



December 29, 2022

VIA ELECTRONIC MAIL

Ms. Amanda Maxwell
 Executive Director and Secretary
 Washington Utilities and Transportation Commission
 621 Woodland Square Loop SE
 Lacey, WA 98503

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 UTIL. AND TRANSP.
 COMMISSION

RE: Comments of the Washington & Northern Idaho District Council of Laborers on Commission proceeding to develop a policy statement addressing alternatives to traditional cost of service ratemaking (Phase 1 – Performance Metrics), Docket U-210590

Dear Ms. Amanda Maxwell:

Pursuant to the Notice of Opportunity to File Written Comments on the above-referenced proceeding, please see the written comments of the Washington & Northern Idaho District Council of Laborers. Should you have any questions, do not hesitate to contact me at the information below.

Sincerely,

Stacy Martin
 Business Manager Secretary-Treasurer
 Washington & Northern Idaho
 District Council of Laborers
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Enclosure

**BEFORE THE STATE OF WASHINGTON UTILITIES AND TRANSPORTATION
COMMISSION**

Commission proceeding to develop
a policy statement addressing alternatives to
traditional cost of service ratemaking
(Phase 1 – Performance Metrics),
Docket U-210590

COMMENTS OF WASHINGTON
& NORTHERN IDAHO DISTRICT
COUNCIL OF LABORERS

The Washington and Northern Idaho District Council of Laborers (“WNIDCL”) represents thousands of construction workers who build our state’s energy infrastructure. The majority of our membership identifies as Black, Indigenous, or people of color (“BIPOC”). We are an affiliate of the Laborers International Union of North America (“LIUNA”) which represents over half a million workers in the United States and Canada. In response to the Notice of Opportunity to File Written Comments in Docket U-210590, we submit these comments on the set of draft performance metrics discussed at the November 7, 2022 workshop. We previously submitted comments in this proceeding on September 7, 2022, and propose to integrate the performance metrics discussed in that filing into the following draft performance metrics.

I. Recommendations

The draft performance metrics are inadequate in considering fair compensation for utility employees as directed by the legislature.

The Washington State Legislature has been consistent in crafting energy policy that advances racial and social equity, as well as the creation of family-sustaining jobs. Indeed, Revised Code of Washington (RCW) 80.28.425, Legislative directive-2021 c 188, requires the Washington Utilities and Transportation Commission (“Commission”) to develop a policy statement addressing alternatives including performance metrics that considers numerous public interest factors including “fair compensation of utility employees.”¹ Moreover, RCW 80.28.425(1)

¹ Revised Code of Washington (RCW) 80.28.425, Legislative directive—2021 c 188 states: “1) To provide clarity and certainty to stakeholders on the details of performance-based regulation, the utilities and transportation commission is directed to conduct a proceeding to develop a policy statement addressing alternatives to traditional cost of service rate making, including performance measures or goals, targets, performance incentives, and penalty mechanisms. As part of such a proceeding, the utilities and transportation commission must consider factors including, but not limited to, lowest reasonable cost planning, affordability, increases in energy burden, cost of service, customer satisfaction and engagement, service reliability, clean energy or renewable procurement, conservation acquisition, demand side management expansion, rate stability, timely execution of competitive

provides that in establishing a multiyear rate plan or other alternative ratemaking proposal, the Commission may consider health and safety concerns, economic development, and equity in determining the public interest. RCW 80.28.425(7) mandates the Commission, in approving a multiyear rate plan, to determine performance metrics that consider numerous factors including fair compensation of utility employees. By specifying the inclusion of fair compensation of utility employees in Section 1 and Section 2, paragraph 7, of Engrossed Substitute Senate Bill 5295 (“SB 5295”),² it is clear the legislature intended for the Commission to study and develop performance metrics that consider the creation of good utility jobs.

Goal 3, advancing equity in utility operations, is the appropriate section to include performance metrics that consider fair compensation for utility employees. If left unchanged, the draft performance metrics 21-26 are insufficient at measuring if the utilities have procurement practices that promote equity, and create well-paying careers for the utility construction workforce.

We propose the following performance metrics under Outcome 1, Goal 3:

Outcome 1: Equitable and diversity-focused utility hiring, promotion, and vendor selection practices.

