

STATEMENT OF ISSUES AND POSITIONS - SUMMARY
Renewable Energy Resources Rulemaking – Docket U-100849

Commission Inquiry Work Session

June 22, 2010

The inquiry will focus on the need for rules, both substantive and procedural, addressing whether the Commission should consider adopting new regulations relating to the acquisition of renewable resources by Washington's investor owned electric utilities. Specifically, the Commission will review and discuss:

- The progress of investor-owned utilities in meeting the renewable portfolio standards (RPS) set by the Energy Independence Act (Initiative 937), RCW 19.285;
- Whether the existing statutory and regulatory frameworks impede compliance with RPS requirements;
- Whether the statutory and regulatory frameworks should encourage acquisition of renewable resources in excess of that required by the RPS;
- Whether the Commission should consider adopting rules or new regulatory practices that would provide incentives for utilities and customers to acquire renewable resources; and,
- Whether the Commission should propose any legislative changes relative to incentives for acquisition of renewable resources by utilities and customers.

The Commission intends to include in this Inquiry consideration of externalities associated with non-renewable resources that may impact utility and Commission decision-making, the impact of encouraging acquisition of renewable resources on other ratemaking practices including evaluation of a utility's rate of return, and the impact of further development of renewable resources on consumer rates.

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Puget Sound Energy	<p>Early Compliance with RPS</p> <ol style="list-style-type: none">1. Short-term nature of external renewable incentives e.g., Production Tax Credit, Investment Tax Credit or Treasury Grants.2. RCW 19.285 “Stair Step” requirements suggest a “just in time” strategy rather than a systematic approach to asset acquisition. <p>Project Duration (Project Timing)</p> <ol style="list-style-type: none">3. The time period between an interconnection request and the construction or upgrade to network facilities can be as long as five years. <p>Benefits other than RECs</p> <ol style="list-style-type: none">4. Benefits of renewable resources may include greater cost stability to energy portfolios, portfolio diversity, and potential protection against future greenhouse gas cost risks. <p>Integration of Renewables</p> <ol style="list-style-type: none">5. The acquisition of future resources dedicated to support integration of renewables may require a new prudence “litmus” test.6. Comparing the acquisition of future resources on the basis of levelized cost absent a valuation of these other attributes will exacerbate a utility’s ability to cost effectively integrate renewable resources into a power portfolio. <p>Incentives for Early or Excess Compliance</p> <ol style="list-style-type: none">7. Lack of rule language clarifying the possible “incentives” that are available to utilities under RCW 19.285. <i>Proposed solution:</i> The Commission should adopt rules clarifying “incentives.”8. Incentives should be based on a prudent resource acquisition standard, be relatively simple to implement, and provide certainty with regard to the structure of the incentive.

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<p>Puget Sound Energy (Continued)</p>	<p>Disincentives for Early or Excess Compliance - <i>ex ante</i> prudence review</p> <p>9. An <i>ex ante</i> prudence review would be pre-approval of the decision to acquire a renewable resource ahead of the renewable targets or one that exceeds the renewable requirements....</p> <p>10. Commission would still retain the responsibility of determining the prudence review in a future proceeding.</p> <p>Consideration of externalities is unnecessary</p> <p>11. The law already includes a list of externalities but does not address carbon emissions; and</p> <p>12. The determination of the scope of externalities would be unduly burdensome for this proceeding</p> <p>Demonstration of Need</p> <hr/>
<p>Avista Utilities</p>	<p>1. 1-937 has superimposed on utility decision-making a requirement that the utility make an investment... regardless of whether that asset was "needed" to serve the energy and capacity requirements of its retail customers. Re-define the concept of "need" in a prudency determination to include I-937 or... [clarify] what is meant by the phrase "used and useful" under RCW 80.04.250.</p> <p>Early Compliance with RPS</p> <p>2. It is unknown whether ... economic [tax] incentives will be extended beyond their termination dates. Building renewable resources ahead of the 1-937 targets to take advantage of the tax credits therefore has the potential to significantly reduce customer rates over the long-term.</p> <p>3. Current regulatory rules provide little assurance that a renewable generation investment made in advance of 1-937 need, will be deemed eligible for full regulatory recovery under such circumstances. <i>Proposed Solution:</i> ...allowing the acquisition of [renewable resources] in advance of RCW 19.285.040(2) targets.</p>

