Puget Sound Energy
P.O. Box 97034
Bellevue, WA 98009-9734
PSE.com

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Filed Via Web Portal

Steven V. King, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
1300 S. Evergreen Park Drive S.W.
Olympia, Washington 98504-7250

Re: Docket UE-161024: Comments of Puget Sound Energy in Response to Notice of Opportunity to File Written Comments on Public Utility Regulatory Policies Act, Obligations of the Utility to Qualifying Facilities, WAC 480-107-105

Dear Mr. King:

Puget Sound Energy ("PSE") appreciates the opportunity to respond to both the informal draft rules and questions for consideration proposed by the Commission staff in its Notice of Opportunity to File Written Comments on the Public Utility Regulatory Policies Act ("PURPA"), and obligations of the utility to qualifying facilities in this docket ("Notice"). From PSE's perspective, the purpose of the various rules and processes being discussed here is to find an appropriate balance to ensure a transparent and efficient market so that customers do not overpay for resources and utilities can act in the best interest of protecting customers from decisions that lead to unjust, unreasonable or insufficient rates. In reviewing these rules, PSE encourages the Commission to ensure that any revisions do not deviate from the fundamental objective of protecting customers under the existing regulatory rules and principles in Washington. PSE's customers must be the ultimate beneficiaries of these processes and their benefits must be known and measurable as defined by existing statute.

PSE filed a Joint Recommendation with other stakeholders in this docket[1] ("Joint Recommendation") that strikes an appropriate balance of customer protection and PURPA

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[1] Joint Recommendation Regarding Implementation of Public Utility Regulator Policy Act for Utilities and Qualifying Facilities, on behalf of Puget Sound Energy, Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Renewable Northwest, Northwest Energy Coalition, and Climate Solutions, Docket UE-161024 (Feb. 26, 2018).

development and encourages the Commission's final rules to adhere to the principles outlined in the Joint Recommendation.

<u>Comments of PSE on Informal Draft Rules</u>

1. Informal Draft Rule 480-106-FFF(2)

PSE recommends the final rules adopted by the Commission adopt five megawatts as the maximum design capacity for qualifying facilities to be eligible for a utility's standard rate offer. A maximum design capacity of five megawatts strikes the appropriate balance of customer protection and development of qualifying facilities, as evidenced by the Joint Recommendation and PSE's existing Schedule 91 standard rate offer tariff for cogeneration and small power production.

From an interconnection perspective, PSE's experience has been that qualifying facilities with maximum design capacities of around five megawatts are already challenging distribution engineers to find innovative solutions on certain circuits to maintain capacity and reliability, particularly integrating variable energy resources onto low load circuits. Additionally, the interconnection of larger qualifying facilities on low load circuits may diminish the ability to interconnect other qualifying facilities or net metering customers on the same circuits.

In 2010, PSE increased its maximum design capacity for its standard offer rates in Schedule 91 to five megawatts. Although PSE has successfully interconnected some larger qualifying facilities, PSE has also encountered challenges cost-effectively interconnecting five megawatt qualifying facilities on low load circuits. The engineering difficulties associated with interconnection qualifying facilities of this size to low load circuits has created frustrations for both PSE and developers due to delays in conducting the necessary interconnection studies (both for distribution and transmission). Qualifying facilities larger than five megawatts interconnecting to low load circuits could exacerbate these issues, unless the qualifying facilities interconnect to a dedicated feeder, which increases interconnection costs to qualifying facilities.

For the reasons set forth above, PSE recommends that the final rules adopted by the Commission limit the maximum design capacity for a utility standard offer tariff to five megawatts.

2. Informal Draft Rule 480-106-GGG(1)

a. General Comments Regarding Informal Draft Rule 480-106-GGG(1)

PSE has several concerns with Informal Draft Rule 480-106-GGG(1), which would require a utility to "file by November 1 of each year a tariff schedule of estimated avoided cost that identifies, both separately and combined, its avoided energy costs and its avoided capacity costs." This provision creates unnecessary process and risks slowing negotiations, project development, and contract execution.

