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## Informal Draft: Public Utility Regulatory Policies Act Rules

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### New Chapter of WACs for PURPA rules that were formerly part of WAC 480-107

#### WAC 480-106

##### 480-106-AAA [From WAC 480-107-001(3)]

###### **Purpose.**

The purpose of this chapter is to implement the Public Utility Regulatory Policies Act of 1978 (PURPA), Title II, sections 201 and 210, and related regulations promulgated by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292. If there is any conflict between these rules and PURPA, or the related rules promulgated by FERC in 18 C.F.R. Part 292, PURPA and those related [FERC](#) rules control. Purchase of electric power under these rules satisfies a utility's obligation to purchase power from qualifying facilities under section 210 of PURPA.

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##### 480-106-BBB [Formerly WAC 480-107-002]

###### **Application of rules.**

(1) Except as otherwise provided in this chapter, the rules in this chapter apply to any utility that is subject to the commission's jurisdiction under [RCW 80.01.040](#), [80.04.010](#), and chapter [80.28](#) RCW, and qualifying facilities as defined herein. The rules in this chapter do not supersede contracts existing before the effective date of this rule. At the expiration of such an existing contract, [including the term of any existing extension of a contract that was in force before the effective date of this rule](#), between a utility and a qualifying facility, the provisions of this chapter shall apply to any contract extension or new contract.

(2) Nothing in this chapter prohibits a utility or a qualifying facility from agreeing to voluntary contracts with rates, terms, or conditions that differ from the provisions in this chapter, [provided such rates, terms, or conditions will not result in a burden to the customers of such utility](#).

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##### 480-106-CCC [Formerly WAC 480-107-002]

###### **Exemptions from rules in chapter 480-106 WAC**

The commission, in response to a request or on its own initiative, may grant an exemption from, or modify the application of, any rule in this chapter consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modification to the rules in this chapter; special rules).

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#### **480-106-DDD [From WAC 480-107-007]**

##### **Definitions.**

“**Avoided costs**” means the incremental costs to an electric utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate itself or purchase from another source.

“**Back-up power**” and “stand-by power” means electric energy or capacity supplied by a utility to replace energy ordinarily supplied by the qualifying facility’s own generation or purchased through contracts that is unavailable due to an unscheduled outage.

“**Capacity**” means the qualifying facility’s average capability to produce ~~or avoid the need to produce~~ electric energy measured in kilowatts (kW) for a specific period.

“**Commission**” means the Washington ~~U~~Utilities and ~~T~~Transportation ~~e~~Commission.

“**Energy**” means electric energy, measured in kilowatt-hours (kWh).

“**Integrated resource plan**” or “**IRP**” means the filing made every two years by a utility in accordance with WAC [480-100-238](#) Integrated resource planning.

“**Interruptible power**” means electric energy or capacity supplied to a qualifying facility by a utility which may be interrupted by the utility under specified conditions.

“**Maintenance power**” means electric energy or capacity supplied by a utility during scheduled outages of a qualifying facility.

“**Qualifying facilities**” means a cogeneration facility or a small power production facility, which is a qualifying facility under 18 C.F.R. Part 292 Subpart B.

“**Request for proposals**” or “**RFPs**” means the documents describing a utility’s solicitation of bids for delivering electric capacity, energy, or both, or conservation that was issued consistent with WAC 480-107.

“**Supplementary power**” means electric energy or capacity supplied by a utility that is regularly used by a qualifying facility in addition to that which the qualifying facility generates itself.

“**Utility**” means an electrical company as defined by [RCW 80.04.010](#).

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#### **480-106-EEE [Formerly WAC 480-107-085]**

##### **Obligations of qualifying facilities to the utility.**

(1) The owner or operator of a qualifying facility purchasing or selling electricity under this chapter must execute a written agreement with the utility stating at a minimum that:

(a) The owner or operator will construct and operate all interconnected qualifying facilities within its control in accordance with all applicable federal, state, and local laws and regulations to ensure system safety and reliability of interconnected operations;

(b) The qualifying facility will furnish, install, operate, and maintain in good order and repair, and without cost to the utility, such relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus determined by the utility to be reasonably necessary for the safe and reliable operation of the qualifying facility in parallel with the utility's system; Delivery must be at a voltage, phase, power factor, and frequency as specified by the utility.

