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September 17, 2019

THIRD-PARTY QUESTIONS, COMMENTS AND REQUESTS TO UTILITIES
STAFF COLLATION

Re: UE-190663, UE-190665, UE-190666 – Tariff revisions implementing Chapter 480-106 WAC per General Order R-597 in Docket U-161024.

TO ALL INTERESTED PERSONS:

Pursuant to direction from The Washington Utilities and Transportation Commission (Commission) at the open meeting on September 12, 2019, Commission staff (Staff) offers the following collation of third-party questions, comments and requests in an effort to create a thorough dialogue regarding the Commission's implementation of the Public Utilities Regulatory Policies Act (PURPA). Staff has heard from third-party stakeholders and understands that Avista Corporation (Avista), Puget Sound Energy (PSE), and Pacific Power & Light Company (Pacific Power) (collectively, the utilities) will provide an itemized response to the stakeholder questions, comments and requests contained in this collation.

Based on the discussion had at the open meeting, and in brief conversations among parties at the conclusion of the open meeting, Staff understands that each of the three utilities have committed to responding line-by-line to the items in the following comment matrix within ten days. Accordingly, Staff anticpates that each utility will file responses to its docket by **Friday, September 27, 2019**.

Comments included in this collation are as follows:

- Comments filed on behalf of The Northwest and Intermountain Power Producers Coalition (NIPPC) and the Renewable Energy Coalition (REC) on September 10, 2019.
- Comments filed on behalf of Sun2o Partners, LLC, (Sun2o) and DGEP Holdings, LLC (DGEP), on September 11, 2019.
- Staff memo filed to each docket on September 12, 2019.
- Supplemental comments sent to Staff via email on September 13, 2019, on behalf of Sun2o and DGEP.
- Supplemental comments and examples sent to Staff via email on September 13, 2019, on behalf of NIPPC and REC.

Comments are numbered in the order of appearance in each document, and documents are ordered by filing date or date of receipt by Staff. As these items were pulled from comments to the Commission, many of the entries are structured not as questions or requests. Staff trusts that the utilities will interpret these comments as prompts to discuss the substantive issues, and to engage with the proposal or implicit question.

As observed during the open meeting, a procedural approach and timeline to address the many components of these filings has not yet been finalized. Based on discussion at the open meeting and continued conversations with all parties, Staff understands the procedural timeline to be as follows:

- **Friday, September 27, 2019**: Utilities file line-by-line responses to third-party comments, questions and requests as collated in this document.
- **Wednesday, October 2, 2019**: Informal workshop with utilities, Staff and interested stakeholders to discuss issues and create procedural plan.
- **(tentative) Thursday, October 10, 2019**: Brief Staff update to the Commission highlighting key issues and describing parties' proposed path forward.
- **(tentative) Thursday, November 7, 2019**: Open meeting implementing procedural plan.

Staff notes that some components of the tariff revisions have not yet been thoroughly reviewed by Staff or third-party stakeholders. For example, the new rules require utilities to file standard contract provisions for qualifying facilities (QFs) of five megawatts (MW) or less. Power Purchase Agreements (PPAs) are substantial legal documents, and reviewing the terms offered in these PPAs, which are filed as attachments to each utility's tariff, will take time. Staff understands that all parties acknowledge the amount of work to be done, and hopes that all parties will collaborate in good faith to work through all the details and allow the tariffs to be put into effect as soon as is reasonably possible.

Questions may be addressed to Kyle Frankiewich at (360) 664-1316 or kyle.frankiewich@utc.wa.gov.

UE-190663, UE-190665, UE-190666 – Tariff revisions implementing Chapter 480-106 WAC

Staff collation of third-party comments, questions and requests

Staff collation of stakeholder questions and comments filed to the above dockets or sent to Staff at the direction of the Commission during the open meeting on September 12, 2019.

Staff understands that investor-owned utilities have agreed to respond in writing to the items below within 10 days.

