PUGET SOUND ENERGY
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June 8, 2018

Filed Via Web Portal

Mr. Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

Re: Docket U-161024
Comments of Puget Sound Energy on draft PURPA rules

Dear Mr. Johnson:

On May 14, 2018, the Washington Utilities & Transportation Commission ("Commission") held a workshop to discuss implementation of the Public Utility Regulatory Policy Act ("PURPA"), including the Commission's informal draft PURPA rules. In that workshop, the Commission requested that the participants provide comments on the Commission's informal draft PURPA rules and provide a recommendation on the legally enforceable obligation ("LEO") under PURPA. On May 21, 2018, the Commission issued a Notice of Opportunity to Submit Written Comments requiring such comments to be submitted by June 8, 2018. Pursuant to the May 21, 2018 Notice of Opportunity to Submit Written Comments, Puget Sound Energy ("PSE"), submits the following comments.

I. Proposed Edits to the Commission Informal Draft Rules Consistent with the Joint Recommendations

On February 26, 2018, PSE, Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Renewable Northwest, Northwest Energy Coalition, and Climate Solutions filed "Joint Recommendation Regarding Implementation of Public Utility Regulatory Policy Act for Utilities and Qualifying Facilities" in Docket U-161024. Attachment A to this letter provides redlined edits proposed by PSE to the Commission Informal Draft Rules that are consistent with the Joint Recommendations.

PSE's proposed redlines in Attachment A to this letter are identical to proposed redlines concurrently submitted by Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Northwest Energy Coalition, and Climate Solutions, except for the following items on which the parties have agreed to disagree:

(i) The redlines to the Commission Informal Draft Rules submitted by Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Northwest Energy Coalition, and Climate Solutions propose a definition of "Legally Enforceable Obligation" in Informal Draft WAC 480-106-DDD. PSE does not necessarily disagree with such proposed definition, PSE does not believe that a definition of the term is necessary and has not found any similar definition implemented by another state regulatory authority.

(ii) PSE has included the phrase "or planned capacity firm" in Informal Draft WAC 480-106-GGG(1)(b) ("…based on the projected fixed cost of the next planned capacity addition [or planned capacity firm] purchase."

(iii) PSE has deleted subparts WAC 480-106-GGG(1)(b)(i)-(iii).

Finally, it should be noted that the attached redlines to the Commission Informal Draft Rules do not make any suggested changes to the draft provision addressing interconnection costs (existing WAC 480-107-125). Any revisions to these provisions should be performed in concert with any review of or revision to the interconnection in Chapter 480-108 WAC (Electric Companies—Interconnection with Electric Generators). Any revision of existing WAC 480-107-125 without consideration of potential impacts on or of Chapter 480-108 WAC could lead to unintended consequences. For this reason, the attached redlines do not suggest modifications to the interconnection costs provisions.

II. Legally Enforceable Obligation

The Commission has requested parties to provide positions with respect to the creation of legally enforceable obligations. PSE understands that Avista Corporation ("Avista') is filing comments that suggest that the Commission encourage utilities to adopt a PURPA contracting procedure that clearly sets out the obligations of both the qualifying facility and the utility, including specific timelines for completing specific steps in that process. Avista asserts that such contracting procedure should clearly articulate exactly how, and when, a legally enforceable obligation is established. As part of its comments, PSE understands that Avista is submitting the procedures that it has incorporated in its Schedule 62 tariff in Idaho as a straw proposal and is open to discussing the specific requirements of a contracting procedure.

Similarly, PSE understand that Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Northwest Energy Coalition, and Climate Solutions are submitting comments that propose the following definition of "Legally Enforceable Obligation":

> "Legally enforceable obligation" means a commitment by a qualifying facility to sell its energy, capacity, or both to an electric utility over a specified term. A legally enforceable obligation is created when a

> qualifying facility commits itself to sell all or part of its electric output to an electric utility and may exist in the absence of an executed written contract between an electric utility and a qualifying facility. By committing itself to sell to an electric utility, the qualifying facility also commits the electric utility to buy from the qualifying facility. However, to create a legally enforceable obligation, the qualifying facility must at least provide the information required in the utility's tariff schedules prior to committing itself. In the case of a disagreement between the qualifying facility and the purchasing utility, the date of the legally enforceable obligation will be determined based on a case-by-case basis.

