



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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April 8, 2025

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By May 8, 2025)

Re: *Rulemaking required to implement ESHB 1589,*
Docket U-240281

TO ALL INTERESTED PERSONS:

On May 10, 2024, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to engage in a Commission rulemaking required to implement ESHB 1589 (Chapter 351, Laws of 2024). The Commission filed the CR-101 under Docket U-240281.

ESHB 1589 was codified in RCW 80.86 and directed the Commission to adopt rules by July 1, 2025, to implement consolidated planning requirements for large combination utilities that allow for integrated system plans (ISPs) that may satisfy requirements for existing statutorily required plans. The law provides for a 90-day extension for adoption of rules in the event a large combination utility requests a 90-day extension of the date to file its first ISP.¹

On December 13, 2024, the Commission issued a notice to inform parties that the rulemaking timeline will be extended 90 days with a new required completion date of September 27, 2025. The 90-day extension corresponds with a 90-day extension for the due date of Puget Sound Energy's (PSE) first ISP. PSE's first ISP due date has been extended from January 1, 2027, to April 1, 2027.

The Commission seeks comment on the final round of informal draft rules. The current iteration of draft rules includes a cost-test section to meet the requirement in RCW 80.86.020(9) that the Commission adopt by rule a cost test for emissions reduction measures achieved by large combination utilities to comply with state clean energy and climate policies. The cost test component of the rule was developed and released independently for comment following a series

¹ RCW 80.86.020.

of three technical conferences in this docket. The other portions of the draft ISP rule have been developed through a process that included two prior drafts, two public workshops and three rounds of public comments.

On March 21, 2025, the King County Superior Court ruled that Initiative 2066 (I-2066 or Initiative) is unconstitutional. To date, no party has moved for a stay of that decision. Therefore, the Commission has amended the draft rule to accord with courts ruling. Language that was removed in the second ISP rule draft due to the passage of I-2066, has now been reincorporated. The Commission recognizes that litigation on the constitutionality of the Initiative is continuing, and we will track developments closely. Given the statutory deadlines for adoption of rules, however, the Commission must move forward with draft rules that address the status of the law at this time

The Commission seeks comment on the latest version of the rules and requests written comments to be submitted on or before May 8, 2025.

QUESTIONS FOR CONSIDERATION: COST TEST

1. The draft ISP rules require that the cost test be used both to determine a lowest reasonable cost portfolio, as defined in RCW 80.86.010(22), and to support the Commission in its public interest determination, as described in RCW 80.86.020(11). **Are any of the impacts included in the cost test not included in RCW 80.86.010(22) or RCW 80.86.020(11)? Conversely, are there any impacts included in RCW 80.86.010(22) or RCW 80.86.020(11) that are missing from the cost test?**
2. The draft ISP rules require the inclusion of both monetized and non-monetized impacts. The Commission recognizes that while many impacts need to be included in the cost test, not all impacts can or should be monetized or quantified. For example, best practices suggest that some equity impacts should not be monetized and that equity impacts should be compared separately, alongside the monetary results of benefit-cost analysis. Likewise, rate and bill impact analysis should be compared alongside cost analysis. **Do the draft rules provide sufficient flexibility to account for both monetized and non-monetized impacts in the cost test?**
3. The draft ISP rules are written to allow a large combination utility to use current practices to account for both monetized and non-monetized impacts when applying the cost test, and to incrementally improve on the monetization and quantification of hard-to-quantify impacts leading up to each subsequent integrated system plan. **Is it clear that the draft rules allow for incremental improvements over time? What additional guidance may be needed to assist a large combination utility to account for non-monetary and hard-to-quantify impacts?**
4. The draft ISP rules allow for the cost test to be used as an input to the Commission's determination of whether the ISP is in the public interest. Each large combination utility must submit to the Commission an ISP that adequately captures the considerations from

RCW 80.86.020(12) in tandem with the cost test. **Do the draft cost test rules provide adequate guidance that the cost test is one input to be used to determine whether the ISP is in the public interest?**

5. The draft ISP rules include a rate and bill impact component in the cost test to indicate the extent to which each portfolio increases or decreases forecasted rates and bills. The rate and bill impact is applied at the portfolio level, consistent with RCW 80.86.020(9), as it may be administratively burdensome to require more granular application of a rate and bill analysis to individual customer classes. **Do the draft rules provide adequate guidance both for how to apply and at what level to apply the rate and bill impacts in the cost test?**
6. The “decision framework” section, set forth in draft WAC 480-95-050(8), outlines how each large combination utility must select its preferred portfolio based on the results of the cost test. **Does the Decision Framework section provide adequate guidance for how each large combination utility should present, consider, and utilize the results of its cost test as presented in the Decision Framework? What other guidance may be needed in the Decision Framework Section?**
7. Draft WAC 480-95-050(5) requires a large combination utility to demonstrate that the integrated system plan will optimize resources across the gas and electric systems. **Do the draft rules provide sufficient guidance for how a large combination utility should optimize resources across the gas and electric systems? If not, what additional guidance should be provided?**
8. The draft rules now include the requirement, previously removed from RCW 80.86.020(5) by Initiative-2066, to apply a risk reduction premium that must account for the applicable allowance ceiling price approved by the Department of Ecology pursuant to the Climate Commitment Act, Chapter 70A.65 RCW. **Does the cost test section of draft rules provide adequate guidance for how a large combination utility must evaluate a risk reduction premium? What other guidance, either in rule or elsewhere, may be needed?**

ADDITIONAL QUESTIONS FOR CONSIDERATION

The Commission also seeks comment on the following topics addressed in the draft rule language:

1. **Midway Update** - The draft ISP rules at WAC 480-95-080(6)(a) describe certain conditions that, if met, would require a large combination utility to file a midway update approximately half-way through the four-year implementation period.
 - a. The current draft rules include slightly different conditions as compared to the second draft proposed in WAC 480-95-080(7)(a)(i)-(iii). What additions, deletions or changes should be made to the draft rules? If so, why?