Item #	Stakeholder and reference	Topic	Utility	Question, comment or request (comments are quotes unless in italics or brackets; footnotes omitted)
1	NIPPC/REC; Staff memo attachment	Large QF term sheets	All	The utilities non-binding term sheets for use in negotiating contracts for QFs over 5 MW required to be posted to their websites. We note however that we could not locate the term sheets for any of the utilities.
2	NIPPC/REC; Staff memo attachment	Tariff contents	Avista	Avista's proposal to maintain its contracting procedures and standard PPA outside of Schedule 62 is inconsistent with WAC 480-106-030, which specifies that the tariff content include the contracting procedures, information requirements (for standard and non-standard QFs), and standard contract provisions.
3	NIPPC/REC	Capacity valuation from IRP	Avista	Avista's proposal to derive its capacity price from its 2020 Draft integrated resource plan, rather than the most recently acknowledged IRP or most recent project proposals received pursuant to a request for proposal as required by WAC 480-106-040 (1)(b)(i).
4	NIPPC/REC; Staff memo attachment	Required information for small QFs	PSE	PSE's proposal to file a revised Schedule 91 that does not list the information required for QFs 5 MW and smaller to obtain a final executable PPA and that fails to include a contracting process is inconsistent with WAC 480-106-030 which specifies that the tariff must include the contracting procedures and information requirements (for both standard and non-standard QFs).
5	NIPPC/REC; Staff memo and attachment	Peaker proxy implementation	PSE	PSE's proposal to price its capacity in 2019 through 2022 based on market purchases rather than a simple-cycle combustion turbine ("SCCT") required by WAC 480-106- 040(1)(b)(ii).
6	NIPPC/REC; Staff memo and attachment	Capacity valuation-based timing of IRP resource selections	All; focus on PSE	PSE's proposal to price its capacity in 2023 and later on a year-by-year basis depending on the resources projected to be acquired in a given year rather than only on the *next* capacity addition for that and all subsequent years as required by WAC 480-106- 040(1)(b)(i).

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7	NIPPC/REC; Staff memo and attachment	Peaker proxy implementation	Pacific Power	PacifiCorp's proposal to pay for capacity only in July and December rather than include the full capacity cost of a SCCT in its avoided cost calculation for the years during which it identifies the need for capacity in the form of market purchases as required by WAC 480-106-040(1)(b)(ii).
8	NIPPC/REC; standard contracts discussed in Staff memo	Standard PPA	All; focus on Pacific Power	PacifiCorp proposed to file only a standard contract "template" for an on-system, firm, greenfield QF project that it will modify for other types of QFs (e.g., existing, off-system, or otherwise do not fit within that contract template). This is inconsistent with WAC 480-106-030, which specifies that the tariff content include standard contract provisions.
9	NIPPC/REC	Legally enforceable obligation language in tariff	All	All three utilities' proposals regarding the formation of legally enforceable obligations ("LEO") are inconsistent with WAC 480-106-030(2), which provides explicit direction on how a QF may form a LEO. Each utility provides differing language, and no utility includes the language that a LEO may arise prior to executing a contract which is required by PURPA and Washington law. The Commission determined that a LEO may be found on a case-by-case basis recognizing that a LEO "is based on a [QF] committing itself to sell all or part of its electric output to an electric utility."
10	NIPPC/REC	QF power output requirements in tariff or contract	All	All references made by any of the three utilities to a requirement that a QF must provide "all QF output," or "all of the electrical capacity and energy" rather than "all or part" of the net output is inconsistent with PURPA and WAC 480-106-020, which requires the purchase of energy and capacity that is "made available" or WAC 480-106-030 which allows a LEO formation for "all or part" of the QF's electric output.
11	NIPPC/REC	Direct interconnection requirements	All	All references made by any of the three utilities to a requirement that a QF must be "directly interconnected," "located within the Company's electric service area," otherwise "on-system" is inconsistent with PURPA and WAC 480-106-020, which requires a utility to purchase any energy and capacity that is made available from a QF either directly or indirectly via transmission over another entity's lines.

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12	NIPPC/REC	Interconnection agreement as requirement	All	All references made by all three utilities to any requirement that a QF must complete interconnection studies or execute an interconnection agreement prior to executing its PPA or prior to forming a LEO6 is inconsistent with PURPA.
13	NIPPC/REC	Monthly shaping factors	Avista	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* Avista's monthly energy shaping factors.
14	NIPPC/REC	Capacity contribution	All	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* Avista's [and PSE's] methodology for calculating renewable capacity contribution.
15	NIPPC/REC	Market forecast	All; focus on PSE	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* PSE's Mid-C market price forecast. PSE used a market price forecast from its PSE's current forecast of market prices for electricity in PSE's most current draft Integrated Resource Plan; however, that plan has not been made public and the forecast accuracy must be vetted.
16	NIPPC/REC; Staff memo attachment	Utility right to purchase RECs	PSE	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* PSE's proposal to require that QFs offer PSE an option to purchase the environmental attributes. This is inconsistent with the requirement that the QF owns the environmental attributes unless the standard rates for which they are paid is based on a renewable resource or the QF otherwise expressly conveys the attributes to the utility for additional consideration under WAC 480-106-050 (4)(c).
17	NIPPC/REC; Staff memo and attachment	Capitalized energy cost adjustment	Pacific Power	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* PacifiCorp's proposal for its "capitalized energy cost adjustment."

