

PART VII--(~~ADOPTION BY REFERENCE~~) GREENHOUSE GAS EMISSIONS

NEW SECTION

WAC 480-100-405 Electrical company generation resource compliance with the greenhouse gases emissions performance standard.

(1) No electrical company may enter into a long-term financial commitment after June 30, 2008, for the supply of baseload generation unless such generation complies with the greenhouse gases emissions performance standard. Electrical companies bear the burden to prove compliance with the greenhouse gases emissions performance standard under the requirements of WAC 480-100-415 or as part of a general rate case. For electrical companies that fail to carry their burden of proof, the commission may disallow recovery of some or all costs in rates, impose penalties, or take such other action as is consistent with law. Electrical companies seeking to prove compliance with the greenhouse gases emissions standard as part of a general rate case must submit all of the information specified in WAC 480-100-415.

(2) The following definitions apply for purposes of this section, WAC 480-100-425 and 480-100-435:

(a) "Baseload electric generation" means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least sixty percent.

(b) "Electricity from unspecified sources" means electricity that is to be delivered in Washington pursuant to a long-term financial commitment entered into by an electrical company and whose sources or origins of generation and expected average annual deliveries cannot be ascertained with reasonable certainty.

(c) "Greenhouse gases emissions performance standard" means the standard established in RCW 80.80.040, WAC 173-407-120 and 173-407-130, and the verification and measurement procedures contained in WAC 173-407-140, 173-407-230, and 173-407-300.

(d) "Long-term financial commitment" means either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or a new or renewed contract for baseload electric generation with a term of five or more years for provision of retail power or wholesale power to end-use customers in this state.

(e) "New ownership interest" means a change in the ownership structure of a baseload power plant or a cogeneration facility or the electrical generation portion of a cogeneration facility

affecting at least:

(i) Five percent of the market value of the power plant or cogeneration facility; or

(ii) Five percent of the electrical output of the power plant or cogeneration facility.

The above thresholds apply to each unit within a multiunit generation facility.

(f) "Plant capacity factor" means the ratio of the electricity produced during a given time period, measured in kilowatt hours, to the electricity the unit could have produced if it had been operated at its rated capacity during that period, expressed in kilowatt hours.

(g) "Power plant" means a facility for the generation of electricity that is permitted as a single plant by the energy facility site evaluation council or a local jurisdiction.

(h) "Upgrade" means any modification made for the primary purpose of increasing the electric generation capacity of a baseload electric generation facility or unit. Upgrade does not include:

(i) Routine or necessary maintenance;

(ii) Installation of emission control equipment;

(iii) Installation, replacement, or modification of equipment that improves the heat rate of the facility; or

(iv) Installation, replacement, or modification of equipment for the primary purpose of maintaining reliable generation output capability that does not increase the heat input or fuel usage as specified in existing generation air quality permits as of July 22, 2007, but may result in incidental increases in generation capacity.

NEW SECTION

WAC 480-100-415 Electrical company applications for commission determination outside of a general rate case of electric generation resource compliance with greenhouse gases emissions performance standard.

(1) An electrical company may apply for determination by the commission outside of a general rate case of whether an electric generation resource it proposes to acquire as a long-term financial commitment complies with the greenhouse gases emissions performance standard, including whether the resource is baseload electric generation, whether the company has a need for the resource, and whether the proposed resource is appropriate to meet that need. Such an application must include the following information:

(a) The electrical company's most recent integrated resource plan filed under WAC 480-100-238 and a description of how the proposed electric generation resource meets the resource need, resource investment strategies and other factors identified in the

integrated resource plan.

(b) If the proposed electric generation resource is a specific power plant:

(i) The plant technology, design, fuel and fuel consumption;

(ii) Any site certificate or other permits necessary for operation of the power plant, including, for power plants located in Washington, any determination made by the department of ecology or the energy facility site evaluation council regarding compliance with the greenhouse gases emissions performance standard;

(iii) Such other information as is available concerning the exhaust emissions characteristics of the plant; and

(iv) The expected cost of the power generation to be acquired from the plant.

