

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending, Adopting,
and Repealing Sections of

WAC 480-107

Relating to Purchases of Electricity.

DOCKET UE-190837

GENERAL ORDER R-602

ORDER AMENDING, ADOPTING,
AND REPEALING RULES
PERMANENTLY

- 1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 20-22-075, filed with the Code Reviser on November 2, 2020. The Commission has authority to take this action pursuant to RCW 80.01.040, RCW 80.04.160, RCW 80.28, RCW 19.280, and RCW 19.405.
- 2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (Chapter 34.05 RCW), the State Register Act (Chapter 34.08 RCW), the State Environmental Policy Act of 1971 (Chapter 43.21C RCW), and the Regulatory Fairness Act (Chapter 19.85 RCW).
- 3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.
- 4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the Commission's responses to the comments reflecting the Commission's consideration of them.
- 5 To avoid unnecessary duplication in the record of this docket, the Commission designates the discussion in this Order, including appendices, as its concise explanatory statement. This Order provides a complete but concise explanation of the agency's actions and its reasons for taking those actions.

OFFICE OF THE CODE REVISER
STATE OF WASHINGTON
FILED

DATE: December 28, 2020

TIME: 1:02 PM

WSR 21-02-023

6 **REFERENCE TO AFFECTED RULES:** This Order amends, adopts, or repeals the following sections of the Washington Administrative Code:

Amend	Chapter 480-107	Purchases of Electricity
Amend	WAC 480-107-001	Purpose and scope
Amend	WAC 480-107-002	Exemptions from rules
Amend	WAC 480-107-007	Definitions
Adopt	WAC 480-107-009	Required all-source RFPs and conditions for targeted RFPs
Adopt	WAC 480-107-011	Applicability of rule sections
Amend	WAC 480-107-015	Solicitation process for any RFP
Adopt	WAC 480-107-017	RFP filing and approval
Adopt	WAC 480-107-021	Informational filing requirement
Adopt	WAC 480-107-023	Independent evaluator for repowering and from a utility or its subsidiary or affiliate
Adopt	WAC 480-107-024	Conditions for purchase of resources from a utility, utility subsidiary, or affiliate
Amend	WAC 480-107-025	Contents of the RFP solicitations
Amend	WAC 480-107-035	Bid ranking procedure
Amend	WAC 480-107-045	Pricing and contracting procedures
Amend	WAC 480-107-065	Acquisition of conservation and efficiency resources
Amend	WAC 480-107-075	Contract finalization
Amend	WAC 480-107-115	System emergencies
Repeal	WAC 480-107-135	Conditions for purchase of electrical power or savings from a utility, a utility's subsidiary or affiliate
Amend	WAC 480-107-145	Filings—Investigations

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER:**
 The Commission filed a Preproposal Statement of Inquiry (CR-101) on February 5, 2020, at WSR # 20-05-009. The statement advised interested persons that the Commission was considering initiating a rulemaking to review rules in Chapter 480-107 WAC to incorporate statutory changes made since 2006, and to consider changes contemplated in an earlier rulemaking, as well as to review requirements, policy improvements, and changes in the energy industry that may affect the rules governing purchases of electricity. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting

such information pursuant to RCW 34.05.320(3) and by sending notice to all registered utility companies and the Commission's list of utility attorneys.