(c) The utility must have ~~will be able to gain~~ access at all times to all switching equipment capable of isolating the qualifying facility from the utility's system; and

(d) To the extent that the qualifying facility will assume responsibility for the safe operation of the interconnection facilities, the qualifying facility is not required to assume responsibility for negligent acts of the utility.

(2) The utility may choose to operate the switching equipment described in subsection (1)(~~be~~) of this rule if, in the sole opinion of the utility, continued operation of the qualifying facility in connection with the utility's system may create or contribute to a system emergency. Such a decision by the utility is subject to commission verification in accordance with WAC 480-106-JJJ System emergencies. The utility must endeavor to minimize any adverse effects of such operation on the owner or operator of a qualifying facility.

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#### **480-106-FFF [Formerly WAC 480-107-095] Obligations of the utility to qualifying facilities.**

(1) A utility must purchase any energy and capacity from a qualifying facility, not needed by the qualifying facility itself to produce generation, on terms that do not exceed the utility's avoided costs.

(2) A utility must file a tariff schedule with standard rates for purchases from qualifying facilities with a design maximum MW capacity of sevenfive megawatts or less that is consistent with WAC 480-106-GGG(4) Rates for Purchases. Qualifying facility developers proposing projects with a maximum design capacity of sevenfive megawatts or less may choose to receive a purchase price for power that is set forth in the standard tariff schedule filed under the provisions of this chapter.

(3) A utility must sell to any qualifying facilities, in accordance with WAC 480-106-III Rates for sales to qualifying facilities, any energy and capacity requested by the qualifying facilities on the same basis as available to other customers of the utility in the same customer class who do not generate electricity.

(4) A utility must make all the necessary interconnections with any qualifying facilities to accomplish purchases or sales under this section. The obligation of the qualifying facility to pay for any interconnection costs will be determined in accordance with WAC 480-106-KKK Interconnection costs and the interconnection service tariffs filed under WAC 480-108-080.

(5) At the request of a qualifying facility, a utility that would otherwise be obligated to purchase energy, capacity, or both, from such qualifying facility must transmit energy, capacity, or both, to any other utility at the expense of the qualifying facility. Use of a utility's transmission facilities shall be pursuant to the utility's open access transmission tariff.

(6) Each utility must offer to operate in parallel with a qualifying facility if the qualifying facility complies with all applicable standards established in this section.

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**480-106-GGG [Formerly WAC 480-107-055]  
Schedules of estimated avoided cost.**

(1) A utility must 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. All tariff schedules of estimated avoided cost must include:

(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, differentiated by~~during~~ daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next ~~15~~five years; and

(b) An avoided capacity cost expressed in cents per kilowatt-hour based on the projected market prices for capacity. A utility's need for capacity shall be based upon fixed cost of the next planned capacity addition identified in the succeeding ~~10~~five years in the utility's most recently acknowledged integrated resource plan filed pursuant to [WAC 480-100-238](#).

(i) A utility must identify the projected fixed costs of its next planned generating units based on either the estimates included in its most recently acknowledged integrated resource plan or the most recent project proposals received pursuant to an all-source RFP issued consistent with chapter 480-107 WAC, whichever is most current.

(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 such purchases as projected in the acknowledged integrated resource plan~~a peaker unit as identified in the integrated resource plan~~ as the avoided capacity cost of the market purchases.

(iii) An avoided capacity cost must account for any differences between the in-service date of the qualifying facility and the date of the next planned generating unit by levelizing the lump sum present value of the capacity cost at the utility's authorized rate of return, adjusted by replacing all existing debt with new debt issuances of similar respective terms as issued.

(c) The utility's standard rate may differentiate among qualifying facilities based on the supply characteristics of different technologies for purposes of calculating the avoided capacity cost.

