

October 26, 2005

Carole J. Washburn  
Executive Secretary  
Washington Utilities and Transportation Commission  
1300 South Evergreen Park Drive S.W.  
P.O. Box 47250  
Olympia, WA 98504

**RE: Comments of the NW Energy Coalition on Docket UE-030423, rulemaking on bidding rules**

Dear Ms. Washburn:

Thank you for the opportunity to submit comments regarding proposed modifications to rules for purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers. The Coalition participated in the June 2003 and June 2005 workshops on this rulemaking, and has been actively participating in associated docket UE-030311 regarding integrated resource plans.

Our interest in this docket stems from our experience that end-users and the environment may be placed at serious risk from utility resource decisions. The reason for that is the regulatory tool available to the Commission – future disallowance of costs – is blunt and impractical for the task of making sure that a utility's decisions are the right combination of least cost and least risk. Commissions are naturally reluctant to second guess a utility's choices years after its decisions are made. In addition, it is difficult, years after the fact, to determine the effect of any particular resource decision compared to a result if a different choice had been made. Prudence reviews and disallowance of imprudent costs are very important, both to protect ratepayers from unwarranted costs and to create the right incentives for utility decision makers. However, it is extremely important to make good resource decisions in the first place, because ultimately ratepayers and the environment, not shareholders, are on the hook for the majority of costs.

In addition to the comments provided below, we have joined several other parties (through separate letter) in requesting the Commission pursue further discussion and another round of informal comments on proposed modifications to the bidding rules. While the proposed rules clarify several aspects of the bidding process, they do not thoroughly address significant changes in the energy industry that have occurred since the rules were originally adopted.

We respectfully submit comments on a few key areas of the proposed rules where additional clarification would be useful, and point to ongoing efforts in Oregon and Idaho that may provide helpful input.

**First**, we are concerned about the ability of a utility to issue requests for proposals (RFPs) for specified resource types. The rules go a long way towards addressing this issue because they “do not establish the sole procedures utilities must use to acquire new resources” (480-107-001(1)). Further, “in addition to the solicitation process required by these rules, a utility may, at its own discretion, issue a RFP that limits project proposals to resources with specific characteristics” (480-107-015 (3)). But using the clause “in addition to” seems to require the utility to issue an all source RFP first, in which any bidder may participate as outlined in subsection (1)(a). This is further emphasized in the following provision: “The RFP must identify a resource block consisting of the overall amount and duration of power the utility is soliciting through the bidding process. The RFP must document that the size of the resource block is consistent with the range of estimated new resource needs identified in the utility's integrated resource plan.” (*emphasis added*; 480-107-025(2))

In November 2003, Puget Sound Energy (PSE) filed a request with the Commission to issue an RFP for wind power resources. PSE’s integrated resource plan had identified a significant need for new resources, with a portion of that need to be met with wind power. The Commission ultimately granted PSE’s request with a requirement for the Company to also issue an all source RFP. As a result of that decision, PSE did not move forward with its original intent to issue a second RFP in spring 2004 focused on other types of renewable energy. And stakeholders received a clear message that focused RFPs were not encouraged.

To avoid a repeat of that situation, we recommend further clarifying the proposed rules as follows:

~~In addition to~~ Consistent with the solicitation process required by these rules, a utility may, at its own discretion, issue a RFP that limits project proposals to resources with specific characteristics” (480-107-015 (3)).

The RFP must identify a resource block consisting of the ~~overall~~ amount and duration of power the utility is soliciting through the bidding process. The RFP must document that the size of the resource block is consistent with the range of estimated new resource needs identified in the utility's integrated resource plan. In the case of an RFP limited to project proposals with specific characteristics, the size of the resource block shall be consistent with the needs identified in the utility’s integrated resource plan for that resource type. (480-107-025(2))

**Second**, the proposed rules include a provision enabling persons interested in receiving commission notice of a specific utility's RFP filings to request the Commission to place their names on a mailing list for notification of future RFP filings by that utility. (480-107-015 (4)) While this is an important provision, it places the burden of discovery on the public. We would expect a utility to distribute its RFP far and wide, but the rules only require a utility to “solicit bids” – they appear silent on utility publication of its final RFP. We suggest including a provision clarifying expectations of this aspect of the solicitation process.

**Third**, in our experience, some utility RFPs provide explanations of evaluation criteria while others simply list those criteria. Explanatory details are extremely helpful not only for potential bidders but also for ensuring an open public process where stakeholders have a solid understanding of how resources will be assessed and compared. We suggest clarifying the provision concerning contents of the solicitation (480-107-025(3): “The RFP must also specify and explain any minimum criteria that bidders must satisfy to be eligible for consideration in the ranking procedure.”

**Fourth**, we appreciate the expanded list of project ranking criteria, particularly reference to market volatility risk and public policies regarding resource preference adopted by Washington state or the federal government. (480-107-035(2)) However, the proposed rules continue to refer to “environmental effects including those associated with resources that emit carbon dioxide.” We recommend the Commission be clearer in its guidance to utilities on this point. This provision could be modified to read “... and the costs of risks associated with current and future environmental regulations, including limits on emissions of carbon dioxide.” This modification is in line with one of our recommendations in the associated IRP rulemaking docket.

**Fifth**, the project ranking criteria refer to “credit and financial risks to the utility” as well as differences in relative amounts of risk inherent in different financing arrangements. (480-107-035(2)) While this language is general in nature and would not seem to bias the resource selection process, we have an ongoing concern that the current landscape shifts a utility in favor of owning rather than “renting” (i.e., purchasing output or tolling agreements). Ownership of a resource carries many risks and benefits for ratepayers different from those involved with renting a resource. They include potentially lower cost but higher construction and operations risk. A resource solicitation should recognize these differences.

**Finally**, we believe that clean distributed generation can and should play a key role in the region in reducing stress on the transmission and distribution system, enhancing our energy security and providing local economic benefits. Ensuring that the rules related to qualifying facilities are clear and updated is critical to this effort. We note that both the Oregon Public Utility Commission and the Idaho Public Utilities Commission currently have open dockets regarding PURPA. In Oregon, rulemaking docket UM-1129 relates to electric utility purchases from qualifying facilities (and is separate from docket 1182, an investigation into the competitive bidding process). The Idaho Commission is investigating similar issues through Idaho Power Company’s pending PURPA suspension case (IPC-E-05-22). We hope that the Commission grants the joint request for an additional round of informal comments in this docket, which would also provide an opportunity to learn from the processes taking place in Oregon and Idaho.

We appreciate your consideration of these comments.

Sincerely,

Danielle Dixon  
Senior Policy Associate  
NW Energy Coalition