(c) If the proposed electric generation resource is a power purchase contract including contracts for delivery of electricity from unspecified sources:

(i) The proposed contract;

(ii) The technology, location, design, fuel and fuel consumption of any power plant, or plants, identified in the contract as the source of the contracted power deliveries, including such information as is knowable regarding the proportionate share each power source, or type of plant, will contribute to deliveries on an annual basis over the life of the contract;

(iii) Such other information as is available concerning the exhaust emissions characteristics of the plant(s) supporting contracted power deliveries; and

(iv) The contract term and expected cost of the power to be acquired through the power purchase agreement.

(2) The commission will consider the application pursuant to chapter 34.05 RCW (Part IV) following the procedures established in chapter 480-07 WAC. The schedule for a proceeding under this subsection will take into account both:

(a) The needs of the parties to the proposed resource acquisition or power purchase agreement for timely decisions that allow transactions to be completed; and

(b) The procedural rights to be provided to parties in chapter 34.05 RCW (Part IV), including intervention, discovery, briefing, and hearing.

(3) The commission will not decide in a proceeding under this section, issues involving the actual costs to construct and operate the selected resource, cost recovery, or other issues reserved by the commission for decision in a general rate case or other proceeding authorized by the commission for recovery of the resource or contract costs.

NEW SECTION

WAC 480-100-425 Electrical company applications for exemption from the greenhouse gas emissions performance standard. (1) An electrical company may apply to the commission for a case-by-case exemption from the greenhouse gases emissions performance standard to address:

(a) Unanticipated electric system reliability needs; or
(b) Catastrophic events or threat of significant financial harm that may arise from unforeseen circumstances.

(2) An electrical company's application under subsection (1)(a) of this section must include:

(a) A description of the electric system reliability needs including an explanation of why these needs were not anticipated, and why they cannot be addressed with other baseload electric generation that complies with the greenhouse gases performance standard.

(b) The estimated duration of the exemption necessary to address the reliability need.

(c) A description of any long-term financial commitment the company proposes to enter into to address the reliability need including all of the information specified in WAC 480-100-415.

(3) An electrical company's application under subsection (1)(b) of this section must include:

(a) A description of the catastrophic event or threat of significant financial harm and an explanation of why the circumstances from which the event or harm arose were not foreseen including:

(i) An explanation of why the circumstances cannot be addressed with baseload generation that complies with the greenhouse gases performance standard;

(ii) What the anticipated negative financial impact would be to the company if such exemption were denied;

(b) The estimated duration of the exemption necessary to address the catastrophic event or threat of significant financial harm.

(c) A description of any long-term financial commitment the company proposes to enter into to address the catastrophic event or threat of significant financial harm including all of the information specified in WAC 480-100-415.

(4) An electrical company may propose recovery of costs associated with an application under this rule as part of a general rate case.

NEW SECTION

WAC 480-100-435 Electrical company deferral of costs associated with long-term financial commitments--Notice and reporting. (1) An electrical company may account for and defer for later consideration by the commission costs incurred in connection with a long-term financial commitment for baseload electric generation, including operating and maintenance costs, depreciation, taxes, and cost of invested capital.

(2) An electrical company deferring costs under subsection (1) of this section must:

(a) Notify the commission within ten business days of its intent to defer such costs; and

(b) File quarterly with the commission a report documenting the balances of costs deferred in a form specified by the commission.

(3) The deferral begins with the date on which the power plant begins commercial operation or the effective date of the power purchase agreement and continues for a period not to exceed twenty-four months; provided that if during such period the company files a general rate case or other proceeding for the recovery of such costs, deferral ends on the effective date of the final decision by the commission in such proceeding. Creation of such a deferral account does not by itself determine the actual costs of the long-term financial commitment, whether recovery of any or all of these costs is appropriate, or other issues to be decided by the commission in a general rate case or other proceeding authorized by the commission for recovery of these costs.

PART VIII--ADOPTION BY REFERENCE