



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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August 24, 2018

NOTICE OF WORKSHOP
(Set for 9:30 a.m. on Tuesday, October 2, 2018)

AND

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By 5 p.m. on Friday, September 21, 2018)

RE: Competitive Resource Acquisition by Request for Proposals (RFP), WAC 480-107.

Docket U-161024

TO ALL INTERESTED PERSONS:

On September 1, 2016, the Washington Utilities and Transportation Commission (Commission) filed with the Office of the Code Reviser a Preproposal Statement of Inquiry (CR-101) to examine whether the Commission's rules in WAC 480-90-238, WAC 480-100-238, and WAC 480-107 related to the integrated resource plan (IRP) process and utility bidding processes related to the IRP rules should be revised to keep up with recent trends in the energy industry.

For electric utilities, the Commission is seeking comments on draft rules related to electric competitive procurement (WAC 480-107). For natural gas utilities, we pose questions in this Notice related to competitive procurement of natural gas resources.

ISSUE DISCUSSION

The Commission adopted the current WAC 480-107 on April 28, 2006, by General Order R-530 in Docket UE-030423. Since that time, the Legislature has clarified its intent for IRPs, which is closely tied to the utility bidding process proscribed by this rule.¹

¹ RCW 19.280.010

Regarding the RFP rule, the Commission identified an initial list of issues, including the regular use of waivers, the use of limited RFPs to reduce cost, reliance on market purchases to meet capacity needs, and the requirement to issue conservation RFPs being misaligned with the conservation program planning cycle.

On December 7, 2016, the Commission held an initial workshop in this docket. Through this workshop, filed comments, and additional internal review, the Commission identified additional issues to address within this rule.

The proposed draft rule intends to address the transparency and fairness of the bidding process, clarify requirements regarding utility self-build resources, add a level of flexibility to reduce common exemptions from the rule, clarify the timing and differentiate the application of the requirement for competitive bidding to various resources, promote technology-neutral RFPs, and incorporate a new requirement for independent evaluation in certain circumstances.

QUESTIONS FOR CONSIDERATION

The Commission requests feedback on its informal draft rules for competitive resource acquisition by electric utilities, as well as responses to specific questions. For gas utility competitive procurement, the Commission requests general feedback below. Commenters need not restrict their comments to the questions presented here. Comments about the rule organization, additional topics to include and exclude, and references to studies or other important works are also welcomed and encouraged. To the extent possible, commenters should provide example language for consideration.

1. **Natural Gas** The proposed draft rules apply to electric utilities only. Should the Commission propose similar competitive procurement rule language for natural gas utilities? How would the competitive procurement rules for natural gas utilities need to be different than those for electric utilities? Should there be similar language for natural gas conservation and delivery services procurement?
2. **Language Request** To the extent possible, commenters should provide example language for consideration throughout the document. Stakeholder input on the precise language used, in the form of a redline response, would be particularly helpful in the following instances.
 - a. Is the language in the draft rule at WAC 480-107-015 sufficient to require an all-source RFP for most resource needs, while allowing sufficient flexibility in the process to allow limited scope RFPs when they are most useful?

- b. In WAC 480-107-035(3) the draft contains the term net benefits. Language around this concept has been evolving recently. Would using a different phrase, such as costs and benefits, or impacts, be clearer?
- 3. **RFP timing** In order to accommodate long lead-time resources, such as non-wires alternatives for distribution needs or distributed generation for capacity needs, the commission has considered expanding the window of time in which a resource need triggers an RFP from three years to ten years. Under the previous guideline, by the time a utility solicits bids for a need, many resources with lead times longer than three years are no longer eligible to compete.

While there is good reason to use the longest lead-time resource as a guide for this rule, the extended time frame to solicit bids to meet needs also creates significant challenges. Integrated resource plans are less accurate at ten years than at three. Utilities may be issuing RFPs for a need that never materializes. A resource should not be built until it will be used and useful and thus, if a long lead time resource is not chosen, this may require a utility to issue a second RFP to identify the lowest cost resource when it comes time to build. This would result in additional cost and effort and could lead to vendor fatigue.