PSE reads this definition as consistent with the Avista proposal that would require a contracting procedure that clearly sets out the obligations of both the qualifying facility and the utility.

PSE recommends that the Commission avail itself of Avista's proposal to discuss the specific requirements of a contracting procedure required prior to the establishment of a legally enforceable obligation. PSE recognizes that the procedure in Washington need not be identical to the procedure in Idaho and that there may be disagreement among stakeholders regarding the exact requirements necessary for the establishment of a legally enforceable obligation. An additional workshop may allow the Commission to hear the small differences remaining between the proposals, however, either proposal would provide more clarity to negotiating parties than the existing language on legally enforceable obligations.

III. Comments on the Commission's Informal Draft PURPA Rules

With regard to the Commission's informal draft PURPA rules, PSE reiterates and incorporates herein its comments submitted on April 13, 2018 (the "April 13 Comments"). Avista provides the following comments to supplement the April 13 Comments.

A. Contract Term

In the informal draft PURPA rules, the Commission proposes a 15-year term for new qualifying facilities that are eligible for standard offer rates. *See* Commission Informal Draft 480-106-HHH(4)(a). PSE currently offers 15-year terms for new qualifying facilities that are eligible for standard offer rates pursuant to PSE Schedule 91. Therefore, the proposed term in Commission Informal Draft 480-106-HHH(4)(a) is consistent with PSE's current practices, provided, however, that PSE proposes in the attached redlined edits to the Commission Informal Draft 480-106-HHH(4)(a) that the fifteen-year term commence with the commercial operation date of a new qualifying facility and not the execution date of the power purchase agreement.

B. QF Eligibility for Standard Offer Rates

Commission Informal Draft 480-106-HHH(4) proposes that qualifying facilities with nameplate capacities of seven (7) MWs or less would be eligible for standard offer rates. PSE

recommends the final rules adopted by the Commission adopt five megawatts as the maximum design capacity for qualifying facilities to be eligible for a utility's standard rate offer. A maximum design capacity of five megawatts strikes the appropriate balance of customer protection and development of qualifying facilities, as evidenced by the Joint Recommendation and PSE's existing Schedule 91 standard rate offer tariff for cogeneration and small power production.

From an interconnection perspective, PSE's experience has been that qualifying facilities with maximum design capacities of around five megawatts are already challenging distribution engineers to find innovative solutions on certain circuits to maintain capacity and reliability, particularly integrating variable energy resources onto low load circuits. Additionally, the interconnection of larger qualifying facilities on low load circuits may diminish the ability to interconnect other qualifying facilities or net metering customers on the same circuits.

In 2010, PSE increased its maximum design capacity for its standard offer rates in Schedule 91 to five megawatts. Although PSE has successfully interconnected some larger qualifying facilities, PSE has also encountered challenges cost-effectively interconnecting five megawatt qualifying facilities on low load circuits. The engineering difficulties associated with interconnection qualifying facilities of this size to low load circuits has created frustrations for both PSE and developers due to delays in conducting the necessary interconnection studies (both for distribution and transmission). Qualifying facilities larger than five megawatts interconnecting to low load circuits could exacerbate these issues, unless the qualifying facilities interconnect to a dedicated feeder, which increases interconnection costs to qualifying facilities.

For the reasons set forth above, PSE recommends that the final rules adopted by the Commission limit the maximum design capacity for a utility standard offer tariff to five megawatts.

C. Treatment of Capacity

Commission Informal Draft Rule 480-106-GGG(1)(b)(ii) would require as follows:

> (ii) If the utility's most recently acknowledged integrated resource plan identifies the need for capacity in the form of market purchases not yet executed, but does not identify a need for new generating units, then the utility shall use the cost of a peaker unit as identified in the integrated resource plan as the avoided capacity cost of the market purchases.

PSE has serious concerns with this provision because it is overly prescriptive, not beneficial for utility customers, and does not reflect the current reality of market-integrated utilities operating in a region long on both energy and capacity. In the current oversupplied market, the end result of this provision would be that utility customers overpay for resources.