- 8 **WRITTEN COMMENTS:** Pursuant to the notices, the Commission received comments on March 25, 2020, in Docket UE-190837 and on September 14 and December 3, 2020. Those rules were developed in the prior rulemaking docket, UE-161024, and provided for reference in this docket, UE-190837. The Commission received comments from 11 stakeholders. **MEETINGS OR WORKSHOPS:** The Commission held workshops on February 5, February 25, May 22, and July 16, 2020.
- 9 **SMALL BUSINESS ECONOMIC IMPACT:** On August 31, 2020, the Commission issued a Small Business Economic Impact Statement (SBEIS) Questionnaire to all interested persons. The Commission received one response to this questionnaire on October 1, 2020, from Puget Sound Energy (PSE), which asserted in its response that it is likely to incur increased costs from the proposed rules. PSE expressed general concerns with the administrative burden on utilities of bringing Washington's rules in line with those of other states, as well as the cost of complying with proposed rules regarding requests for proposals (RFPs) and independent evaluators (IEs). PSE, however, does not qualify as a small business under chapter 19.85 RCW.
- 10 The Commission's internal analysis shows that the proposed rules cause a small increase in a utility's costs to conduct RFPs but have the potential to greatly lower the utility's overall costs of doing business through an RFP process that procures lower cost resources than under the existing rule. The proposed rules do not change the current rules related to bidder fees, thus retaining the utilities' potential to recover these RFP-related costs. The Commission's rules and authority provide avenues to protect small businesses that may face potential bidder fees in a proposed RFP.
- 11 The proposed rules reduce the burden on small business participation in RFPs by increasing the transparency of the RFP process. The proposed rules require utilities to provide increased detail in RFPs regarding the utility's resource need, evaluation rubric, and ranking procedures, which will reduce the time and expense to both small and large businesses to participate as bidders. For example, the expanded level of required detail will help small businesses understand how their specialty can be successfully bid. The proposed rules require competitive procurement of energy efficiency resources, which affords greater opportunities for small businesses to provide those services.
- 12 After full review and analysis, the Commission finds that the proposed rules will impose *de minimis* costs on electric utility companies and their small business customers through changes in rates. Because the proposed rules will potentially save far greater amounts

through lower costs, we conclude that the proposed rules will not have a disproportionate impact on small businesses.

- 13 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on November 2, 2020, at WSR #20-22-075. The Commission scheduled this matter for virtual oral comment and adoption under Notice WSR #20-22-075 at 9:30 a.m., Monday, December 14, 2020. The CR-102 provided interested persons the opportunity to submit written comments to the Commission.
- 14 **WRITTEN COMMENTS:** The Commission received written comments from PacifiCorp, d/b/a Pacific Power & Light Co. (PacifiCorp), Avista Corporation, d/b/a Avista Utilities (Avista), Puget Sound Energy (PSE), the Public Counsel Unit of the Washington Attorney General’s Office (Public Counsel), Climate Solutions, Northwest & Intermountain Power Producers Coalition (NIPPC), NW Energy Coalition (NVEC), Renewable Northwest (RNW), Sierra Club, and Michael Laurie. Commission Staff’s (Staff) summary of, and responses to, those comments are contained in Appendix A, which is attached to, and made part of, this Order. The Commission adopts Staff’s responses as its own subject to the modifications we make to the proposed rules and the rationale for those modifications explained in this Order.¹ Additionally, we summarize and respond in greater detail to certain comments received during this rulemaking proceeding in Paragraphs 18-40, below.
- 15 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a virtual rulemaking hearing on Monday, December 14, 2020, before Chair David W. Danner, Commissioner Ann E. Rendahl, and Commissioner Jay M. Balasbas. The Commission heard oral comments from Steven Johnson, representing Commission Staff, and PacifiCorp, PSE, Public Counsel, NIPPC, Avista, and NVEC. Those comments emphasized or supplemented those commenters’ written comments.
- 16 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED/ACCEPTED:** Written and oral comments suggested changes to the proposed rules. The suggested changes and the Commission’s reason for rejecting or accepting the suggested changes are included in Appendix A and addressed in the body of this Order.

¹ In the event of any discrepancy between the discussion in the body of this Order and the responses contained in Appendix A, the body of this Order will control.