Section Name	Proposed Metric	Why This Matters	How Utilities Can Collect This Data
Supplier Workforce Compensation	Total number of utility construction contractor employees, as well as percentage of total workforce, who are eligible for low-income energy assistance, and other public assistance programs such as TANF, SNAP, and Medicaid by	The Commission, and oftentimes utilities, do not have a line of sight into the compensation practices of their construction contractors, despite the fact that it is construction contractors who perform the bulk of construction activities for the utilities. Despite working alongside direct employees of utilities, some employees of construction contractors earn poverty wages and lack employer-sponsored health insurance. If a utility contractor is winning bids by depressing compensation for its workforce, the utility and the Commission should be	It would not be burdensome for utilities to require their construction contractors to complete an annual survey of their workforce that documents the compensation levels of workers by classification, and the number of workers who are eligible for low-income assistance programs. In addition, utilities can include reporting of this information in their standard contract terms with construction companies, as well as require this report in bids. For contractors who have collective bargaining

procurement practices, attainment of state energy and emissions reduction policies, rapid integration of renewable energy resources, and fair compensation of utility employees.”

² See New Section 1, and New Section 2, paragraph 7: <https://lawfilesexternal.wa.gov/biennium/2021-22/Pdf/Bills/Senate%20Passed%20Legislature/5295-S.PL.pdf?q=20221228125110>

Section Name	Proposed Metric	Why This Matters	How Utilities Can Collect This Data
	construction contractor.	aware of this practice. These data would enable the Commission and utilities to measure the impact of utilities' procurement methods on vulnerable communities, and the extent to which utilities' procurement methods are creating good jobs.	agreements with construction trade unions, the submission of the collective bargaining contract would be sufficient as these agreements include minimal wages and benefit levels.
Supplier Workforce Diversity	For utility construction contractors, total number of 1) BIPOC and 2) female or non-binary construction employees, and % of total workers identifying as BIPOC and female or non-binary.	Metrics 21 and 22 address diversity for direct employees of utilities, and the owners of contractors, but there is no report on the racial and gender diversity of the contracted-out construction workforce that performs the bulk of utility construction activities. Moreover, when compensated at collectively bargained wages, construction opportunities on utility projects can promote equity for BIPOC communities because a significant share of union construction workers are people of color. This workforce should not be excluded from performance metrics.	<p>It would not be burdensome for utilities to make standard regular reporting by its construction contractors of the racial and gender composition of their construction workforce.</p> <p>For contractors who have signed collective bargaining agreements with construction unions, local unions already report the racial and gender makeup of the membership. For example, for WNIDCL affiliated locals, 58% of our current membership identifies as Black, Indigenous, or people of color.</p>
Supplier Workforce Equity	The number of construction contractors, as well as % of total construction contractors, who have policies and practices that promote fair	By documenting the efforts of utility construction contractors in promoting equity by paying fair wages and benefits to their workforce, the utilities and the Commission can understand the impact of utility procurement practices on creating good jobs. The lack of information on	<p>Utilities could perform annual audits of their contractors, and require bidders to submit the following data:</p> <ol style="list-style-type: none"> 1. Documentation that the contractor participates in a registered labor-management apprenticeship program;

Section Name	Proposed Metric	Why This Matters	How Utilities Can Collect This Data
	compensation practices, and family-sustaining jobs.	contractor compensation policies means the Commission and the public do not have vital data to evaluate fair compensation for utility contractor employees. Moreover, utility construction opportunities can create career opportunities for underrepresented communities if contractors prioritize targeted hiring of BIPOC communities, and those jobs pay competitive wages and benefits.	<ol style="list-style-type: none"> 2. Documentation that the contractor is signatory to a collective bargaining agreement with a construction union; 3. Documentation the contractor has a recruitment and retention plan targeting BIPOC and female or non-binary communities; 4. Documentation the contractor's workforce is compensated at collectively-bargained equivalent wages and benefit levels.

II. Conclusion

Washington State legislators have signaled to the Commission and the public, that there is an opportunity to leverage utility investments, and alternative ratemaking, in order to advance racial and social equity, as well as promote high quality jobs for workers. The legislature specifically endorsed the consideration of fair compensation for utility workers in SB 5295. Our experience recruiting, training, and dispatching diverse workers to energy infrastructure projects across the region demonstrates it is possible to create good jobs, and prosperity in BIPOC and other historically disenfranchised communities. Currently, the Commission and utilities lack basic information regarding compensation and benefit levels, and diversity of the contracted-out construction workforce, despite the importance of this labor to utility customers. Our recommendations ensure these workers are not left behind as the Commission considers alternative ratemaking. Thank you for your consideration of our comments.