First, requiring utilities to file annual tariff schedules of estimated avoided cost would create unnecessary processes that will inject uncertainty and delay each year into negotiations. For

example, such a filing would require approval by the Commission, and the delay in obtaining such approvals could delay contract negotiations until such time that the Commission has approved the tariff schedule of estimated avoided cost. Such a process requirement would appear problematic, at best, given that a tariff schedule of estimated avoided cost is, by definition, simply an estimate of such cost. Although it would not solve all the problems noted above, PSE would suggest deleting the word "estimated" from these proposed rules, since it would no longer be an "estimate" but rather a Commission-approved avoided cost.

Second, requiring utilities to file annual tariff schedules of estimated avoided cost would limit negotiating flexibility between utilities and qualifying facilities because the tariff schedules of estimated avoided costs would need to include very granular items, such as locational differences, project characteristics, dispatchability, and design capacity. Although utilities can and do try to anticipate as many characteristics of qualifying facilities that could affect avoided capacity costs as possible, it is impossible for utilities to reflect all such characteristics in a static schedule. For example, a wind qualifying facility with a nameplate capacity of 50 megawatts and a capacity factor of 35 percent provides greater capacity benefits (and should earn higher avoided capacity rate) than another wind qualifying facility with a nameplate capacity of 50 megawatts and a capacity factor of 25 percent. Absent a recognition in the final rule that tariff schedules of estimated avoided cost are subject to further negotiation, it could be difficult for utilities and developers to negotiate regarding the unique characteristics applicable to a particular qualifying facility.

Third, requiring utilities to file annual tariff schedules of estimated avoided cost could possibly subject the Commission and utilities to a constants cycle of such filings in an impractical attempt to anticipate every new project, characteristic, or technology.

PSE supports the Joint Recommendation that suggests that utilities file and obtain Commission approval for *avoided cost methodologies* for qualifying facilities above the maximum design capacity limit of five megawatts but not require an annual tariff schedule of estimated avoided costs. Whereas a tariff schedule of estimated avoided costs would be a static instrument that could limit flexibility and negotiations, an avoided cost methodology would be a dynamic instrument that recognizes a spectrum of potential avoided capacity costs based on myriad factors. The avoided cost methodology could serve a valuable role in providing a "yardstick" against which the Commission could assess the reasonableness of a utility's schedule of estimated avoided costs and developers could assess the reasonableness of an avoided cost for a qualifying facility that reflects the characteristics of that qualifying facility.

In sum, the Commission should (i) maintain existing rules that allow utilities to file a schedule of estimated avoided costs (and not require a tariff schedule of estimated avoided costs and (ii) require utilities to file and obtain Commission approval for avoided cost methodologies for qualifying facilities above the maximum design capacity limit of five megawatts.

b. Informal Draft Rule 480-106-GGG(1)(a)

PSE requests that the Commission make the following changes to Informal Draft Rule 480-106-GGG(1)(a):

> (a) An avoided energy cost based on the utility's current forecast of market prices for power stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the next calendar year and each of the succeeding 19 years following the next calendar year; and

First, Informal Draft Rule 480-106-GGG(1) would require utilities to file a tariff schedule of estimated avoided by November 1 of each year. Presumably, the filing should estimate avoided costs for the next calendar year (and not the current calendar year as suggested by the language quoted above).

Second, it has been PSE's experience that a qualifying facility under development can take up to three years to reach commercial operations. If a qualifying facility that achieves commercial operations up to three years after executing a contract with a utility for a term of fifteen years commencing on the commercial operations date, then the contract would be missing up to three years of avoided costs during the term. For example, assume the following:

(i) a utility and a qualifying facility entered into a contract on May 15, 2018, with a term of fifteen years that commences on the commercial operation date for such facility,

(ii) such contract includes avoided costs for fifteen years (i.e., calendar years 2018 through 2032; and

(iii) the qualifying facility achieves commercial operations on May 1, 2021.