Requiring a market-integrated utility to calculate avoided costs using a peaker unit instead of transmission without a specified resource (i.e. market purchases) would create a faux

need for capacity that does not actually exist in a region long on energy and capacity and expose utility customers to paying higher rates to meet that faux need for capacity. Looking ahead, the delta between market purchases and peaker unit costs could become even wider if the Mid-C market is able to import more and more low-cost solar energy from other states.

A better public policy approach would not specify the technology required for calculating avoided costs and instead make the calculations a function of planning standards in utility integrated resource plans. The final rules should allow market-integrated utilities to work with experts, Commission staff, and advisory groups to develop an agreed-upon planning standard for market purchases not yet executed and use that for the basis of calculating avoided costs.

IV. Conclusion

PSE appreciates the opportunity to submit these comments on the Commission Informal Draft Rules.

Please contact Nate Hill at (425) 457-5524 or nate.hill@pse.com for additional information or questions regarding this filing. If you have any other questions, please contact me at (425) 456-2110.

Sincerely,

/s/ Jon Piliaris

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cc: Lisa Gafken
Attachment A: Redline edits to UTC Staff draft PURPA rules

Attachment A

Informal Draft: Public Utility Regulatory Policies Act Rules

New Chapter of WACs for PURPA rules that were formerly part of WAC 480-107

WAC 480-106

480-106-AAA [From WAC 480-107-001(3)]
Purpose.

The purpose of this chapter is to implement the Public Utility Regulatory Policies Act of 1978 (PURPA), Title II, sections 201 and 210, and related regulations promulgated by the Federal Energy Regulatory Commission (FERC) in 18 C.F.R. Part 292 Subparts A and C.[1] If there is any conflict between these rules and PURPA, or the related rules promulgated by FERC in 18 C.F.R. Part 292, PURPA and those related rules control. Purchase of electric power under these rules satisfies a utility's obligation to purchase power from qualifying facilities under section 210 of PURPA.

480-106-BBB [Formerly WAC 480-107-002]
Application of rules.

(1) Except as otherwise provided in this chapter, the rules in this chapter apply to any utility that is subject to the commission's jurisdiction under RCW 80.01.040, 80.04.010, and chapter 80.28 RCW, and qualifying facilities as defined herein. The rules in this chapter do not supersede contracts existing before the effective date of this rule. At the expiration of such an existing contract between a utility and a qualifying facility, the provisions of this chapter shall apply to rates and terms offered under any contract extension or new contract.

(2) Nothing in this chapter prohibits a utility or a qualifying facility from agreeing to voluntary contracts with rates, terms, or conditions that differ from the provisions in this chapter.

480-106-CCC [Formerly WAC 480-107-002]
Exemptions from rules in chapter 480-106 WAC

The commission, in response to a request or on its own initiative, may grant an exemption from, or modify the application of, any rule in this chapter consistent with the standards and according to the procedures set forth in WAC 480-07-110 (Exceptions from and modification to the rules in this chapter; special rules).

480-106-DDD [From WAC 480-107-007]
Definitions.

"Avoided costs" means the incremental costs to ~~an electric~~a utility of electric energy or capacity or both which, but for the purchase from the qualifying facility or qualifying facilities, the utility would generate itself or purchase from another source.

[1] Subparts B, D, and E are relevant only to FERC, and the states are preempted from taking action under some of those provisions, in particular Subpart B regarding QF status determinations.

"Back-up power" means electric energy or capacity supplied by a utility to replace energy ordinarily supplied by ~~the qualifying~~a facility's own generation ~~or purchased through contracts that is unavailable due to~~equipment during an unscheduled outage of the facility.[2]

"Capacity" means the ~~capability to produce or avoid the need to produce electric energy~~ maximum rated output of a qualifying facility measured in kilowatts (kW) under specific conditions designated by the manufacturer.

"Commission" means the Washington utilities and transportation commission.

"Eligible renewable resource" means an eligible renewable resource as defined by RCW 19.285.030.

"Energy" means electric energy, measured in kilowatt-hours (kWh) or megawatt-hours (MWh).

"Integrated resource plan" or "IRP" means the filing made every two years by a utility in accordance with WAC 480-100-238 Integrated resource planning.