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Avista Utilities <i>(continued)</i>	<p>Project Development - Wind</p> <p>4. ... a utility likely will work on a few "dry holes" in the interest of bringing one or more [wind] sites to commercial operation. The Commission should clarify that cost recovery should be allowed for prudently incurred costs associated with "dry hole" projects. <i>Proposed Solution:</i> Rules...should acknowledge that reasonable "dry hole" risks are a prudent business expense in the pursuit of renewable resource development.</p> <p>Commission Authority.</p> <p>5. If the Commission does not believe it presently has the authority to make the determinations requested above, Avista is hopeful that the Commission will support legislation clarifying its regulatory authority and providing guidance on the review and approval process....</p> <p>PURPA Obligation</p> <p>6. The passage of Initiative 937 creates a value associated with environmental attributes that did not exist prior to its existence, yet these attributes are not addressed in current regulation. Under the Public Utilities Regulatory Policies Act of 1978 (PURPA), utilities are obligated to purchase the output from "qualifying facilities." <i>Proposed Solution:</i> The Commission should provide needed clarity on this issue.</p>
PacifiCorp	<p>Renewable Energy Credits (REC)</p> <p>1. Commission rule conflicts with provisions in RCW 19.285.040(2)(e). WAC 480-109-020(1) and (2) requires utilities to use sufficient renewable energy resources or acquire renewable energy credits (RECs), or a combination of both by January 1 of the target year. This language is problematic in that utilities must acquire enough RECs by January 1 of the target year rather than in the statutorily allotted timeframe per RCW 19.285.040(2)(e) that includes the entire target year, preceding year and subsequent year. <i>Proposed Solution:</i> Revise WAC 480-109-020(1) and (2).</p>

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PacifiCorp <i>(continued)</i>	<p>Allocations and Demonstration of Need</p> <p>2. Allocations for PacifiCorp exclude renewable resources in Wyoming that are within the PacifiCorp system. In addition, resources acquired prior to the Company demonstrating a need may not be found prudent and therefore disallowed in rates. <i>Proposed Solution:</i> The Company ... recommends that the Commission allow for increased flexibility in acquiring cost-effective renewable resources earlier than required. This flexibility will allow utilities to have the ability to utilize the federal production tax credits, other market opportunities that may arise prior to the planning need established in the Integrated Resource Plan</p> <p>No Washington Agency Responsible for Oversight</p> <p>3. Currently, there is no Washington agency designated with responsibility for oversight of an entity's registration of renewable resources and confirming the eligibility in Western Renewable Energy Generation Information System (WREGIS). <i>Proposed Solution:</i> PacifiCorp recommends that the Commission assign a member of the Commission staff as the "program administrator."</p> <p>Deferred Costs</p> <p>4. During the 2009 legislative session, the Washington Legislature revised RCW 80.80.060(6), which allows for a utility to defer certain costs associated with long-term financial commitments, to include eligible renewable resources as defined in RCW 19.285.030. WAC 480-100-435(1) has not been updated to reflect this change. <i>Proposed Solution:</i> Modify WAC 480-100-435(1) to incorporate this change.</p> <p>Reporting Requirements</p> <p>5. RCW 19.285.070 requires utilities, on or before June 1, 2012 and annually thereafter, to report on its progress in the preceding year in meeting the [RCW 19.285.040] targets.... <i>Proposed Solution:</i> Clarify by rule that the report required on June 1, 2012 is a progress report, rather than a final compliance report.</p>

