

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of

PUBLIC UTILITY DISTRICT NO. 1 OF
CHELAN COUNTY, WASHINGTON

Petition for Declaratory Order Regarding
Application of WAC 480-109-200

DOCKET UE-190459

COMMISSION STAFF'S
RESPONSE TO PUBLIC UTILITY
DISTRICT NO. 1 OF CHELAN
COUNTY, WASHINGTON'S
PETITION FOR A
DECLARATORY ORDER

I. INTRODUCTION

1 On June 3, 2019, Public Utility District No. 1 of Chelan County (Chelan PUD) filed a
petition for a declaratory order approving generation from incremental efficiency gains at the
Chelan Hydroelectric Project as eligible renewable resources under the Energy Independence
Act (EIA).¹

2 On June 5, 2019, the Commission issued a notice of opportunity to respond to Chelan
PUD's petition.

II. BRIEF BACKGROUND AND RECOMMENDATION

3 Chelan PUD requests a declaratory order concerning incremental generation from
units A1 and A2 of the Chelan Hydroelectric Project. In August 2018, the Washington State
Department of Commerce (Commerce) issued an advisory opinion, approving the generation
as an eligible renewable resource for WREGIS² certification. Chelan PUD asserts that the
incremental generation complies with WAC 480- 109-200. Commission Staff agrees.

¹ Chapter 19.285 RCW.

² Western Renewable Energy Generation Information System

4 A declaratory order is appropriate under WAC 480-07-930 and RCW 34.05.240. Although Commerce issued an advisory opinion on WREGIS certification, WAC 480-109-200(7)(a) states that a utility³ must receive Commission approval of the method used to calculate incremental hydropower generation, regardless of ownership. A declaratory order from the Commission would facilitate the sale of Chelan PUD’s surplus eligible renewable resources to an investor owned utility or other entity regulated by the Commission. Without such an order, questions may arise regarding compliance with WAC 480-109-200, which would unnecessarily hinder the transaction.

5 While Staff is satisfied with Chelan PUD’s engineering analysis and the resulting percentages for calculating incremental hydropower production, it does not believe it necessary for the Commission to make a specific finding regarding Chelan PUD’s methods. In a previous docket, the Commission concluded that “the agencies should defer to the other’s determinations to avoid unnecessary confusion and potential conflict.”⁴ The Commission concluded that comity with the Department of Commerce encouraged acceptance of that agency’s prior determination on Chelan PUD’s methods and renewable resource eligibility.⁵ Although the doctrine of comity is discretionary,⁶ the facts of this petition are nearly identical to the previous docket, and support the same conclusion.

6 Lastly, Staff considered whether the Clean Energy Transformation Act (CETA) had any impact on this petition. Commerce issued its advisory opinions prior to the passage of CETA, which amends parts of the EIA. However, RCW 19.285.030(12) continues to define

³ Under WAC 480-109-060(31), “utility” is defined as “an electrical company that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.”

⁴ Docket UE-170840, Order 01 at 4.

⁵ *Id.*

⁶ *See, e.g., Pruczinski v. Ashby*, 185 Wn.2d 492, 505-09 (2016) (discussing comity between courts).

an “eligible renewable resource” to include incremental electricity produced as a result of efficiency gains at a hydroelectric plant. No other amendment of the EIA impacts Chelan PUD’s request. Because the relevant parts of the statute are unchanged, this petition is not affected by the passage of CETA.

III. CONCLUSION

7 For the reasons stated above, Staff recommends the Commission issue an order declaring that, based upon the Department of Commerce advisory opinions, the incremental hydropower at Chelan PUD’s hydroelectric projects may be used for compliance with WAC 480-109-200. The Commission’s order should further declare that 5.42 percent of total production from units A1 and A2 of the Chelan Hydroelectric project is an eligible renewable resource.

DATED this 18th of June 2019.

Respectfully submitted,

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