"Interconnection costs" means the reasonable costs of connection, switching, metering, transmission, distribution, safety provisions and administrative costs incurred by the utility directly related to the installation and maintenance of the physical facilities necessary to permit interconnected operations with a qualifying facility, to the extent such costs are in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations, but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy or capacity from other sources. Interconnection costs do not include any costs included in the calculation of avoided costs.[3]

"Interruptible power" means electric energy or capacity supplied ~~to a qualifying facility~~ by a utility ~~which may be interrupted~~subject to interruption by the utility under specified conditions.[4]

"Maintenance power" means electric energy or capacity supplied by a utility during scheduled outages of a qualifying facility.

"Qualifying ~~facilities~~facility" means a cogeneration facility or a small power production facility~~, which~~ that is a qualifying facility under 18 C.F.R. Part 292 Subpart B.

"Request for proposals" or "RFPs" means the documents describing a utility's solicitation of bids for delivering electric capacity, energy, or both, or conservation that was issued after commission approval, consistent with WAC 480-107.

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[2] **Note to Draft:** Revisions to conform the definition to the definition of "back-up power" in 18 C.F.R. § 292.101(b)(9).

[3] **Note to Draft:** Adds a definition for the undefined term "interconnection costs." This definition is modeled after the definition of the same term in 18 C.F.R. § 292.101(b)(7).

[4] **Note to Draft:** Revisions to conform the definition to the definition of "interruptible power" in 18 C.F.R. § 292.101(b)(10).

"Supplementary power" means electric energy or capacity supplied by a utility that is regularly used by a qualifying facility in addition to that which the facility generates itself.

"System emergency" means a condition on a utility's system which is likely to result in imminent significant disruption of service to customers or is imminently likely to endanger life or property.[5]

"Utility" means an electrical company as defined by RCW 80.04.010 that is subject to the commission's jurisdiction under RCW 80.01.040, 80.04.010, and chapter 80.28 RCW.[6]

480-106-EEE [Formerly WAC 480-107-085]
Obligations of qualifying facilities to the utility.

(1) The owner or operator of a qualifying facility purchasing or selling electricity under this chapter must execute a written agreement with the utility stating at a minimum that:

(a) The owner or operator will construct and operate all interconnected qualifying facilities within its control in accordance with all applicable federal, state, and local laws and regulations to ensure system safety and reliability of interconnected operations;

(b) The qualifying facility will furnish, install, operate, and maintain in good order and repair, and without cost to the utility, such switching equipment, relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus determined by the utility to be necessary for the safe and reliable operation of the qualifying facility in parallel with the utility's system, or may contract for the utility to do so at the expense of the qualifying facility;

(c) The utility will be able to gain access at all times to all switching equipment capable of isolating the qualifying facility from the utility's system; and

(d) To the extent that the qualifying facility will assume responsibility for the safe operation of the interconnection facilities, the qualifying facility is not required to assume responsibility for negligent acts of the utility.

(2) The utility may choose to operate the switching equipment described in subsection (1)(c) of this rule if, in the sole opinion of the utility, continued operation of the qualifying facility in connection with the utility's system may create or contribute to a system emergency. Such a decision by the utility is subject to commission verification in accordance with WAC 480-106-~~JJJ~~LLL (System emergencies). The utility must endeavor to minimize any adverse effects of such operation on the owner or operator of a qualifying facility.

[5] **Note to Draft:** Adds a definition for the undefined term "system emergency." This definition is modeled after the definition of the same term in 18 C.F.R. § 292.101(b)(4).

[6] **Note to Draft:** The definition of electrical company in RCW 80.04.010 includes municipal utilities and public utility districts, whereas these rules are intended apply to electrical companies subject to the jurisdiction of the Commission.

480-106-FFF [Formerly WAC 480-107-095]
Obligations of the utility to qualifying facilities.

(1) Obligations to purchase from qualifying facilities: A utility must purchase, in accordance with WAC 480-106-JJJ (Rates for Purchases from Qualifying Facilities), any energy and capacity, which is made available from a qualifying facility ~~on terms that do not exceed~~ :

(a) Directly to the ~~utility's avoided costs.~~utility; or

(b) Indirectly to the utility in accordance with section (4) of this rule.