- b. The current draft includes a requirement for a company to consult its advisory groups on whether a midway update is required at least one year prior to the potential filing deadline. Is one year far enough in advance to discuss whether the utility plans to file a midway update? Is it too far in advance? Please explain your answer.
2. **Elimination of Ongoing Draft ISP Requirement** – A requirement to file a draft ISP has been removed from the requirements outlined in the draft rule. Is the requirement to submit a draft ISP important, or is a final ISP filing adequate? If a draft ISP is important, please explain how to weigh the value of a draft ISP against the cost (in time and resources of all interested persons) of submitting only a final version.
3. **Time horizons.** Integrated resource plans, clean energy action plans, and clean energy implementation plans have time horizons of 20+ years, 10 years, and 4 years, respectively. There is a parallel between these plans and the contents of the ISP that meet these consolidated plans' requirements. Are there any parts of the rules where these time horizons need to be made more explicit or where the time horizon of a given requirement is unclear?
4. **Low-income electrification consent.** Draft WAC 480-95-060(4)(b) includes a requirement that large combination utilities obtain explicit customer consent from a low-income customer if participation in an electrification program would increase that customer's energy burden. How burdensome would it be to conduct and provide this level of analysis (at an individual customer level), how would it impact the feasibility of the program overall, and how should a company balance that effort with transparency and maintaining affordability for low-income customers.
5. **Nonpipeline alternatives assessment.** ESHB 1589 requires large combination utilities to assess nonpipeline alternatives. This requirement includes identifying projects anticipated at least over the next 10 years. The language draft WAC 480-95-040(3)(b) includes this requirement, but extends the outlook to at least 20 years, rather than 10 years. Is it important to align the nonpipeline alternatives assessment with the long-term analysis required in draft WAC 480-95-050? Please explain why or why not.
6. **Balanced consideration of targeted electrification geography.** The current draft ISP rules require a large combination utility to demonstrate that targeted electrification actions consider electrification of gas loads not served by the large combination utility (not only dual-fuel customers). Is this requirement overly burdensome? Is this a concern that needs to be addressed in rule?

7. **Licensing Fees.** Are there any concerns about the cost of the licensing fee(s) mentioned in WAC 480-95-080(3)(d), both the direct cost, and any indirect cost to parties/staff from learning/using the fees in the long term?
8. **Public Participation Plan.** WAC 480-100-655 requires electric utilities to file public participation plans every May of an odd-numbered year. Staff believes this is unnecessary and conflicting with the timeline of an ISP, and so has proposed in draft WAC 480-95-080(1) that large combination utilities instead must file a public participation plan at the same time as a work plan, as seen in WAC 480-95-080(5). As the draft rule stands, large combination utilities would have to file a work plan and a public participation plan separately, along the same timeline. Staff is interested in feedback on this change, and alternatively, about the possibility of including the public participation within the work plan (rather than as a separate filing).

NOTICE OF SMALL BUSINESS ECONOMIC IMPACT QUESTIONNAIRE (SBEIS) The Commission requests that affected companies provide information concerning whether the draft revised rules create additional costs for large combination utilities or other entities. The cost information you provide concerning these draft rules will assist the Commission to assess the possible costs of the rules and to determine whether a Small Business Economic Impact Statement (SBEIS) is required.

Washington's Regulatory Fairness Act, chapter RCW 19.85, is intended to focus an agency's attention on the economic impact of proposed rules on affected businesses, involve affected businesses in developing rules, and minimize any disproportionate impact of the rules on small businesses.

Before adopting a rule that will impose more than minor costs on an industry, the Commission must analyze the compliance costs for **both large and small** businesses (including lost sales or revenue), involve small businesses in the development of the rule, take feasible steps to reduce the economic impact of the rule on small businesses, and prepare an SBEIS. A "small business" is any profit-making entity that has 50 or fewer employees.

The Commission requests that companies submit to the Commission **no later than 5 p.m. on Thursday, May 8, 2025**, their analysis of whether the draft rules impose an additional cost impact on the company other than what the company already incurs to comply with existing rules. Please be sure to include your company name; company contact person, including that person's contact phone number and email address; and the number of people your company employs. For each draft rule for which you identify an additional cost impact, please provide, at a minimum, the following information:

1. Identify the rule number, *i.e.*, WAC 480-100-XXX, of the draft proposed rule that you identify as having a cost impact.
2. Explain why there will be an additional cost impact on the company;
3. Provide a detailed analysis of how you calculated the additional cost impact of each draft rule you identify as having an additional cost impact; and
4. Identify any draft proposed rule that may create a cost savings to the company compared to the current rule.

Pursuant to WAC 480-07-250, responses to the SBEIS questionnaire must be submitted to the Commission in electronic format, specifically in .pdf format (using Adobe Acrobat or similar software). As provided in WAC 480-07-140(5), you must submit those responses 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 them via 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-240281).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post all responses and other comments on its website at <https://www.utc.wa.gov/>.

WRITTEN COMMENTS

Written comments on the draft rules, 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 U-240281).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <https://www.utc.wa.gov/casedocket/2024/240281/docsets>.

If you are unable to file your comments electronically the Commission will accept a paper document. If you have questions regarding this rulemaking, you may contact staff lead Payton Swinford at (360) 489-4044, or by email at Payton.Swinford@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 U-240281. If you do not do this, you might not receive further information about this rulemaking.



JEFF KILLIP

Executive Director and Secretary