- 17 **DISCUSSION:** The Commission provides the following guidance and clarity in addition to Staff’s responses to proposed changes in appendix A.
- 18 *Proposed amendment to Chapter 480-107 WAC title.* Climate Solutions recommended the Commission change the chapter title from “Purchases of Electricity” to “Resource Procurement.” This suggestion reflects stakeholder comments made at the February 25, 2020, workshop. We agree with stakeholders that the directives in the Clean Energy Transformation Act (CETA) will require the provision of electric service with a diversity of resources, some of which are not electricity, including energy efficiency and conservation, demand response, storage, and other distributed energy resources to obtain the statutory goals and benefits to customers. The Commission finds that is appropriate and reasonable to rename Chapter 480-107 WAC “Purchases of Resources,” which more accurately describes the rules set forth in Chapter 480-107 WAC without modifying their scope or applicability.² The rules continue to govern electric companies’ procurement of resources for the provision of electric service under the requirements of CETA, as stated above.
- 19 *Proposed amendments to WAC 480-107-001.* The Commission amends WAC 480-107-001 to set the requirements for “utility solicitations and procurements, including provisions governing competitive solicitations, all-source RFPs, targeted RFPs, independent evaluators and system emergencies.” While PacifiCorp and PSE raised concerns about the rule limiting their ability to acquire resources, these rules do not set the sole procedures for electric utility procurement.³ Consistent with the existing rule language, the proposed rule provides that utilities may still seek alternative routes to obtain resources while meeting the increasing goals of CETA.
- 20 *Proposed amendments to WAC 480-107-007.* In this order, we modify the proposed definition of “repowering”, eliminating “federal or state regulatory requirements” to address concerns raised by commenters.⁴ The definition of “repowering” expressly

² See RCW 34.05.900 (“Section captions and subchapter headings used in this chapter do not constitute any part of the law.”); WAC 480-07-010 Scope of this chapter. (“These rules are authorized by and supplement the Administrative Procedure Act, chapter 34.05 RCW, and the statutes that define the commission’s authority and responsibilities found principally in Titles 80 and 81 RCW. The commission’s procedural rules should be interpreted in conjunction with these statutes.”).

³ PacifiCorp comments at 3 & 4 (December 3, 2020); PSE comments at 3 (September 14, 2020).

⁴ Invenenergy comments, September 14, 2020.

exempts routine major maintenance and work related to existing hydropower licensing obligations, among other things. If a utility conducts an RFP,⁵ it is required to include in the RFP the repowering of an existing utility owned generation facility if that generation facility is being considered to fill the resource need identified in the RFP. The utility is additionally required by subsections -023 and -024 to use an IE in this situation. This requirement ensures there is no bias in favor of selecting resources that create rate base for the utility.

- 21 Several stakeholders raised concerns that ongoing work to maintain the operation of a generation facility, specifically a hydroelectric generation facility, over its expected life might fall under the definition of repowering.⁶ That is not our intent. The exemption clause is intended to prevent a utility from conflicts between obligations the utility has already incurred to receive a hydroelectric license (such as aquatic, terrestrial, recreation, and streamflow requirements), and a Commission requirement to forego those obligations as a prerequisite to considering replacement resources. The Commission recognizes the binding nature of hydroelectric license obligations and will consider them as it evaluates the utility's resource choice to enter into such a licensing agreement in light of what was known or knowable at the time the utility entered into the license.
- 22 PSE additionally seeks clarity regarding the "expected physical or economic life" of a hydroelectric facility.⁷ PSE proposes clarifying language that allows major maintenance to be performed "within the terms of an existing federal hydropower license."⁸ The Commission considers the "expected physical or economic life" as that phrase is used in the rule to reference the terms of the existing hydroelectric license.⁹ If a repair or replacement of the plant is required by "terms of an existing federal hydropower license," "existing hydroelectric licensing obligations," or another equivalent phrase, the Commission will consider the work to be part of the expected good utility practice of

⁵ See proposed WAC 480-107-009.

⁶ PSE comments at 1-4, (December 3, 2020). Avista comments at 1-2, (December 3, 2020). PacifiCorp comments at 2-3, (September 14, 2020).

⁷ PSE comments at 1-4, (December 3, 2020).