~~(2) A utility must file a tariff schedule with standard rates for purchases from qualifying facilities with a design capacity of seven megawatts or less that is consistent with WAC 480-106-GGG(4) Rates for Purchases. Qualifying facility developers proposing projects with a design capacity of seven megawatts or less may choose to receive a purchase price for power that is set forth in the standard tariff schedule filed under the provisions of this chapter.~~[7]

(~~3~~2) Obligation to sell to qualifying facilities: A utility must sell to any qualifying ~~facilities~~facility, in accordance with WAC 480-106-~~III~~KKK (Rates for sales to qualifying facilities), any energy and capacity requested by the qualifying ~~facilities~~facility on the same basis as available to other customers of the utility in the same customer class.

(~~4~~3) Obligation to interconnect: A utility must make all the necessary interconnections with any qualifying ~~facilities~~facility to accomplish purchases or sales under this section. The obligation to pay for any interconnection costs will be determined in accordance with WAC 480-106-~~KKK~~MMM (Interconnection costs) and the interconnection service tariffs filed under WAC 480-108-080.

(~~5~~4) Transmission to other electrical companies: At the request of a qualifying facility, a utility that would otherwise be obligated to purchase energy, capacity, or both, from such qualifying facility must transmit energy, capacity, or both, to any other ~~utility~~electrical company[8] at the expense of the qualifying facility. Use of a utility's transmission facilities shall be pursuant to the utility's open access transmission tariff. Any utility to which energy or capacity generated by a qualifying facility and transmitted to such utility shall purchase the energy or capacity under this subpart as if the qualifying facility were supplying energy or capacity directly to the utility. The rate for purchase by the utility to which the energy is transmitted shall be adjusted up or down to reflect line losses and shall not include any charges for transmission.[9]

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[7] **Note to Draft:** Subsection (2) has been removed because it is a general obligation of the utility (covered in 480-106-HHH(4) below) and not an obligation of a utility to a qualifying facility.

[8] **Note to Draft:** The word "utility" is defined as an electrical company regulated by the Commission. The qualifying facility may be seeking to wheel power to electrical companies not subject to regulation by the Commission (e.g., municipal utilities or public utility districts).

[9] **Note to Draft:** Addition made to clarify that purchases by a utility from generation by a qualifying facility shall be limited to the net energy delivered to the utility and that the qualifying facility is responsible for all costs of deliverability to the utility.

(~~6~~5) Parallel operation: Each utility must offer to operate in parallel with a qualifying facility if the qualifying facility complies with all applicable standards established in this section.

480-106-GGG [Formerly WAC 480-107-055]
Schedules of estimated avoided costs.

(1) A utility must file by November 1 of each year a ~~tariff~~ schedule of estimated avoided costs that identifies, both separately and combined, its avoided energy costs and its avoided capacity costs. All ~~tariff~~ schedules of estimated avoided costs must include:

(a) An estimated avoided cost of energy ~~cost~~ based on the utility's current forecast of market prices for power stated on a ~~cents~~dollars per ~~kilowatt~~megawatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the current calendar year and each of the next ~~15~~18 years; and

(b) An estimated avoided cost of capacity ~~cost,~~ expressed in ~~cents~~dollars per kilowatt ~~hour,~~ based on the projected fixed cost of the next planned capacity addition [or planned capacity firm][10] purchase identified in the succeeding 10 years in the utility's most recently acknowledged integrated resource plan filed pursuant to WAC 480-100-238.[11]

~~[(i) A utility must identify the projected fixed costs of its next planned generating units based on either the estimates included in its most recently acknowledged integrated resource plan or the most recent project proposals received pursuant to an all-source RFP issued consistent with chapter 480-107 WAC, whichever is most current.~~

~~(ii) If the utility's most recently acknowledged integrated resource plan identifies the need for capacity in the form of market purchases not yet executed, but does not identify a need for new generating units, then the utility shall use the cost of a peaker unit as identified in the integrated resource plan as the avoided capacity cost of the market purchases.~~

~~(iii) An avoided capacity cost must account for any differences between the in-service date of the qualifying facility and the date of the next planned generating unit by levelizing the lump sum present value of the capacity cost at the utility's authorized rate of return.~~]~~[12]~~

(c) ~~The~~A utility's ~~standard rate~~estimated avoided cost of capacity may differentiate among qualifying facilities based on the supply characteristics of different technologies of qualifying facilities for purposes of calculating the estimated avoided cost of capacity ~~cost~~.