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18	NIPPC/REC; Staff memo attachment	Methodology for avoided cost calculation for large QFs	All	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* Methodology(s) for negotiating non-standard prices.
19	NIPPC/REC; Staff memo attachment	Contracting procedures and timelines	All	*It is unclear whether this item is consistent with the Commission's rules and policies. NIPPC/REC ecommends further investigation by the Commission:* Contracting procedures and timelines.
20	NIPPC/REC	Process for addressing concerns re: standard PPAs	All	NIPPC/REC intends to comment in more detail regarding the specific concerns with each utility's contract provisions. NIPPC/REC's preferred process would be not to litigate these issues before the Commission at an open meeting, but instead to have a litigated proceeding in which Staff and interested parties identify contested PPA provisions and the Commission makes a policy determination as to the reasonableness of each disputed provision.9 NIPPC/REC prefer that this occur through notice and comment rather than a formal evidentiary proceeding with testimony and hearings.
21	NIPPC/REC	Standard PPA: Start of contract term for existing QFs	All	The Commission set fixed price terms for existing QFs of 10 years and for new QFs of 15 years, using different language. It is not explicit in the WAC and as a result, the utilities each provide differing interpretations around when the 10-year term of fixed price [payments] for existing QFs commences. WAC 480-106- 050 expressly provides that the 15-year term of fixed prices for new QFs starts on contract execution, but it does not make a similar finding for existing QFs.
22	NIPPC/REC	Standard PPA: Default and Cure	All	Each of the utilities have differing provisions around what constitutes a default and whether or not the QF may cure that default and the amount of time a QF has to cure. Generally, some ability to cure is reasonable
23	NIPPC/REC	Standard PPA: Damages	All	While it is generally not unreasonable for a party to owe damages in the event of a default or termination, the damages that are imposed should be commercially reasonable.

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24	NIPPC/REC	Standard PPA: Upgrades and increases or decreases	All	Whether a QF is permitted to upgrade its facilities or increase/decrease its nameplate capacity, and if upon doing so, it is entitled to the rates within its existing contract, is an important topic for resolution because there may be changes to the project, equipment, or facilities that require changes to the nameplate capacity
25	NIPPC/REC	Standard PPA: Facility milestones	All	The milestones proposed by some of the utilities are not commercially reasonable. For example, PSE's milestones would essentially require the QF to initiate commercial operation within one year after contract execution.10 Given that it may take three years from execution to reach commercial operation and the Commission's rules allow for 3 years between execution and commercial operation, these milestones are not reasonable.
26	NIPPC/REC; referenced in staff memo	Standard PPA: Interconnection requirements and service	All	The utilities include varying levels of interconnection requirements in their standard contracts, including metering and telemetering requirements, communications requirements and that a QF must be designated as a network resource. Because interconnections are generally handled separately, these interconnection requirements may not be reasonable to include within the PPA. It may be reasonable to simply remove these requirements and state that all interconnections will comply with the applicable interconnection rules.
27	NIPPC/REC	Standard PPA: Scheduling	All	The scheduling provisions are important because many small QFs do not have the capability to meet aggressive scheduling requirements. These requirements should be commercially reasonable and practical in light of the utilities' need for power to be scheduled and a small QF's ability to do so.
28	NIPPC/REC	Standard PPA: Estimates on minimum and maximum deliveries	All	The provisions surrounding estimated energy deliveries and minimum or maximum deliveries and the damages or differing prices paid for violating such provisions are important to determining the economic viability of a project. Small QFs often do not have the bandwidth to produce down-tothe-minute estimates of energy deliveries, and then be penalized for not producing at that estimate. A commercially reasonable approach would give enough flexibility to QFs to enable them to accurately estimate.