In this example, the contract would have a term of fifteen years (May 1, 2021, through April 30, 2036) but contain avoided cost information only through December 31, 2032. By extending the period of estimated avoided costs to 20 years (i.e., the current calendar year and each of the next 19 calendar years), the potential for a contract term exceeding the estimates of available costs is eliminated.

c. Informal Draft Rule 480-106-GGG(1)(b)(ii)

Informal Draft Rule 480-106-GGG(1)(b)(ii) would require as follows:

> (ii) If the utility's most recently acknowledged integrated resource plan identifies the need for capacity in the form of market purchases not yet executed, but does not identify a need for new generating units, then the utility shall use the cost of a peaker unit as identified in the integrated resource plan as the avoided capacity cost of the market purchases.

PSE has serious concerns with this provision because it is overly prescriptive, not beneficial for utility customers, and does not reflect the current reality of market-integrated utilities operating in a region long on both energy and capacity. In the current oversupplied market, the end result of this provision would be that utility customers overpay for resources.

Requiring a market-integrated utility to calculate avoided costs using a peaker unit instead of transmission without a specified resource (i.e. market purchases) would create a *faux* need for capacity that does not actually exist in a region long on energy and capacity and expose utility customers to paying higher rates to meet that *faux* need for capacity. Looking ahead, the delta between market purchases and peaker unit costs could become even wider if the Mid-C market is able to import more and more low-cost solar energy from other states.

A better public policy approach would not specify the technology required for calculating avoided costs and instead make the calculations a function of planning standards in utility integrated resource plans. The final rules should allow market-integrated utilities to work with experts, Commission staff, and advisory groups to develop an agreed-upon planning standard for market purchases not yet executed and use that for the basis of calculating avoided costs.

d. Informal Draft Rule 480-106-GGG(2)

Informal Draft Rule 480-106-GGG(2) would require as follows:

> (2) A utility may file to revise its tariff schedule of estimated avoided cost prior to its next annual filing only if:
>
> (a) The utility executes agreements with qualifying facilities for a combined capacity of 50 megawatts or more since it filed the tariff schedule of estimated avoided cost in effect; or if
>
> (b) The utility's current forecast of market prices for power changes by 25 percent or more from the forecast used to support the tariff schedule of estimated avoided cost in effect.

PSE has concerns that proposed provisions (2)(a) and (2)(b) are too limiting and could hinder negotiating flexibility between utilities and qualifying facilities and getting accurate prices. Instead, PSE recommends the Commission adopt the provision in the Joint Recommendation that stipulates utilities must file avoided cost estimates in November or December of each year, and may file avoided cost prices at times other than November and December, after providing minimum notice of 60 calendars days to the Commission and qualifying facilities negotiating contracts.

Questions

1. Is the proposed definition of *capacity*, as described in WAC 480-106-DDD, an appropriate definition for the purpose of this rule?

PSE Response

PSE recommends striking the words "avoid the need" in the proposed definition. The intent behind the phrase "avoid the need" is unclear in the proposed definition. Capacity is generally understood to refer to "[t]he maximum output, commonly expressed in megawatts (MW), that generating equipment can supply to system load, adjusted for ambient conditions."[2] The uses of the word capacity in the proposed informal rules reflect this general understanding of the definition of the word capacity.

2. WAC 480-106-GGG strengthens the relationship between a utility's integrated resource plan and the avoided cost rates available to qualifying facilities. Consequently, avoided cost rates calculated at the time a legally enforceable obligation is incurred will reflect the utility's own forecasts and plans for meeting anticipated demand through a combination of supply-side and demand-side resources over a specified future period. Please comment on the merits of strengthening the relationship between a utility's integrated resource plan and its avoided cost.

PSE Response

At a theoretical level, PSE does not oppose strengthening the relationship between integrated resource plan and estimates of avoided costs. PSE's current practice for estimating avoided costs for energy depends, in part, on the forecasted forward market power prices published in its integrated resource plan. Additionally, PSE's integrated resource plan process is rigorous, transparent, and produces high-quality market forecasts for avoided costs for capacity that could serve as the basis for any method the Commission prefers for estimating avoided costs.