⁸ *Id.* page 3.

⁹ WAC 480-107-007.

maintaining a plant for its licensed life, or as a pre-existing requirement that the utility must meet to operate the plant for its licensed life.¹⁰

23 Second, we amend the definition of “indicator” to “customer benefit indicator” to be consistent with and to reflect the use of the term “customer benefit indicator” in the rules governing Clean Energy Implementation Plans, or CEIPs, that we adopt by separate order in Docket UE-191023.

24 *Proposed WAC 480-107-009.* NIPPC recommends that voluntary RFPs undergo the same robust process as required for targeted RFPs, and suggests looking to others states for guidance on more robust public involvement. We decline to make these suggested changes. The proposed rules require an all-source RFP, which may be accompanied by supplemental targeted RFPs, only after a utility files its IRP. All other RFPs are voluntary. This process appropriately balances the costs and benefits of issuing an RFP. Without the expectation of additional resource needs being routinely identified in the IRP progress report and the potential existence of an ongoing RFP issued due to the IRP, the costs and burdens of requiring an RFP may not outweigh the benefits. The utility will be responsible for the consequences if it decides not to issue an RFP when an RFP is warranted. The Commission nevertheless recognizes that the application of this process will be iterative, and that we may revisit it in the future based on the collective experience with the amended rules of the Commission, utilities, and stakeholders.

25 NIPPC expressed further concern with the different public participation protocols resulting from required and voluntary RFPs, suggesting that utilities will sidestep using the required RFP following an IRP and instead use the voluntary RFP to acquire a large portion of its resources. We do not believe utilities can or will sidestep acquisitions that must be pursued through a required RFP. The information from bidders in a required RFP will demonstrate the cost of available resources the utility did not select and will be available to consider in a prudence review of resources acquired by the utility in its voluntary RFP. In the event that this process results in unintended consequences, the Commission will revisit this portion of the rules.

26 *Proposed amendments to WAC 480-107-015.* NWECC requests that the Commission revise the amendments in proposed WAC 480-107-015(3) to require utilities to post any RFP and information about how to respond to an RFP in “appropriate languages.”¹¹

¹⁰ *Id.*

¹¹ NWECC comments at 4, (September 14, 2020).

NWEC argues that the equity requirements of CETA “suggest” the propriety of this recommended rule language.¹²

- 27 Although providing RFPs and information about how to respond in multiple languages would be useful, particularly depending on individual supplier and developer needs, the Commission lacks a sufficient record to include such a requirement in the proposed rules at this time. Additional stakeholder discussion is needed to address issues of RFP language needs; CETA’s implied authority to require RFP material translation versus general Commission authority; how or where utilities are lacking in language considerations now, and any related effects on bidders’ responses; how many languages a utility should use for materials concerning RFPs; or the methods to determine which languages are used. The Commission supports utilities’ efforts to boost or otherwise strengthen their own supplier diversity targets, and language considerations such as these may be means to achieve such targets. Utilities, Staff, and stakeholders should work collaboratively to explore opportunities to increase supplier diversity as CETA’s rules are implemented generally.
- 28 In addition, amendments in proposed WAC 480-107-015(2) and (3) direct utilities to ensure information needed for responding to RFPs is available to diverse suppliers. These subsections require a utility to conduct RFP outreach and notification to diverse suppliers, specifically naming outreach for women-, minority-, disabled-, and veteran-owned businesses. The Commission recognizes that information access is one of potentially many barriers that prevent diverse businesses from responding to RFPs. But we also recognize that information access is not a panacea for the lack of diversity in utility contracting, and that utilities cannot ensure or otherwise guarantee that any advertisement or outreach effort will reach every intended potential supplier. However, the Commission expects that, as utilities strengthen their efforts in supplier diversity, they also will make best efforts in the areas of outreach and advertising to diverse businesses.
- 29 Avista provided suggested clarifying language to proposed WAC 480-107-015(5) that would allow bid contents to be available to utility employees and the independent evaluator, subject to WAC 480-107-024(3), at the end of the solicitation period specified in the RFP.¹³ We decline to accept this change. In our view, the terms in the proposed rule and Avista’s suggestion are synonymous, and Avista’s proposed language fails to provide additional clarity.