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29	NIPPC/REC	Standard PPA: Insurance	All	The utilities have a wide range of insurance requirements from simply a general liability policy, but also property insurance, and an extremely detailed list of various types of other insurances, and on top of that the level of general liability insurance varies. This may be one area where it is reasonable to have some consistency or standardization.
30	NIPPC/REC	Standard PPA: Credit-worthiness and security	All	The creditworthiness and security provisions vary greatly among the utilities as well. Generally, it is appropriate for some assurances around creditworthiness, but it may not be commercially reasonable for the QFs to post security unless and until it is demonstrated that the QF cannot meet the credit requirement
31	NIPPC/REC	Standard PPA: Dispute resolution	All	The dispute resolution provisions create significant confusion around how disputes over executed contracts should be resolved and whether disputes come before the Commission, the courts, or some sort of third-party alternative dispute resolution process such as and arbitration
32	NIPPC/REC	Standard PPA: Governmental authority	All	All three utilities include the same language in a “governmental authority” section, which notes that the agreement is “subject to” all governmental authorities having jurisdiction over the facility, the agreement and the parties. This language is similar to language in Portland General Electric Company’s standard contract, which has been the subject of litigation in Oregon.
33	NIPPC/REC	Standard PPA: Commission approval	Avista	Avista’s contract contains a provision stating that the contract is subject to Commission approval. In Idaho, the Idaho Public Utility Commission approves each individual PURPA contract executed by the utilities and based on the fact that only one utility included this provision, it is not clear whether the WUTC plans to employ a similar method, or if this was simply an error left over from something Avista may have taken out of one of its Idaho contracts.

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34	NIPPC/REC	Standard PPA: Non-termination on repeal of PURPA	All	Each of the utilities should include a provision in their standard PPAs that provides that the contract will not terminate if PURPA is repealed.
35	Sun2o/DGEP	Solar Capacity Valuation	Avista	*Flawed assumptions informing Advista's 0% capacity contribution factor for solar:* The first flawed assumption is that Avista will operate today, and going forward, strictly as a winter peaking utility. Since the filing of their 2017 IRP, system data and system assessments show a dual peaking profile that may shift to a summer peaking profile over the course of QF contracts.
36	Sun2o/DGEP	Solar Capacity Valuation	Avista	*Flawed assumptions informing Avista's 0% capacity contribution factor for solar:* The second flawed assumption is that Avista's Rathdrum Solar Project, which is used to model solar capacity contribution in the 2017 IRP, is representative of solar QFs that would be placed in service under this Tariff. Avista's 2017 IRP uses the monthly output of its Rathdrum Solar Project to evaluate the capacity contribution of solar.
37	Sun2o/DGEP	Capacity valuation methodology	All	Effective load carrying capability ("ELCC") can be used to arrive at a fair capacity contribution value of solar for a dual peaking utility in the PNW. ELCC is an accurate measure of the equivalent firm capacity for variable resource… To determine the capacity contribution of solar QFs for this Tariff, dependable capacity contribution values for solar in the winter and summer can be calculated, as shown by E3, and then applied based on the peaking profile of the respective utility. For example, if the Commission were to accept E3's Dependable Capacity Analysis, a solar QF contracting with a dual peaking utility such as Avista would be paid at an average of summer and winter contribution, equal to 53.5%.

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38	Sun2o/DGEP	Social Cost of Carbon	All, focus on Avista	Avista's Tariff should be revised to include an adder for the Social Cost of Carbon ("SCC") avoided by renewable QFs. Currently, Avista proposes to use the deterministic Mid-C market forecast energy price scenario from their Draft 2020 IRP. Avista is not using the Draft 2020 IRP scenario that includes SCC in dispatch and is not proposing to compensate QFs for avoided greenhouse gas emissions, and the associated cost that will be avoided by energy generated by carbon free QFs… Once the Commission publishes the social cost of carbon, planned by September 15th , Joint Parties urge the Commission to require Washington IOUs to revise their tariffs to include this avoided cost for QFs that decide to include the sale of their renewable attributes with the sale of their energy.
39	Sun2o/DGEP; referenced in staff memo	Energy Storage Inclusion	All	Solar plus energy storage QFs create flexible, dispatchable clean generation assets that can provide additional capacity during WA IOU's peak demand hours and provide a range of reliability services. QFs that incorporate energy storage should be compensated for the value they deliver ratepayers at avoided cost rates… Joint Parties urge the Commission to order a revision of the Tariff that includes a schedule for QFs paired with energy storage by 2hr, 3hr and 4hr duration. Solar plus energy storage QFs can provide firm, dispatchable, clean energy to Avista and WA Utilities, but will not be developed without a Tariff that provides accurate and fair avoided cost compensation for the capabilities of the QF.
40	Staff	Capacity factor adjustment	PSE	To arrive at a reasonable avoided cost of capacity, the value of capacity, which is lowered based on the capacity contribution adjustment, should then be spread across the expected number of generation hours such that the QF would collect the appropriate capacity contribution… PSE has not yet filed replacement pages implementing this concept, but the company has been receptive to the revision.

