more precise and targeted three-tier application process that allows for a high percentage of the smaller facilities to be processed in an expedited and fast track process, with much less expense and time. This approach, developed with support of impacted stakeholders, results in economic saving to the small facility applicant with no cost shifting to any other persons or utilities.
- 3.) Standardization of Application Forms; Interconnect Agreements; and Fees -- The current rules allowed for a number of application processes, interconnect agreements and fee structures. The proposed rules, developed with the support of impacted stakeholders, will standardize, to the extent possible, these application formats and fees. The economic impact of this standardization of forms and fees should provide some level of efficiency that would result in cost saving to all affected persons and utilities. The applicant will most likely be the recipient of the cost savings, with no cost shifting to any other person or utilities.
 - 4.) Direct Transfer Trip - This mechanism is another safety device that is required in the current rules. It is a relatively expensive device for a single interconnect customer, especially small facility owners. The proposed rule allows for the direct transfer trip switch to be required only at the discretion of the utility for the larger, more complex distributed generation systems; and only after that utility provides a written justification for the need for the switch. This should result in fewer switches being required a reduction in costs to the applicant and no potential damage to the utility. The applicant will most likely be the recipient of the cost savings, with no cost shifting to any other parties.
 - 5.) Third-party ownership - The issue of whether to include third-party ownership into the definition of a net-metered interconnection customer was raised by stakeholders promoting interconnection of distributed generation. This issue has a number of implications regarding the number and type of interconnections to the electric distribution system. The proposed rules allow for third-party ownership for net-metered interconnection systems. Allowing third-party ownership for net-metered customers may result in an increase in sales and installations of net-metered distributed generation systems, which could benefit those persons or companies marketing distributed energy systems in the state. If third-party ownership results in out-of state firms taking business from in-state firms, there could be an economic impact on those in-state firms, however, this may also result in an increase in jobs and economic activity in the state. The utilities assert that allowing third-party ownership will increase the amount of net-metering in the state, which will increase the revenue loss the utilities are experiencing due to net-metering, which results in cost-shifting to non-net-metered customers. Utilities may request cost-recovery from the Commission through decoupling or other mechanisms, to address this cost impact.
 - 6.) Insurance Requirements - The final policy issue is whether to eliminate the insurance requirement for all interconnection customers at 100 kW or less, similar to the existing requirement for net-metered interconnection customers in Washington State. The comments allege some potential economic and liability impacts from eliminating such insurance requirements. This concern is valid in its theoretical assertion; however, the actual information from other western states, where this provision has

been in effect for a number of years, indicates that added liability and cost impacts appear to be very small to zero. The only ability for cost shifting in this debate is with the shift of liability which information from other states indicates does not exist.

- In addition to these six issues, as a result of the last round of comments, the Commission identified a minor concern regarding voltage regulation control in the context of interconnection of facilities. The investigation of this issue indicates it can be resolved through a notification procedure and without any increases in cost impacts to small businesses or cost shifting to other involved stakeholders.
- In conclusion, the results of the analysis based on stakeholder comments and the Commission's ongoing work to resolve the three remaining policy issues indicates that none of these issues will result in disproportionate economic impact to small businesses in Washington State nor will there be any major cost shifting to any other persons or utilities as a result of the proposed rules.

VI. Proposed Rules that may Create Costs:

The Commission's analysis of the major policy issues in question in this rulemaking supports a finding that none of the proposed rule changes will result in disproportionate economic impacts on small businesses or any other stakeholders involved in these proceedings.

VII. Summary of Findings:

Responses to the SBEIS survey and other information from the stakeholders leads the Commission to find that there is very little probability of imposing more than minor costs on electric generation and distribution related businesses operating in Washington State. In fact, the proposed rules have a higher probably of reducing costs over the long term to small and large electric generation and distribution related businesses in Washington State.

VIII. Mitigation:

The Commission's analysis supports a finding of no disproportionate economic impacts to small businesses or other stakeholders involved in the proposed rules. As the analysis indicates there is a high probably of cost savings to most involved parties in implementing these rules, including small businesses, therefore there is no need for any mitigation measures to be considered.

IX. Conclusion:

Chapter 19.85 RCW requires that an agency prepare an SBEIS to assess whether proposed rules would impose more than minor costs on businesses in an industry, in this case, electric companies associated with interconnection facilities on electric distributions systems. Staff

mailed surveys designed to obtain information about the cost of compliance with the draft proposed rules to all the stakeholders and companies known to the Commission to be involved in or affected by this rulemaking. Staff received responses from less than twenty stakeholders and/or companies affected. Only a few comments were received indicating any indications of direct economic impacts.

The Commission has determined the proposed revisions to WAC 480-108 are necessary and prudent to conduct its statutory responsibilities and, in addition, the analysis indicates there is little or no possibility of these proposed rules causing cost increases to small or other businesses in the implementing of these rules. In addition, the Commission has determined there is a high probability of cost savings to most involved parties, including small businesses, in implementing these rules.

Therefore, based on all information collected throughout the rulemaking process to date, the Commission concludes there is no new major economic impact that will result from this rulemaking. In addition, the Commission concludes that, at least, minor long-term economic improvements and saving will result from this rulemaking.