

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Chapter 480-107 WAC Rulemaking

Docket No. UE-030423

Comments by the Cogeneration Coalition of Washington

The Cogeneration Coalition of Washington¹ (CCW) hereby provides comments on the proposed revisions to Chapter 480-107, issued by the Commission on January 23, 2006.

I. Introduction

The January 23 draft of the regulations is much clearer and comprehensive than the prior versions, and CCW appreciates the work done by the parties, and particularly the Commission staff, in developing this draft. CCW has no objection to the proposed language in Sec. 480-107-055 setting the process for determining the estimate of avoided costs, and supports the recognition of the obligation to purchase from QFs in Sec. 480-107-095. CCW's only objection is to the continued consideration of debt equivalence in evaluating proposals.

II. Consideration of Debt Equivalence

CCW interprets the proposed regulations as implicitly accepting the inclusion of debt equivalence in the criteria to be used in reviewing proposals. The proposed rule allows the utility to evaluate and rank project proposals based on, among other items, "*credit and financial risks to the utility.*" (WAC 480-107-035). While this is a generic reference to any financial risk, it can easily include

¹ CCW represents the cogeneration and customer interests of March Point Cogeneration Company, Sumas Energy Company and Tenaska Ferndale Cogeneration.

imputing additional costs to long-term purchase power agreements on the basis of debt equivalence.

The consideration of debt equivalence by rating agencies is a reality which the utilities and regulators must consider. However, what remains uncertain is whether the rating agencies' consideration of debt equivalence actually affects a utility's costs. This is an issue that this Commission has never squarely addressed. Specifically, if Puget enters into a long-term contract as a result of a particular solicitation, will any debt equivalence mathematically calculated for that contract actually increase Puget's revenue requirement? Such imputation of debt equivalence might not increase Puget's revenue requirement if the new long-term contract replaced another contract. It is also uncertain whether the addition of any particular contract will cause a rating agency to change Puget's credit rating, and increase Puget's costs. Finally, given the guarantee that procurement costs related to QF contracts should be fully recoverable,² it is not clear at all that entering into a QF contract should produce any increased credit risk.

It seems that allowing the consideration of debt equivalence in these regulations allows a utility broad discretion in how the factor is employed, without any effective review of this Commission. While draft RFPs and their proposed ranking criteria are filed for Commission review, that Commission review may simply determine that some "consideration" of imputed debt is permissible. There would be no direct and final determination of how imputed debt should be

² The Energy Policy Act of 2005, in Section 1253(a)(7) requires FERC to issue regulations to ensure that a utility can recover all prudently incurred costs in buying power from QFs.

applied or quantified, or that it is justified in any particular circumstance. The utility's evaluation of the RFP responses may never be filed at the Commission, and there may be no opportunity for Commission review of how Puget applied the criteria of financial risk. And if the evaluations are filed with the Commission, it would likely be under seal so that none of the suppliers could review and question the treatment of imputed debt.

CCW recommends that the Commission initiate a rulemaking into how debt equivalence will be considered in the procurement process.

III. Conclusion

The proposed rules improve the regulation of competitive solicitations and procurement. CCW objects to the unfettered delegation of discretion to utilities to consider the impact of debt equivalence related to purchase power contracts. The Commission should undertake a comprehensive review of how the principle of debt equivalence should affect the regulation and cost recovery of utilities.

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Respectfully submitted,

s/ Donald Brookhyser

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