

MEMORANDUM

February 22, 2006

TO: Mark Sidran, Chairman
Pat Oshie, Commissioner
Phil Jones, Commissioner

FROM: Graciela Etchart, Regulatory Analyst

SUBJECT: Rulemaking to incorporate statutory changes into Chapter 480-107 WAC Electric Companies-purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers, Docket UE-030423.

RE: Adoption Hearing, February 22, 2006 at 2:30 p.m.

Background:

On April 15, 2003, the commission filed Preproposal Statements of Inquiry, CR-101, with the Code Reviser, opening a rulemaking that would consider possible changes to Chapter 480-107 WAC, rules relating to purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers by electric companies.

As part of these rulemakings the commission has conducted a comprehensive review of these rules to analyze:

- Whether the current rules provide the results that they were originally intended to achieve,
- Whether the rules are consistent with laws, with appropriate and lawful policies, and with the advances in technology in the electric industry, and
- Some specific issues, such as conditions that trigger a Request for Proposals (RFP) process, schedule for and conditions to waive a RFP process, staff role in such a process, the need to clarify the beneficiary of competitive markets under regulated monopolies, the need to ensure that only non-interested parties are reviewers of the RFP and the bidding process, approval of acquisitions and projects prior to a general rate case, consistency with Chapter 480-146 WAC "Securities and Affiliated Interests," and consistency with the Energy Policy Act (EPACT) and FERC 888/889.

Discussion:

On October 5, 2005, the commission filed a Notice of Proposed Rulemaking (CR-102) with the Office of the Code Reviser proposing changes to Chapter 480-107 WAC. The commission held two stakeholder workshops in June 2003 and June 2005 and solicited

three rounds of written comments from stakeholders. The commission received comments from Avista Utilities, Cascade Natural Gas, Climate Solutions, the Cogeneration Coalition of Washington (CCW), the Department of Community Trade and Economic Development (CTED), Industrial Customers of Northwest Utilities (ICNU), the Natural Resources Defense Council, Northwest CHP Advocates, the Northwest Energy Coalition (NWECC), the Northwest Independent Power Producers Coalition (NIPPC), Northwest Natural Gas, PacifiCorp, Public Counsel, Puget Sound Energy, and the Renewable Northwest Project.

Because of the comments received to the language filed with the CR-102, the commission held a technical writing workshop in November 2005 and, on January 18, 2006, filed a Supplemental Notice of Proposed Rulemaking (Supplemental CR-102) and revised language with the Office of the Code Reviser. The commission received additional written comments from the Cogeneration Coalition of Washington (CCW), the Northwest CHP Advocates, PacifiCorp, and Puget Sound Energy (PSE), and an oral comment from Avista Utilities.

No further changes have been made to the rules language filed with the Office of the Code Reviser as part of the Supplemental CR-102. The proposed rules modify existing rules in different ways, such as:

- The chapter was reorganized and rewritten for clarity;
- Ranking criteria to evaluate and rank project proposals is now more specific in addressing environmental effects;
- When a utility, a utility's subsidiary or an affiliate submits a bid in response to a RFP, a competing bidder may request the commission to appoint an independent third party, of commission's choosing, to assist commission staff in its review of the bid. If the commission grants the request, the fees charged by the independent third party will be paid by the party that requested the review;
- Utilities, whose IRP indicates that the utility does not need additional resources within three years, are not required to issue an RFP. The three-year period was chosen because that is approximately the shortest time needed to secure new capacity resources.

A summary of the comments received from stakeholders to the language proposed in the Supplemental CR-102 is included in Attachment A. The revised rules are included in Attachment B.

Conclusion:

The commission may adopt the proposed rules in this docket, implementing changes to the Chapter 480-107 WAC, Electric Companies-purchases of electricity from qualifying facilities and independent power producers and purchases of electrical savings from conservation suppliers.