PSE has concerns, however, that strengthening the relationship between integrated resource plans and estimated avoided costs could diminish the relationship of market forecasts or results of requests for proposals, which are oftentimes more accurate and better at ensuring that utility customers do not overpay for resources. Therefore, the Commission should modify the draft rules to the option for utilities to use market forecasts or results of requests for proposals as the basis for estimating avoided capacity costs.

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[2] U.S. Energy Information Administration, *Glossary* (defining "Capacity" and "Generator Capacity"), available at https://www.eia.gov/tools/glossary/index.php?id=G#gen_cap.

3. WAC 480-106-GGG(1)(a) requires a utility to file an avoided energy cost based on the utility's forecast of market prices. WAC 480-106-GGG(1)(b) requires the utility to determine the avoided capacity cost using the Proxy Unit method. When using the Proxy Unit method, one option is to set the avoided energy price based on the energy price of the proxy resource. Should the avoided energy price be based on the market forecast or the price of the energy used for the proxy resource?

PSE Response

PSE prefers that final draft would allow utilities options other than the proxy unit method for calculating avoided costs for capacity, such as estimates based on market forecasts or results of requests for proposals, which are oftentimes more accurate and provide better value for utility customers.

Should the Commission mandate the proxy unit method for calculating avoided capacity cost, a better public policy approach would be to not specify the technology required for calculating avoided costs and instead make the calculations a function of planning standards in utility integrated resource plans. The final rules should allow market-integrated utilities to work with experts, Commission staff, and advisory groups to develop an agreed upon planning standard for market purchases not yet executed and use that for the basis of calculating avoided costs.

Should the Commission mandate the proxy unit method for calculating avoided cost for capacity based on a specific resource, PSE prefers the market forecast for the price of energy used for the proxy resource to serve as the basis for estimating avoided costs because its more accurate and a better value for customers.

4. WAC 480-106-GGG(1)(a) requires utilities to file an avoided energy cost on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year. Should the Commission also require the avoided energy cost to include hourly or blocks of hourly periods?

PSE Response

The Commission should not require avoided cost for energy to include hourly or blocks of hourly periods, but rather give utilities the option to include that analysis in its estimated avoided cost for energy filings.

5. WAC 480-106-GGG(2)(iii) discusses schedules of estimated avoided cost. Is discounting the capacity payment from the utility's year of need to the present day an appropriate way to represent the avoided costs of a resource the utility has identified a need for in the future? In balance, does it provide the required price signal for capacity? Does this subsection require additional rule language and specificity?

PSE Response

PSE supports discounting the capacity payment from the utility's year of need to the present day and believes that such a practice is an appropriate way to represent the avoided costs of a resource the utility has identified a need for in the future.

6. WAC 480-106-GGG(c) is intended to permit utilities to offer standard rates that take into account the differing qualities of various generation types, such as variations in capacity factors. Currently, the informal PURPA draft rules do not specify how a utility might identify these qualities and use them to calculate avoided capacity costs. Does this subsection provide enough specificity or is additional rule language needed?

a. No resource, including thermal generation, has a one hundred percent capacity factor. Should the rules require applying a calculation that compares the qualifying facility to the highest capacity factor resource? For example, if the highest capacity factor plant has a capacity factor of 90 percent, and the qualifying facility has a capacity factor of 30 percent, then the capacity credit to the qualifying facility is 30% ÷ 90% = 33%.

PSE Response

No. Additional specificity is not needed. Public policy should not attempt to enshrine qualities, characteristics, generation types, technologies, etc. into formal rules because it limits negotiating flexibility between the parties and the ability to be responsive to changing technologies and requests of qualifying facilities on a utility's unique system. Each utility will require certain characteristics and qualities based on the unique nature of operating its system, and the utility should be allowed to incorporate those characteristics and qualities into its standard offer rates, which must be approved by the Commission.

As noted above, PSE has concerns that the requirement in Informal Draft Rule 480-106-GGG(1) to make the estimated schedule of avoided cost subject to tariff filing requirements could lead to the Commission and utilities constantly playing catch up in drafting tariffs that attempt to anticipate every new project, characteristic, or technology. This provision creates unnecessary process and risks slowing negotiations, project development and contract execution.