¹² *Id.*

¹³ Avista comments at 5, (December 3, 2020).

- 30 *Proposed WAC 480-107-017.* Consistent with its suggested revisions to proposed WAC 480-107-015(3), NWEAC suggests revisions to proposed WAC 480-107-017(2), which requires utilities to publish information about how the Commission approves an RFP, to require utilities to publish the information in “appropriate languages.”¹⁴ We decline to make this suggested revision for the same reasons we reject similar revisions to proposed WAC 480-107-015(3).
- 31 *Proposed WAC 480-107-023.* NWEAC also requests that, if an IE is required, the utility be required to publish the process of IE selection and evaluation in “appropriate languages” in WAC 480-107-023(3).¹⁵ We decline to make this suggested revision for the same reasons we do not accept NWEAC’s suggested changes to proposed WAC 480-107-015(3) and WAC 480-107-017(2).
- 32 PacifiCorp raised concerns that proposed WAC 480-107-023(6) requires a utility to allow a bidder to use utility resources in its bid without compensation.¹⁶ The proposed rules, however, clarify that the bidder is not using the utility resources; rather, the utility is identifying its assets so that a bidder can design a resource bid that optimizes the combined value of its bid and the utility assets. Optimizing the combined value of the utility’s existing portfolio and new resources is an essential step in creating a lowest reasonable costs portfolio. For example, designing the use of batteries to support the needs of a utility’s distribution system requires information about the distribution infrastructure and the operational demand on the distribution system. The proposed rules promote the development of a lowest reasonable cost portfolio through RFP information that enables bidders to design bids to work with the existing utility infrastructure.
- 33 Commentors expressed a variety of concerns regarding when an IE is required. Proposed WAC 480-107-023(1) requires an IE in three circumstances: a) if the utility, its subsidiary, or its affiliate participate in the RFP process; b) if the utility wishes to procure resources that will result in the utility owning or having a purchase option for the resource; and c) if the utility is considering repowering its existing resources to meet its resource need. We observe that the resource need referred to here, as defined in proposed WAC 480-107-007, is the resource need identified in the utility’s IRP under WAC 480-100-605., which we adopt by separate order in Docket UE-191023.

¹⁴ NWEAC comments at 4, (September 14, 2020).

¹⁵ *Id.*

¹⁶ PacifiCorp comments at 13-14, (June 29, 2020).

- 34 Proposed WAC 480-107-023(2) requires the Commission to approve the IE a utility selects. The Commission expects that a utility will file a petition seeking such approval, and that the Commission will consider the petition at an open meeting. The Commission expects that its review and approval will take at least 30 days.
- 35 Under proposed WAC 480-107-023(4), the utility must provide the IE with all data and information necessary to perform a thorough examination of the bidding process and responsive bids. Additionally, proposed WAC 480-107-035(4) requires the IE to score and rank the qualifying bids. Accordingly, we expect that the evaluator will have access to the models that the utility uses to compare responsive bids, be able to adjust inputs and assumptions in those models and run the models if necessary, or have the utility adjust and run the model. This expectation is further supported by the requirements in proposed WAC 480-107-023(5)(c) and (e) for the IE to evaluate individual bids and verify the utility's inputs and assumptions.
- 36 Public Counsel requested clarity on whether any stakeholder could request an IE for procurements not otherwise required under proposed WAC 480-107-023.¹⁷ While the proposed rules only require IEs under certain circumstances, the Commission has the authority to condition its acceptance of an RFP on the use of an IE. Further, the rules do not prohibit parties from requesting the Commission condition approval on use of an IE.¹⁸
- 37 *Proposed amendments to WAC 480-107-025.* The amendments to WAC 480-107-025(2) that we adopt in this order clarify that utilities should solicit indicator-related information and clearly describe all indicators, including customer benefit indicators, contained within the utility's most recent Clean Energy Implementation Plan (CEIP). The changes are necessary to reflect the use of the term "customer benefit indicator" included in amendments to WAC 480-107-007, and due to the use of the term in the rules we adopt by separate order in Docket UE-191023. In that adoption order, we also adopt WAC 480-100-640(4)(c), which outlines the minimum customer benefit indicators that utilities must include in their CEIPs. These minimum requirements do not limit the authority of the Commission to order (or the ability of stakeholders to request) the use of additional indicators or metrics. If the Commission orders additional indicators or metrics as part of its CEIP approval process, utilities should describe and solicit information related to

