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September 11, 2020

Via E-filing

Mr. Mark L. Johnson
Executive Director
Washington Utilities & Transportation Commission
621 Woodland Square Loop SE
P. O. Box 47250
Lacey, WA 98503

Attn: Filing Center

RE: In the Matters of Amending, Adopting, and Repealing WAC 480-100-238,
Relating to Integrated Resource Planning, And Clean Energy Implementation
Plans and Compliance with the Clean Energy Transformation Act Rulemaking
Dockets No. UE-190698 and UE-191023

Dear Mr. Johnson:

Please find the Comments and Attachment of the Northwest and Intermountain
Power Producers Coalition in the above-referenced docket.

Thank you for your assistance. Please do not hesitate to contact me with any
questions.

Sincerely,



Irion A. Sanger

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UTIL. AND TRANSP.
COMMISSION

**BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION**

In the matters of

Amending, Adopting, and Repealing
WAC 480-100-238, Relating to
Integrated Resource Planning

And

Clean Energy Implementation Plans and
Compliance with the Clean Energy
Transformation Act Rulemaking

DOCKETS NO. UE-190698 AND UE-
191023

NORTHWEST & INTERMOUNTAIN
POWER PRODUCERS COALITION
COMMENTS

I. INTRODUCTION

The Northwest & Intermountain Power Producers Coalition (“NIPPC”) provides these comments in response to the Washington Utilities and Transportation Commission’s (the “Commission’s” or “WUTC’s”) Notice of Opportunity to File Written Comments (“Notice”) issued August 13, 2020. In summarizing NIPPC’s December 2019 comments regarding the need for transparency in the Integrated Resource Planning process (“IRP process”), Staff indicated that it would be helpful to have proposed redline rule language.¹ NIPPC does not address all of the items raised in the Commission’s Notice but limits its comments to this issue.

NIPPC makes a few additional recommendations with rule redline language in response to Staff’s specific request that NIPPC provide comments and a proposed redline rule language. First, NIPPC recommends that information be provided and updated on an ongoing basis. Second, the rules require that data inputs and files be made available in

¹ Commission’s Notice at Attachment D p. 65 (Aug. 13, 2020).

native file format and in an easily accessible format, and NIPPC recommends that the information be made available on the utility’s website. Third, NIPPC recommends that the utilities clearly indicate on its website if additional information exists but has been deemed confidential. Finally, NIPPC recommends that, if the utility designates information as confidential, then the utility should request that the commission enter a protective order designed to promote the free exchange of information. Without the issuance of a protective order, then it will not be possible for parties or stakeholders to adequately review and vet any confidential information.

II. SUMMARY OF PRIOR COMMENTS

In comments filed December 20, 2019, NIPPC addressed the need for greater transparency in the IRP process, as the lack of transparency hinders effective stakeholder involvement in both Integrated Resource Plan (“IRP”) proceedings and in other proceedings that rely upon IRP inputs and assumptions.² NIPPC noted that the Clean Energy Transformation Act allows the Commission to require that utilities “make the utility’s data input files available in a native format.”³

One example of a harmful lack of transparency NIPPC noted is that market price forecast methodologies and inputs are not accessible to everyone.⁴ For example, the market price forecasts can be filed on confidential basis and/or use models or data that cannot be easily replicated by parties or interested stakeholders. Without access to the confidential models and forecasts, interested parties and stakeholders cannot understand

² NIPPC Comments at 4-5 (Dec. 20, 2019).

³ SB 5116, 2019 Wash. Sess. Laws Ch. 288 §14 (10)(a).

⁴ NIPPC Comments at 4 (Dec. 20, 2019).

the basis for the numbers, let alone explain why they should be different or to propose corrections.

Similarly, information can be outdated. The draft rules in December 2019 required that a utility's IRP include a market forecast used in the utility's qualifying facility avoided cost calculation.⁵ However, because utility avoided cost filings are updated in filings filed on November 1 of each year and based on the utility's "current forecast of market prices,"⁶ the market forecast provided in the IRP will likely reflect a market price forecast that has already been accepted by the WUTC in the utility's last avoided cost update, and will be stale by the time the next avoided cost update is filed.

To address these problems of outdated information and the lack of transparency, NIPPC recommended that the utilities should provide more information earlier in the process. For the market forecasts specifically, NIPPC recommended that the utilities be required to provide access to their market forecast methodologies and underlying inputs in the pre-filing IRP stakeholder advisory process. NIPPC also recommended that the rules require the utility IRP website to include a list of methodologies and underlying data or inputs that are available in native file format upon request, including the market price forecast methodology and all inputs.⁷ NIPPC noted in its prior comments that there may be other underlying data or methodologies that would provide better transparency

⁵ Commission's Notice at Attachment A at WAC 480-100-610(14)(c) (Nov. 7, 2019) [hereinafter 1st Discussion Draft Rules].