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PacifiCorp <i>(continued)</i>	<p>Renewable Energy Credits (REC)</p> <p>6. Utilities may only utilize RECs for RPS compliance during the target year, the prior year and the following year. This limits a utility's ability to fully utilize RECs for future RPS compliance, preventing customers from receiving the full cost-effective benefit of RECs associated with renewable energy commitments. <i>Proposed Solution</i> [Legislative]: Allow unlimited REC banking by removing the expiration date on RECs. Adding a "first-in, first-out" provision will provide a check and balance....</p> <p>Expansion of Qualifying Renewable Energy Area</p> <p>7. Eligible renewable energy facilities must be located in the Pacific Northwest and if the facility is not located in Washington then the electricity from the facility must be scheduled and delivered on a real-time basis to Washington for the output to be counted towards the RPS. <i>Proposed Solution:</i> Expansion of the geographic area for qualifying energy to include the area encompassed by the Western Electricity Coordinating Council (WECC) and additional clarification regarding the real-time delivery requirement.</p> <p>Treatment of Hydroelectric Generation</p> <p>8. The Washington RPS is relatively restrictive in its treatment of hydroelectric generation and only counts electricity associated with efficiency improvements as an eligible renewable resource. <i>Proposed Solution:</i> The Company encourages the Commission to consider other states' treatment of hydroelectric generation and work towards legislative changes to expand the definition of eligible renewable resources to include more types of hydroelectric generation, such as low-impact hydroelectric generation as allowed for RPS compliance in Oregon.</p>

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PacifiCorp <i>(continued)</i>	<p>Treatment of Hydroelectric Generation</p> <p>9. Permitting counties in Washington often include facility decommissioning requirements as a permit condition. By doing so, a Washington county may inadvertently include provisions that do not recognize the Commission's primacy as it relates to decommissioning of renewable resources held by a regulated utility. <i>Proposed Solution:</i> PacifiCorp encourages the Commission to consider a strategy for legislatively clarifying that no county may invoke facility decommissioning requirements that do not recognize the primacy of the Commission as it relates to assets held by a regulated utility.</p>
Energy Northwest	<p>Treatment of Solar Photovoltaic</p> <p>1. ...clarify the definition of "distributed generation" under RCW § 19.285.030(9) as it relates to solar photovoltaic ("PV") electricity generation facilities. Because "generating capacity" is not clearly defined in the current definition of "distributed generation," there is some uncertainty about how the State Auditor will determine the maximum size that would qualify as "distributed generation" for a solar PV electric generating project. <i>Proposed Solution:</i> [Legislative] proposes legislation that measures the capacity of solar PV systems on the AC side based on the solar facility's inverter. [See Oregon rule OAR 860-084-0040]</p>

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ADAGE LLC	<p>Positive Externalities</p> <ol style="list-style-type: none">1. When analyzing power purchase contracts from IOUs, measuring and crediting the positive “externalities” of certain renewable energy projects, such as: a) sustained local economic impact and b) benefit of offering baseload (e.g. nonintermittent) capacity.2. Consider whether such positive externalities of certain renewable energy projects can be credited in the evaluation of new power purchase contracts within the existing statutory and regulatory frameworks.
Industrial Customers of Northwest Utilities (ICNU)	<p>Definition of Renewable Resources</p> <ol style="list-style-type: none">1. The geographical limitations in the Washington RPS should be expanded.2. The vintage date for renewable resources, especially as applied to biomass facilities is unnecessarily narrow.3. There is no sound basis to exclude certain low impact hydro facilities as renewable resources.4. Efficiency upgrades at all hydro facilities should be counted for meeting the Washington RPS.5. The Washington RPS should be expanded to include “black liquor,” which can be used to generate electricity.