(2) A utility may file to revise its ~~tariff~~ schedule of estimated avoided ~~cost~~costs prior to its next annual filing ~~only if:~~by filing a revised schedule of estimated avoided costs that identifies, both separately and combined, its avoided energy costs and its avoided capacity costs; provided,

[10] **Note to Draft:** PSE acknowledges that NIPPC, *et al*. disagree with the addition of the phrase "or capacity planned firm purchase" in WAC 480-106-GGG(1)(b).
[11] **Note to Draft:** Revisions to conform with 18 C.F.R. § 292.302.
[12] **Note to Draft:** PSE acknowledges that NIPPC, *et al*. disagree with the deletion of subparts WAC 480-106-GGG(1)(b)(i)-(iii).

however, that such revised schedule of estimated avoided costs shall not become effective until sixty (60) days after such filing.

~~(a) The utility executes agreements with qualifying facilities for a combined capacity of 50 megawatts or more since it filed the tariff schedule of estimated avoided cost in effect; or if~~

~~(b) The utility's current forecast of market prices for power changes by 25 percent or more from the forecast used to support the tariff schedule of estimated avoided cost in effect.~~

(3) Filing a revised schedule of schedules of estimated avoided costs in subsection (2) does not relieve the utility of its obligation to file an annual ~~tariff~~ schedule of estimated avoided costs in subsection (1).

480-106-HHH [NEW]
Standard tariff for purchases from qualifying facilities with capacities of five megawatts or less

(1) All utilities must file a standard tariff for purchases from qualifying facilities with capacities of five megawatts or less. Such standard tariff may be based upon market prices and include incremental costs associated with purchasing small quantities of power. Qualifying facility developers proposing projects with a design capacity of five megawatts or less may choose to receive a purchase price for power that is set forth in such standard tariff.

(2) All utilities shall specify the information required for qualifying facilities with capacities of five megawatts or less to obtain draft and executable contracts. All utilities shall file standard contact provisions for purchases from a qualifying facility with a capacity of five megawatts or less. Standard contracts may include commercially reasonable milestone events and cure periods, including but not limited to:

(i) provision of any necessary credit support, necessary governmental permits and authorizations, evidence of construction financing, and as-built supplements;

(ii) completion of interconnection facilities;

(iii) completion of start-up testing; and

(iv) achievement of mechanical availability of operation.

480-106-III [NEW]
Information and term sheets for qualifying facilities with capacities of greater than five megawatts

All utilities shall specify the information required for qualifying facilities of greater than five megawatts to obtain draft and executable contracts. All utilities shall post upon the utility's website non-binding term sheets with limited contract provisions for qualifying facilities with capacities greater than five megawatts. Such contract provisions need not be the same as the standard contact provisions required to be filed pursuant to WAC 480-106-HHH(2) but shall be consistent with commission's rules.

480-106-~~HHHH~~JJJ [NEW]
Rates for Purchases from Qualifying Facilities

(1) Rates for purchases by a utility:

(a) Rates must be just and reasonable to the utility's customers and in the public interest;

(b) Rates must not discriminate against qualifying facilities; and

(c) Rates must not exceed the avoided cost to the utility of alternative energy, capacity, or both.

(2) Establishing rates:

(a) Except as otherwise provided in this chapter, a purchase rate satisfies the requirements of subsection (1) of this rule if the rate equals the utility's avoided costs after consideration, to the extent practicable, of the factors set forth in subsection (5) of this rule.[13]

~~(b) Except as otherwise provided in this chapter, the utility shall purchase at a rate equal to the utility's avoided cost.~~

(~~c~~b) When the purchase rates are based upon estimates of avoided costs over a specific term of the contract or other legally enforceable obligation, the rates do not violate these rules if any payment under the obligation differs from avoided costs at the time of delivery.

(3) Rates for purchases — time of calculation: Except for the purchases made under a standard rates tariff pursuant to section (4) of this rule, each qualifying facility shall have the option to:

(a) Provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall be based on the purchasing utility's avoided cost of energy ~~cost at~~ the time of delivery; or

(b) Provide energy, capacity, or both, pursuant to a legally enforceable obligation for the delivery of energy, capacity, or both, over a specified term, in which case the rates for purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on:

(i) The avoided costs of capacity and energy calculated at the time of delivery; or

(ii) ~~At the election of the qualifying facility, exercised at the time the obligation is incurred, the~~The avoided costs of capacity and energy projected over the life of the obligation and calculated at the time the obligation is incurred.

