

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PUBLIC UTILITY DISTRICT No. 1 OF
CHELAN COUNTY, WASHINGTON

Petitioner,

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

DOCKET _____

**CHELAN PUD'S PETITION FOR
DECLARATORY ORDER**

I. INTRODUCTION

1. In accordance with RCW 34.05.240, WAC 480-07-370, and WAC 480-07-930, Public Utility District No. 1 of Chelan County petitions the Washington Utilities and Transportation Commission for a declaratory order approving the generation from incremental efficiency gains at Chelan PUD's Chelan Hydroelectric Project as an eligible renewable resource, as defined in RCW 19.285.030, for purposes of WAC 480-109-200.

2. Chelan PUD is a municipal corporation organized under Title 54 of the Revised Code of Washington and authorized to engage in the business of generating, transmitting, and distributing electric energy. Its contacts for this proceeding are:

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3. The following statutes and rules may be at issue in this proceeding:
RCW 34.05.240, WAC 194-37-130, WAC 480-07-370, WAC 480-07-930, and
WAC 480-109-200.

II. BACKGROUND AND FACTS

4. Washington’s Energy Independence Act requires qualifying utilities to “use eligible renewable resources or acquire equivalent renewable energy credits, or any combination of them,” to meet a portion of their load.¹ The Act defines eligible renewable resources to include “[i]ncremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest where the additional generation does not result in new water diversions or impoundments[.]”²

5. Chelan PUD has made many efficiency improvements at its hydroelectric projects since 1999. As a consumer-owned utility, Chelan PUD must document for the Washington Department of Commerce that the incremental electricity from these improvements qualifies as an eligible renewable resource.³

6. On August 20, 2018, Commerce issued an Advisory Opinion designating incremental generation from the Chelan Hydroelectric Project as an eligible renewable resource in WREGIS.⁴ Commerce recognized 5.42 percent of total generation at Chelan Hydroelectric Project as an eligible renewable resource. Attachments A and B are copies of the Advisory Opinion for the Chelan Hydroelectric Project, and contain Chelan PUD’s applications for units A1 and A2 of the project, respectively, and the supporting engineering report.⁵

¹ RCW 19.285.040(2)

² RCW 19.285.030(12)(b)

³ WAC 194-37-130

⁴ WREGIS is “the Western Renewable Energy Generation Information System. WREGIS is an independent, renewable energy registry and tracking system for the region covered by the Western Interconnection. WREGIS creates renewable energy certificates, WREGIS certificates, for verifiable renewable generation from units that register in the registry and tracking system.” WAC 194-37-040(16).

⁵ Commerce’s Advisory Opinion is in pages 19-21 of the attachments. Chelan PUD’s applications are in pages 1-5 of the attachments, and the engineering report is in pages 6-18. The Advisory Opinion and engineering report are the same in both attachments.

7. On July 26, 2017, Chelan PUD petitioned the Commission for a declaration that the generation from efficiency gains at its Rocky Reach and Rock Island projects are eligible renewable resources that may be used for compliance with WAC 480-109-200. The Commission issued an order on September 15, 2017, declaring that 14.73 percent of total generation at Rocky Reach and 9.67 percent of total generation at Rock Island may be used for compliance with WAC 480-109-200.⁶

III. ARGUMENT

8. In its order on Chelan PUD's prior petition, the Commission noted the overlap between its authority and Commerce's authority to independently enforce the Energy Independence Act concerning the qualification of Chelan PUD's Rocky Reach and Rock Island projects.⁷ The Commission adopted Commerce's conclusions on the basis of comity: "In such circumstances, one agency should defer to the other's determinations to avoid unnecessary confusion and potential conflict."⁸

9. For these reasons, the Commission should also adopt Commerce's conclusion regarding the percentage of incremental hydropower production available from the Chelan Hydroelectric Project.

10. Under RCW 34.05.240(1) and WAC 480-07-370, the Commission may appropriately issue a declaratory order granting Chelan PUD's request. The facts described in this petition make the showing required by RCW 34.05.240(1).⁹ Specifically:

⁶ *In re Petition of Public Utility District No. 1 of Chelan County, Washington, for a Declaratory Order Regarding Application of WAC 480-109-200*, Docket UE-170840, Order 01.

⁷ *Id.* at 13

⁸ *Id.*

⁹ "The petition shall set forth facts and reasons on which the petitioner relies to show: (a) That uncertainty necessitating resolution exists; (b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion; (c) That the uncertainty adversely affects the petitioner;

- a. Chelan PUD seeks a declaratory order regarding the actual percentage of generation that may be used for compliance, not merely an advisory opinion about the applicable regulations.
- b. Without a declaration from the Commission, Chelan PUD cannot sell its surplus eligible renewable resources to investor-owned utilities in Washington for their renewable resource requirements under WAC 480-109-200.
- c. The requested order should not adversely affect any parties or the general public. Moreover, the order would allow investor-owned utilities to access an additional source of low-cost, eligible renewable resources for their compliance obligations, providing benefits to consumers.

IV. CONCLUSION

11. For the reasons stated in this petition and supported by the accompanying documentation, the Commission should issue an order declaring that the incremental hydropower at Chelan PUD's Chelan Hydroelectric Project, at an eligible amount of 5.42 percent of total production, may be used for compliance with WAC 480-109-200.

Respectfully submitted this 3rd day of June, 2019.

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(d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested; and (e) That the petition complies with any additional requirements established by the agency under subsection (2) of this section.”