7. Joint Recommendations – The discussion draft rules do not include any option or the requirement to transfer any renewable energy credits (RECs) generated by qualifying facilities. The Joint Recommendations propose that RECs should be included in the sale when the avoided costs used to determine a utility's offered standard rate are based on a resource that would also generate RECs. Would this arrangement be satisfactory for all parties? In the instance where standard rates are based on a resource that does not generate RECs, is there reason to permit, or to require, the utility to offer a tariff schedule to qualifying facilities, which include the avoided cost of RECs? This arrangement would enable smaller developers to sell RECs at a set price and avoid the challenge of navigating a complex market, mirroring the rationale that PURPA uses in compelling utilities to purchase of capacity and energy.

PSE Response

Yes, the proposal in the Joint Recommendation on transfer or sale of renewable energy credits would be satisfactory. Transfer or sale of renewable energy credits should remain a function of negotiations between the utility and qualifying facility, and there is no need to require a utility to provide a tariff schedule of avoided cost of renewable energy credits. Indeed, there is no existing liquid market for renewable energy credits, and the requirement for publishing a tariff schedule of avoided costs for renewable energy credits would, at best, add more process for the utility and the Commission and, at worst, present another potential stumbling block in approving a tariff each year. Although PSE would not necessarily oppose a rule that would allow a utility to file a voluntary tariff schedule of avoided costs for renewable energy credits, the decision to file such a tariff schedule should be based on each individual utility's experience in on-the-ground negotiations between parties.

8. Joint Recommendations – If the Commission adopts the recommendation to require the inclusion of limited contract provisions to qualifying facilities of all sizes, should the rule specify contract provisions that utilities must offer?

PSE Response

No, contract provisions should not be specified in the rule for qualifying facilities of all sizes. Instead, the Commission should consider standard contract provisions when the utility files its standard contract tariff and power purchase agreement. The tariffs should specify the information required for a qualifying facility to obtain draft and executable contracts, and timelines and requirements for both qualifying facilities and utilities to follow in the contract negotiation process.

PSE's current Schedule 91 and power purchase agreement includes terms and conditions approved by the Commission, but those same terms and conditions may not be appropriate for other utility systems and processes or other developers. For contracts with qualifying facilities with a maximum design capacity greater than 5 megawatts, it is important the Commission not limit negotiating flexibility between the parties by specifying certain contract provisions into the rule. This may limit the ability of negotiating parties to find the best outcome for customers.

Consistent with the Joint Recommendation, the Commission should, at most, require utilities to create and make public term sheets with limited contract provisions for qualifying facilities that do not qualify for standard offer rates. This would allow negotiating flexibility between the parties. By making the term sheets publicly available, utilities and stakeholders could learn from each other in developing future term sheets.

9. Joint Recommendations – Does the recommendation that each utility file and obtain Commission approval of its avoided cost rate methodology for qualifying facilities above the size threshold for standard rate eligibility impose an unnecessary burden on utilities, stakeholders, and the Commission? Should the avoided cost rate for larger qualifying facilities depend on facts and circumstances that cannot be easily accounted for by rule?

PSE Response

No. PSE views the filing and approval of its avoided cost rate methodology for qualifying facilities with maximum design capacities greater than 5 megawatts as an infrequent exercise. Upon approval of its methodology, a utility could use that methodology for future negotiations with qualifying facilities. Should the utility choose to change its methodology, it would need to file and obtain approval for that new methodology. Having an avoided cost rate methodology on file at the Commission and knowing that a methodology change will require Commission approval would provide certainty and transparency to both negotiating parties.

Please contact Nate Hill at (425) 457-5524 or nate.hill@pse.com for additional information or questions regarding this filing. If you have any other questions, please contact me at (425) 456-2142.

Sincerely,

/s/ Jon Piliaris

Jon Piliaris
Director, Regulatory Affairs
Puget Sound Energy
PO Box 97034, PSE-08N
Bellevue, WA 98009-9734
425-456-2142
Jon.Piliaris@pse.com

cc: Lisa Gafken, Public Counsel
Sheree Strom Carson, Perkins Coie