[13] **Note to Draft:** Subsection (2)(b) is duplicative of subsection (2)(a), which requires the purchasing rate to be equal to the utility's avoided costs after consideration, to the extent practicable, of the factors set forth in subsection (5) of this rule.

(4) Standard rates for qualifying facilities with capacities five megawatts or less. Standard rates for purchases by facilities with ~~a nameplate capacity~~ capacities of ~~seven~~five megawatts or less, shall be implemented as follows:

(a) The commission will consider the annual ~~tariff~~ schedule of estimated avoided costs containing standard rates for purchases filed pursuant to WAC 480-106-GGG (Schedules of estimated avoided costs) when it reviews the standard rate for purchases tariff schedule through its standard open meeting process~~, except the tariff will become effective 60 days after filing~~. The ~~filing~~standard rate for purchases tariff schedule shall contain all the terms and conditions of the purchase. The utility's standard rate for purchases tariff schedule must offer a term of fixed-price rates for fifteen years after commercial operations date for a new qualifying facility, and ten years for an existing qualifying facility entering into a new agreement with the utility. A new qualifying facility may select a scheduled commercial operations date within three years from the date of contract execution or other legally enforceable obligation.

(b) Standard rates for purchases must provide the qualifying facility the option to:

(i) Provide energy as the qualifying facility determines such energy to be available for such purchases, in which case the rates for such purchases shall ~~equal~~be based on the purchasing utility's avoided cost of energy ~~cost identified in~~at the ~~utility's tariff schedule of estimated avoided costs in effect when the energy is delivered~~time of delivery; or

(ii) Provide energy, capacity, or both, pursuant to a legally enforceable obligation for the delivery of energy, capacity, or both, over a specified term, in which case the rates for purchases shall, at the option of the qualifying facility exercised prior to the beginning of the specified term, be based on:

(A) The avoided ~~costs identified in the utility's tariff schedule~~costs of ~~estimated avoided costs in effect when the~~ capacity and energy ~~is delivered~~calculated at the time of delivery; or

(B) The avoided costs of capacity and energy identified in the utility's tariff schedule of estimated avoided costs in effect when the obligation is incurred.

(c) Except where expressly conveyed to the utility for additional consideration, the qualifying facility shall own renewable energy certificates associated with the production from such qualifying facility unless the standard rates are based on the avoided capacity costs of an eligible renewable resource. During any period in which the qualifying facility receives standard rates are based on the avoided capacity costs of an eligible renewable resource, the utility shall receive the renewable energy certificates produced by the qualifying facility at no additional cost to the utility.

(d) The standard rate may account for the integration costs associated with variable technologies, as approved by the commission.

(5) Negotiated rates for qualifying facilities ~~of any size~~with capacities greater than five megawatts. Each utility shall file and obtain commission approval of its avoided cost rate methodology for qualifying facilities with capacities greater than five megawatts. When negotiating rates for purchases from qualifying facilities with capacities greater than five

megawatts, the utility must begin from the tariff schedule pursuant to WAC 480-106-GGG. In determining the avoided cost rates for a specific qualifying facility, the utility shall, to the extent practicable, take the following factors into account:

(a) The data provided pursuant to WAC 480-106-GGG (Schedules of estimated avoided cost), and the commission's evaluation of the data; and

(b) The availability of energy and capacity from a qualifying facility during the system daily and seasonal peak periods, including:

(i) The ability of the utility to dispatch ~~output of~~ the qualifying facility;

(ii) The expected or demonstrated reliability of the qualifying facility;

(iii) The terms of any contract or other legally enforceable obligation;

(iv) The extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the utility's facilities;

(v) The usefulness of energy, capacity, or both, supplied from a qualifying facility during system emergencies, including its ability to separate its load from its generation;

(vi) The individual and aggregate value of energy and capacity from qualifying facilities on the utility's system; and

(vii) The smaller capacity increments and the shorter lead times available, if any, with additions of capacity from qualifying facilities.