(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.

(c) In the event that (a) or (b) occur, and the utility makes such a filing as allowed under this subsection, the utility may also request that the Commission allow the amended tariff filing to go into effect subject to refund, if suspension of such tariff would result in material harm to the utility's retail customers.

(3) Filing a revised schedule in subsection (2) does not relieve the utility of its obligation to file an annual tariff schedule in subsection (1).

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## **480-106-HHH [NEW]**

### **Rates for Purchases from Qualifying Facilities**

#### **(1) Rates for purchases by a utility:**

(a) Rates must be just and reasonable to the utility's customers and in the public interest;

(b) Rates must not discriminate against qualifying facilities; and

(c) Rates must not exceed the utility's avoided cost ~~to the utility of alternative energy, capacity, or both.~~

#### **(2) Establishing rates:**

(a) Except as otherwise provided in this chapter, a purchase rate satisfies the requirements of subsection (1) of this rule if the rate equals the avoided costs after consideration, to the extent practicable, of the factors set forth in subsection (5) of this rule.

(b) Except as otherwise provided in this chapter, the utility shall purchase at a rate equal to the utility's avoided cost.

(c) When the purchase rates are based upon estimates of avoided costs over a specific term of the contract or other legally enforceable obligation, the rates do not violate these rules if any payment under the obligation differs from avoided costs at the time of delivery.

**(3) Rates for purchases — time of calculation:** Except for the purchases made under a standard rates tariff pursuant to section (4) of this rule, each qualifying facility shall have the option to:

(a) Provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided energy cost at the time of delivery; or

(b) Provide energy, capacity, or both, pursuant to a legally enforceable obligation for the delivery of energy, capacity, or both, over a specified term, in which case the rates for purchases shall be based on:

- (i) The avoided costs calculated at the time of delivery; or
- (ii) At the election of the qualifying facility, exercised at the time the obligation is incurred, the avoided costs projected over the life of the obligation and calculated at the time the obligation is incurred.

(4) **Standard rates.** Standard rates for purchases by facilities with a nameplate (maximum) capacity of ~~seven-five~~ megawatts or less, shall be implemented as follows:

(a) The commission will consider the annual tariff schedule of estimated avoided costs containing standard rates for purchases filed pursuant to WAC 480-106-GGG through its standard open meeting process, except the tariff will become effective 60 days after filing. The filing shall contain all the terms and conditions of the purchase. The utility's tariff schedule must offer a term of ~~fifteen~~ five years ~~for to a new~~ qualifying facility. ~~, and ten years for an existing-qualifying facility entering into a new agreement with the utility~~ At the Commission's discretion, a term of up to 15 years may be offered to a qualifying facility, so long as the rates paid the qualifying facility are adjusted every five years based on the purchasing utility's then-estimated avoided costs.

(b) Standard rates for purchases must provide the qualifying facility the option to:

(i) Provide energy as the qualifying facility determines such energy to be available, in which case the rates for such purchases shall equal the seasonal off-peak avoided energy cost, if such avoided energy costs are differentiated by peak and off-peak and by season (i.e., absent any capacity avoided cost component), identified in the utility's tariff schedule of estimated avoided costs in effect when the energy is delivered; or

(ii) Provide energy, capacity, or both, pursuant to a legally enforceable obligation for the delivery of energy, capacity, or both, over a specified term in which case the rates for purchases shall be based on:

(A) The avoided costs identified in the utility's tariff schedule of estimated avoided costs in effect when the energy is delivered; or

(B) The avoided costs identified in the utility's tariff schedule of estimated avoided costs in effect when the obligation is incurred.