⁶ WAC 480-106-040(1)(a).

⁷ There may be other underlying data or methodologies that would provide better transparency for stakeholders and that could be included in this list. While NIPPC has not, at this time, contemplated the entire universe of other information that could be listed here, NIPPC looks forward to working with other stakeholders and further evaluating what other information should be included.

for stakeholders and that could be included in this list. It is important to note that the market price forecast is only an example of information that should be more transparent.

As previously stated, NIPPC has not, at this time, contemplated the entire universe of other information that could be listed here; NIPPC continues to look forward to working with other stakeholders and further evaluating what other information should be included.

III. PROPOSED RULE CHANGES

Before proposing additional redline changes, NIPPC first expresses its appreciation to Staff and the Commission for the changes already proposed that aim to increase transparency. In particular, NIPPC supports the redline changes in WAC 480-630(5). The prior rule language stated that the Commission may require a utility to make IRP data inputs and files available; the revised rule language requires the utilities to do so.⁸ This is a beneficial change that addresses many of NIPPC's concerns and should be retained in the final rule.

NIPPC remains concerned that information may not be disclosed early enough to facilitate effective stakeholder engagement. NIPPC understands the current language to propose an ongoing obligation but finds the timing to be unclear. NIPPC recommends the addition of the phrase "on an ongoing basis" for the avoidance of any doubt, and the addition of the phrase "as they may be updated from time to time," so as to cover the situation where a current market price forecast differs from that previously used in an

⁸ Compare 1st Discussion Draft Rules at WAC 480-100-620(5), with Commission's Notice at Attachment A at WAC 480-100-630(5) (Aug. 13, 2020) [hereinafter 2nd Discussion Draft Rules]; see also 2nd Discussion Draft Rules at WAC 480-655(9) (providing a similar requirement for Clean Energy Implementation Plan data inputs and files).

IRP. NIPPC notes the availability of this information is crucial not only to the IRP but to subsequent proceedings, such as avoided cost updates. Further, NIPPC recommends that the location of available information be specified, such as on the utility IRP website.

Finally, NIPPC believes that the rules should more clearly address the use of confidential information. The proposed rules do not address the ability of parties or stakeholders to review any confidential material. The proposed rules could be read as allowing the utilities to use confidential material to set avoided cost prices, but not allowing parties or stakeholders access to that information. First, NIPPC recommends that the utility provide notice on its website of any confidential information filed with the Commission.

Second, NIPPC recommends that interested parties and stakeholders be allowed access to any confidential material that is not posted on the utility's website. For example, when setting avoided cost prices, they should be based on readily available and reviewable non-confidential information, or interested parties and stakeholders should be provided access to the confidential information so that they can review and vet it. In cases in which the utilities utilize confidential material, then they should request that the Commission issue a standard protective order. NIPPC recognizes that protective orders are generally issued in proceedings to develop an evidentiary record;⁹ however, other states process utility IRPs in non-contested or adjudicatory proceedings and allow access to confidential information to parties that execute a standard protective order.¹⁰

⁹ WAC 480-07-420(1).

¹⁰ *E.g., Re PacifiCorp, dba Pacific Power, 2019 Integrated Resource Plan, Oregon Docket No. LC 70, Order No. 18-216 at 1 (June 12, 2018) (granting PacifiCorp's motion for a general protective order).*

With these changes, WAC 480-630(5) would read:

The utility must, on an ongoing basis, make all of its data inputs and files, as they may be updated from time to time, available on its website in native file format and in an easily accessible format. Non-confidential contents of the IRP, two-year progress report, and supporting documentation must be available for public review. Utilities may make confidential information available by providing it to the commission pursuant to WAC 480-07-160. Utilities should minimize their designation of information in the IRP as confidential and clearly indicate on its website if additional information exists but has been deemed confidential. If the utility designates information as confidential, then the utility should request that the commission enter a protective order designed to promote the free exchange of information. Nothing in this subsection limits the protection of records containing commercial information under RCW 80.04.095.

IV. CONCLUSION

NIPPC appreciates the opportunity to submit comments on this important issue and looks forward to further engagement in this rulemaking.

Dated this 11th day of September 2020.

Respectfully submitted,



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