(viii) The relationship of the availability of energy, capacity, or both, from the qualifying facility as derived in subsection (5)(b) of this rule, to the ability of the utility to avoid costs, including the deferral of capacity additions and the reduction of fossil fuel use; and

(ix) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility if the purchasing utility generated an equivalent amount of energy itself or purchased an equivalent amount of energy, capacity, or both.

480-106-~~III~~KKK [Formerly WAC 480-107-105]
Rates for sales to qualifying facilities.

(1) General rules:

(a) Rates ~~must be just and reasonable, and in the public interest; and~~for sales:

(~~b~~i) ~~Rates must~~Shall be just and reasonable, and in the public interest; and

(ii) Shall not discriminate ~~between~~against any qualifying ~~facilities and~~ facility in comparison to rates for sales to other customers served by the utility.[14]

(~~c~~iii) Utilities may not deny service to a customer for which they otherwise qualify based on the presence of a qualifying facility, including interruptible power service.

(~~2~~b) Rates for sales that are based on accurate data and consistent system-wide costing principles will not be considered to discriminate against any qualifying facilities if those rates apply to the utility's other customers with similar load or other cost-related characteristics.

(~~3~~2) Additional services to be provided to qualifying facilities:

(a) Upon request by a qualifying facility, each utility will provide:

(i) Supplementary power;

(ii) Back-up power~~; and~~

(iii) Maintenance power; and

(iv) Interruptible power.[15]

(b) The commission may waive any requirement of (a) of this subsection if, after notice in the area served by the utility and after opportunity for public comment, the utility demonstrates and the commission finds that compliance with such requirement will:

(i) Impair the utility's ability to render adequate service to its customers; or

(ii) Place an undue burden on the utility.

(~~4~~3) The rate for sale of back-up power or maintenance power:

(a) ~~May~~Shall not be based on an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on a utility's system will occur simultaneously, or during the system peak, or both ~~unless such an assumption is supported by factual data~~; and

(b) ~~Must~~Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.[16]

[14] **Note to Draft:** Edits to conform the language to 18 C.F.R. § 292.305(a)(1).
[15] **Note to Draft:** Edits to conform the language to 18 C.F.R. § 292.305(a)(1).
[16] **Note to Draft:** Edits to conform the language to 18 C.F.R. § 292.305(c).

480-106-~~JJJ~~LLL [Formerly WAC 480-107-115]
System emergencies.

(1) Qualifying facility obligation to provide power during system emergencies: A qualifying facility ~~entering into a power contract under these rules is~~shall be required to provide energy or capacity to a utility during a system emergency only to the extent:

(a) Provided by agreement between the qualifying facility and utility; or

(b) Ordered under section 202(c) of the Federal Power Act.

(2) Discontinuance of purchases and sales during system emergencies: During any system emergency, a utility may in a non-discriminatory fashion discontinue ~~or curtail~~:

(a) Purchases from a qualifying facility if such purchases would contribute to such emergency; and

(b) Sales to a qualifying facility, ~~if~~provided that such discontinuance ~~or curtailment:~~is on a nondiscriminatory basis.

~~(i) Does not discriminate against a qualifying facility; and~~

~~(ii) Takes into account the degree to which purchases from the qualifying facility would offset the need to discontinue or curtail sales to the qualifying facility.~~[17]

(3) System emergencies resulting in utility action under this chapter are subject to verification by the commission upon request by either party to the power contract.

480-106-~~KKK~~MMM [Formerly WAC 480-107-125]
Interconnection costs.

(1) Any costs of interconnection are the responsibility of the owner or operator of the qualifying facility entering into a power contract under this chapter. The utility must assess all reasonable interconnection and necessary system or network upgrade costs the utility incurs against a qualifying facility on a nondiscriminatory basis, as described in a utility's interconnection tariff filed pursuant to WAC 480-108-080.

(2) The owner or operator of the qualifying facility must reimburse the utility for any reasonable interconnection costs the utility may incur. Such reimbursement shall be made, at the qualifying facility's election:

(a) At the time the utility invoices the owner or operator of the qualifying facility for interconnection costs incurred by the utility; or

[17] **Note to Draft:** Edits to conform the language to 18 C.F.R. § 292.307.

(b) Over an agreed period of time not greater than the length of any contract between the utility and the qualifying facility.