(5) **Negotiated rates for qualifying facilities of any size.** When negotiating rates for purchases from qualifying facilities, the utility must begin from the tariff schedule pursuant to WAC 480-106-GGG. In determining the avoided cost rates for a specific qualifying facility, the utility shall, to the extent practicable, take the following factors into account:

(a) The data provided pursuant to WAC 480-106-GGG Schedules of estimated avoided cost, and the commission's evaluation of the data; and

(b) The availability of energy, ~~and~~ capacity, and ancillary services from a qualifying facility during the system daily and seasonal peak periods, including:

(i) The ability of the utility to dispatch output of the qualifying facility;

(ii) The expected or demonstrated reliability of the qualifying facility;

- (iii) The terms of any contract or other legally enforceable obligation;
- (iv) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;
- (v) The usefulness of energy, capacity, or both, supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;
- (vi) The individual and aggregate value of energy and capacity from qualifying facilities on the utility's system; and
- (vii) The smaller capacity increments and the shorter lead times available, if any, with additions of capacity from qualifying facilities.
- (viii) The relationship of the availability of energy, capacity, or both, from the qualifying facility as derived in subsection (5)(b) of this rule, to the ability of the utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and
- (ix) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility if the purchasing utility generated an equivalent amount of energy itself or purchased an equivalent amount of energy, capacity, or both.

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**480-106-III [Formerly WAC 480-107-105]**  
**Rates for sales to qualifying facilities.**

- (1) General rules:
  - (a) Rates must be just and reasonable, and in the public interest; and
  - (b) Rates must not discriminate between qualifying facilities and other customers served by the utility.
  - (c) Utilities may not deny service to a customer for which they otherwise qualify based on the presence of a qualifying facility, including interruptible power service.
- (2) Rates for sales that are based on accurate data and consistent system-wide costing principles will not be considered to discriminate against any qualifying facilities if those rates apply to the utility's other customers with similar load or other cost-related characteristics.
- (3) Additional services to be provided to qualifying facilities:
  - (a) Upon request by a qualifying facility, each utility will provide:
    - (i) Supplementary power;
    - (ii) Back-up power; ~~and~~

(iii) Maintenance power-; and

(iv) interruptible power.

(b) The commission may waive any requirement of (a) of this subsection if, after notice in the area served by the utility and after opportunity for public comment, the utility demonstrates and the commission finds that compliance with such requirement will:

(i) Impair the utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the utility.

(4) The rate for sale of back-up power or maintenance power:

(a) ) May not be based on an assumption that forced outages or other reductions in electric output by all qualifying facilities on a utility's system will occur simultaneously, or during the system peak, or both unless such an assumption is supported by factual data; and

(b) Must take into account the extent to which scheduled outages of the qualifying facilities can be coordinated with scheduled outages of the utility's facilities.

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#### **480-106-JJJ [Formerly WAC 480-107-115]**

##### **System emergencies.**

(1) A qualifying facility entering into a power contract under these rules is required to provide energy or capacity to a utility during a system emergency only to the extent:

(a) ) Provided by agreement between the qualifying facility and utility; or

(b) Ordered under section 202(c) of the Federal Power Act.

(2) During any system emergency, a utility may discontinue or curtail:

(a) ) Purchases from a qualifying facility if such purchases would contribute to such emergency; and

(b) Sales to a qualifying facility, if such discontinuance or curtailment:

(i) Does not discriminate against a qualifying facility; and

(ii) Takes into account the degree to which purchases from the qualifying facility would offset the need to discontinue or curtail sales to the qualifying facility.

(3) System emergencies resulting in utility action under this chapter are subject to verification by the commission upon request by either party to the power contract.

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**480-106-KKK [Formerly WAC 480-107-125]**

**Interconnection costs.**

(1) Any costs of interconnection are the responsibility of the owner or operator of the qualifying facility entering into a power contract under this chapter. The utility must assess all reasonable interconnection and necessary system or network upgrade costs the utility incurs against a qualifying facility on a nondiscriminatory basis, as described in a utility's interconnection tariff filed pursuant to WAC 480-108-080.

(2) The owner or operator of the qualifying facility must reimburse the utility for any reasonable interconnection costs the utility may incur. Such reimbursement shall be made, at the qualifying facility's election:

(a) At the time the utility invoices the owner or operator of the qualifying facility for interconnection costs incurred by the utility; or

(b) Over an agreed period of time not greater than the length of any contract between the utility and the qualifying facility.

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