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Industrial Customers of Northwest Utilities (ICNU) (continued)	<p>Statutory and Regulatory Treatment of Renewable Resources</p> <p>6. Utilities should not be allowed to place into rates renewable resources built in advance of need.</p> <p>7. Utilities should not be required to displace existing generation resources with new renewable resources. Utilities with low or shrinking load growth should be allowed to use their existing generation resources to meet their existing load...</p> <p>Renewable Energy Credits (REC)</p> <p>8. The Washington RPS banking system for renewable energy credits (“REC”) should be modified. The Washington banking system allows for only limited banking over a short three-year period.</p> <p>Cost Cap Protection</p> <p>9. The Washington RPS does not include an effective cost cap to protect customers. In addition, it is unclear whether all the costs of renewable resources are being recognized. The Commission should ensure that the full cost of renewable resources are recognized, and should consider proposing a meaningful cost cap.</p>
<hr/> Obsidian Finance Group, LLC	<p>Distributed Generation</p> <p>1. Rules adopted by CTED also provide a definition for integrated cluster: an "integrated cluster of eligible renewable resources means collocated projects owned or controlled by the same entity that feed into the same substation." <i>WAC 194-37-040(16)</i>. The CTED integrated cluster definition is problematic. The Commission should adopt a rule that "an integrated cluster of renewable resources" means "two or more projects that are (a) developed on the same or adjacent parcels that share a common property line, and (b) owned or controlled by the same entity."</p>

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Obsidian Finance Group, LLC <i>(continued)</i>	<p>2. The definition of "distributed generation" and availability of the extra incentive for utilities to acquire renewable energy from distributed generation requires a facility to have "a generating capacity of not more than five megawatts." RCW 19.285.030(9). <i>Proposed Solution:</i> The Commission should adopt rules regarding the definition of "generating capacity of not more than five megawatts" for purposes of confirming that the facilities are "distributed generation" and that the public utilities purchasing the generation will receive credit for double the facility's output as provided under RCW 19.285.040(2)(b).</p>
NW Energy Coalition, Renewable Northwest Project, et al.	<p>Reporting Requirements</p> <p>1. We expect that, in this proceeding, the Commission will ask the IOUs for updated data regarding at least the following:</p> <ul style="list-style-type: none">• Projected annual load for each IOU through 2020.• An estimate of the quantity of renewable energy resources and/or renewable energy credits that each IOU will require to meet its RPS targets.• The amount and type of already owned and/or contracted eligible renewable resources and renewable energy credits that may be used to meet the target.• Renewable energy contemplated to meet load beyond I-937 targets.• The geographic diversity of resources used to meet the standards. <p>Exceeding RPS Targets</p> <p>2. The Commission can use its broad discretion to encourage IOUs to exceed the renewable target in I-937... There are two ways to think about acquisition in excess of the RPS requirements:</p> <ul style="list-style-type: none">• Setting goals to exceed the ultimate 15% by 2020 target,7 or• Encouraging acquisition of eligible renewable resources that would cause a utility to exceed its earlier targets in anticipation of ultimately meeting (or exceeding) its 15% requirement.

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NW Energy Coalition, Renewable Northwest Project, et al. <i>(continued)</i>	<p>Incentives</p> <p>3. Yes, [the Commission should provide incentives to acquire renewable resources]. Those incentives could take a variety of forms, such as direct financial rewards or greater regulatory certainty regarding cost recovery.... The Commission can also provide indirect incentives for utilities to acquire renewable resources by encouraging the utilities to participate in regional efforts to improve integration of renewable resources.</p> <p>Legislative Changes</p> <p>4. This is not the appropriate forum, however, to discuss changes to I-937 itself. This Docket should focus instead on opportunities to protect consumers while providing regulatory certainty for investments in renewable resources, and to encourage utilities and customers to more aggressively pursue renewable energy resources.</p> <p>Externalities</p> <p>5. We recommend that the Commission consider adopting a climate change and carbon planning requirement. The Commission should consider requiring utilities to include in their integrated resource plans two planning exercises: (1) a plan for meeting adopted state and federal carbon reduction targets;10 and (2) scenarios for complying with the likely future regulation of greenhouse gas emissions, as the Oregon PUC has mandated.</p> <p>Consumer Rates</p> <p>6. With respect to consumer rates, our experience in other states has thus far been that acquiring renewable resources to comply with an RPS has not resulted in costs above the alternative least cost resource. We believe that the Washington RPS has struck a good balance and that the 4% cost cap in I-937 is sufficient to limit any adverse effects on consumers, while providing a large measure of protection against cost risks associated with future carbon emission limits.</p>