¹⁷ Public Counsel comments at 4 (December 3, 2020).

¹⁸ Proposed WAC 480-107-009(2) states that required RFPs are subject to Commission approval. However, under subsection -009(3), voluntary RFPs do not require Commission approval and cannot be conditioned.

these additional indicators and metrics in addition to the required customer benefit indicators. The changes in proposed WAC 480-107-025(2) are consistent with the CEIP rules.

- 38 *Proposed amendments to WAC 480-107-035.* Proposed amendments to WAC 480-107-035(3) require, when ranking bids, that utilities not discriminate based solely on bidder ownership structure. This requirement applies whether the utility will own, or have the option to own, the resource as part of the bid, as well as all other aspects of ownership structures, including structures associated with private businesses, utility customers, cooperatives, nonprofit organizations, and other individuals or organizations.
- 39 Commenters raised concerns regarding stakeholder access to confidential information in the bidding process, suggesting the use of non-disclosure agreements (NDAs) to ensure confidentiality, or to follow processes used in Oregon and Utah.¹⁹ The Commission declines to adopt these suggested changes. While the Commission does not compel utilities to sign NDAs, we recognize that this is an option for utilities to consider. WAC 480-107-035(5) allows utilities to use a generic but complete description in a public notice when specifics in a bid are confidential. We do not consider the filing of bidder information necessary until the time at which a bid is awarded a contract (and then, only the information related to the awarded bid), or at the time the resource costs are requested in rates. The Commission finds the requirements for a summary of bid information and the protection of confidential bid information sufficient in the proposed rules.
- 40 *Proposed amendments to WAC 480-107-075(3).* Public Counsel and other commenters have advocated for more supplier diversity by requesting the rules require utility goals or targets for contracting with women-, minority-, disabled-, and veteran-owned businesses.²⁰ Understanding that the schedule in this rulemaking does not provide ample opportunity for public engagement on this topic, Public Counsel requested that the Commission promptly hold workshops to address this issue.²¹ The Commission agrees and acknowledges that diversity and inclusivity is beneficial to contracting. We

¹⁹ Sierra Club comments at 1 (December 3, 2020 and NIPPC's comments in the December 14, 2020 Adoption Hearing audio recording at approximately 19:38

²⁰ Public Counsel Third Comments ¶ 7 (Sept. 14, 2020).

²¹ Public Counsel comments at 5 (December 3, 2020); Front and Centered comments at 3-4 (September 14, 2020); Climate Solutions comments at 3 (September 14, 2020); Washington State Labor Council and Washington Building Trades comments at 1-2 (September 14, 2020); NWECC comments at 4 (June 29, 2020).

appreciate Public Counsel’s and other stakeholders’ comments regarding supplier diversity and intend to hold stakeholder workshops in 2021 to address these and other issues.²²

41 The Commission supports utilities’ efforts to bolster their supplier diversity efforts and may consider future policy guidance as CETA implementation continues.