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41	Staff memo and attachment	Avoided cost of energy: market forecasts	All	Staff notes the variation across the companies' forecasts, but does not at this time dispute the reasonableness of any company's forecast. Avista and PSE have significantly lower price forecasts; relatedly, these two companies are using their draft IRP forecasts, which contemplate the impacts of the Clean Energy Transformation Act.
42	Staff memo and attachment	Capacity payments and in-service date	All	Staff views this [Avista's] implementation as truer to the language of the rule, but feels that PSE's and Pacific Power's implementations also align with the rule's intent.
43	Staff memo and attachment	Next planned capacity resource	Pacific Power	More concerning, however, is the company's conflation of the planned 2021 start date for projects resulting from the RFP with the "next planned capacity resource addition identified in the succeeding twenty years in the utility's most recently acknowledged integrated resource plan," as specified in WAC 480-106-040(b). This interpretation has the effect of pulling the next selected WCA resource up six years, from 2027 to 2021.
44	Staff memo and attachment	Differentiation by season and by fuel type	All	However, staff is concerned that implementing on- and off-peak adjustments as well as fuel type differentiation may lead to two adjustments for the same resource characteristics. Staff will continue working to understand this issue with the utilities and other stakeholders.
45	Staff memo	Definition of projected fixed costs	All	WAC 480-106-040(1)(b) requires a utility to calculate its avoided cost of capacity "based on the projected fixed cost of the next planned capacity addition" of its most recently acknowledged IRP. The peaker proxy requirement similarly references projected fixed costs. Staff understands "projected fixed costs" as comprised of, at minimum, the capital costs and fixed operations and maintenance (O&M) costs for a selected resource. Any avoided fuel costs and variable O&M costs would be represented in the avoided energy payment, which is valued based on market forecasts. Staff is working with the utilities to better understand other factors that are included in each utility's identification of the fixed costs of its next planned capacity addition.

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46	Sun2o/DGEP	Procedural priorities	All	Items that require immediate action: I. Utilities do not include the avoided social cost of carbon as required by SB 5116
47	Sun2o/DGEP	Procedural priorities	All	Items that require evaluation: I. Avista's determination that it is a strictly winter peaking utility II. Avista's determination that it has no summer capacity need III. Avista's utilization of the Rathdrum Solar Project to evaluate a solar project's production IV. Capacity contribution of renewable plus energy storage QFs

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48	NIPPC/REC (comments provided via email; edited by Staff for consistency with other comments)	Large QF avoided cost price methodology	All	[NIPPC/REC provided] resources from other states regarding how the methodologies for calculating non-standard avoided costs have been explained. In the past in other states, [NIPPC/REC has] seen PacifiCorp (for example) provide briefing and testimony regarding how its methodology works. **Oregon** The OPUC approved use of PacifiCorp's PDDRR methodology in Docket No. UM 1610. • 02/04/2013 PAC Phase I testimony – See Dickman testimony pages 7-16 for the PDDRR explanation. • 05/22/2015 PAC Phase II testimony – See Dickman testimony pages 16-29 for the PDDRR explanation. • 09/02/2015 PAC Pre hearing brief – see pages 30-36. • 10/13/2015 PAC Post hearing brief – see pages 13-18. **Wyoming** The Wyoming first approved the PDDRR methodology a while back. The documents from the initial proceeding do not appear to be available on the web, but here is some information from later proceedings that may be helpful. • 01/10/2011 Record No. 12750 Avoided Cost application – See Duvall testimony and accompanying exhibit describing a settlement to use the PDDRR method and explaining it. • 11/02/2018 Record no 15133 QF Application – PacifiCorp's most recent filing in Wyoming to change the PDDRR methodology (among other things). See MacNiel testimony pages 5-16. [NIPPC/REC's] hope would be that each of the utilities would provide similar summaries and descriptions of their large QF avoided cost price methodology so that Staff and stakeholders can better understand it.