42 Two elements of the rules we adopt in this order will be useful components informing these conversations: proposed WAC 480-107-075(3) states that final contracts resulting from an RFP process and signed by a utility to acquire resources must require the firm awarded the contract to report to the utility its use of diverse businesses. Additionally, proposed WAC 480-107-145(2) requires utilities to submit to the Commission a summary of its RFP process including participation of women-, minority-, disabled-, and veteran-owned businesses. The information we gather from these reports will assist the Commission, stakeholders, and utilities in better understanding the current state of supplier diversity in utility contracting.

43 **CHANGES FROM PROPOSAL:** The Commission adopts the proposal with the following changes from the text noticed at WSR #20-22-075.

Chapter 480-107 “Purchases of Electricity”	Replace “Purchases of Electricity” with “Purchases of Resources”
480-107-007 “Indicator” definition	Before “indicator” add “Customer benefit” and move the definition due to alphabetical order
480-107-007 “Repowering” definition	Replace “routing” with “routine”; add “the maintenance of or” after “hydroelectric licensing obligations, or” and before “replacement of equipment”;

²² State commissions across the country have established supplier diversity targets differently. Models range from states and state commissions requiring targets through rules to those creating voluntary programs via MOUs signed by utilities. For example, Maryland PUC has a voluntary MOU signed by companies. Similarly, the types of contracting considered by these targets, the level of target setting, and considerations for diversity certification are different across states. While California and Illinois PUCs have rules resulting from legislative requirements to track and report on diverse suppliers. These are key questions for workshops to consider when setting any supplier diversity targets, and particularly targets required by rule.

add “expected” after “materially affect the” and before “physical or economical”; substitute “longevity” with “life”

480-107-025(2)

Replace “include” with “contain”; add “including customer benefit indicators,” after “most recent CEIP,”; replace “including” with “as well as”; and replace “the” with “all”

44 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend, repeal, and adopt the rules as proposed in the CR-102 at WSR # 20-22-075 with the non-substantive revisions listed above. We accept Staff’s explanations for changes as stated in Appendix A of this Order. The following explains the remaining revisions.

45 The Commission modifies the title of the proposed amendment to Chapter 480-107 WAC “Purchases of Electricity” to clarify the substance of the rules within the chapter.

46 The Commission modifies the definition of “indicator” in proposed amendment to WAC 480-107-007 to reflect changes to WAC 480-100-605, adopted by separate order in Docket UE-191023.

47 The Commission modifies the proposed amendment to WAC 480-107-025(2) to clarify the requirements and incorporate changes to “indicators” for consistency with the rules adopted by separate order in Docket UE-191023.

48 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-107-001, WAC 480-107-002, WAC 480-107-007, WAC 480-107-009, WAC 480-107-011, WAC 480-107-015, WAC 480-107-017, WAC 480-107-021, WAC 480-107-023, WAC 480-107-024, WAC 480-107-025, WAC 480-107-035, WAC 480-107-045, WAC 480-107-065, WAC 480-107-075, WAC 480-107-115, WAC 480-107-135, and WAC 480-107-145 should be amended, repealed, and adopted to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to effect on December 31, 2020, as required in RCW 19.405.100(9).

ORDER

49 **THE COMMISSION ORDERS:**

- 50 The Commission repeals, amends and adopts WAC 480-107-001, WAC 480-107-002, WAC 480-107-007, WAC 480-107-009, WAC 480-107-011, WAC 480-107-015, WAC 480-107-017, WAC 480-107-021, WAC 480-107-023, WAC 480-107-024, WAC 480-107-025, WAC 480-107-035, WAC 480-107-045, WAC 480-107-065, WAC 480-107-075, WAC 480-107-115, WAC 480-107-135, and WAC 480-107-145 to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect on December 31, 2020.
- 51 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, December 28, 2020.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



DAVID W. DANNER, Chair



ANN E. RENDAHL, Commissioner



JAY M. BALASBAS, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 5, amended 12, repealed 1.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, amended 0, repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 5, amended 12, repealed 1.

Appendix A
(Comment Summary Matrix)

Appendix B

[WAC 480-107 - RULES]