Is there a way to ensure long-lead time technologies have an equal opportunity to meet resource needs anticipated ten years out without requiring RFPs at such an early stage?

- 4. **Thresholds for exemption** In the proposed draft language for WAC 480-107-015(3) there are thresholds and circumstances that would exempt utilities from issuing an RFP without requesting an exemption.
 - a. Are the thresholds proposed appropriate?
 - b. Are there other circumstances appropriate to qualify for exemption from the rule?
 - c. Are there other types of thresholds that should be incorporated for these resource needs?
 - d. What other types of resources would benefit from a threshold?
- 5. **Delivery System RFP** On May 17, 2018, the Commission received comments on draft rules related to distribution system planning (WAC 480-100-238). These comments are in the process of being evaluated. The proposed draft rules for RFPs are intended to ensure investments are being made at the lowest reasonable cost and that new technologies are allowed to compete on equal footing with standard practice. As these two parts of the proposed IRP rule evolve, the areas of overlap and interdependency will be continually reconciled.
 - a. With this in mind, should the proposed definition of Resource Need include local transmission and distribution needs?
 - b. The proposed draft language in WAC 480-107-015(3)(e) identifies an automatic exemption from the rule for distribution system or local transmission projects that are projected to cost less than \$10 million. Should the term “project” be the

replaced with “Major distribution capital investment” as defined in the proposed draft rules for WAC 480-100-238 to clearly connect the two rules?² If not, what would be a reasonable definition of project in this case?

- c. In the notice accompanying the draft distribution system planning rules, the Commission asked for criteria to consider when defining a “Major distribution system capital investment.” In the proposed draft RFP rules, a similar set of criteria could be used to allow an automatic exemption from the rule to relieve the burden of issuing an RFP for smaller projects identified in a distribution system plan. Is a \$10 million threshold appropriate? Would a threshold that is not cost-based be more appropriate for delivery system resources? If so, what should be the criteria of this threshold?
 - d. Are there other circumstances concerning the delivery system that are appropriate to qualify for exemption from the RFP rule?
 - e. Some commenters on the draft distribution system planning rules suggested a utility-specific criteria, approved by the Commission or with input from an advisory group. Many other commenters suggested flexibility in the distribution system planning rule. The draft RFP rules propose a utility-specific framework for conservation RFPs. Would a similar framework be useful for delivery system RFPs? If so, what would the process of developing, approving, and renewing the framework entail?
6. **Reliance on the Market** In order to reduce the need for exemptions and to allow resource needs to be covered by short-term market purchases without additional process, the proposed rules rely on a third-party determination of regional resource adequacy. This is not intended to eliminate the need for a utility to perform its own resource adequacy assessment within an IRP and has no bearing on the determination of market risk. In this version, the Commission has chosen to reference the Northwest Power and Conservation Council’s resource adequacy assessment.
- a. Are there other third-party sources that would be more appropriate to reference?
 - b. Are there other methods that are easier, more transparent, or more accurate than relying on third-party analysis?
7. **Independent Evaluator** The draft rule WAC 480-107-AAA requires the use of an independent evaluator under certain circumstances.
- a. Does this section identify the proper circumstances or are there other circumstances under which an independent evaluator should be required?

² “Major distribution capital investment” as proposed by the Commission means a distribution system infrastructure investment that is significant enough in scope and cost for there to be opportunities for distributed energy resources to meet the same need that the infrastructure investment is designed to meet.

- b. Is there value in requiring an independent evaluator for large projects when a utility will not be bidding? If so, is a 50 megawatt resource need an appropriate threshold?
 - c. Does this subsection provide enough specificity concerning the independent evaluator's role, or is additional rule language needed?
 - d. Should the Commission require that the independent evaluator be certified or accredited? If yes, provide specific qualifications the independent evaluator should possess.
8. **IE Report** The draft rules require an initial and then a final report from the independent evaluator. We envision the final report to be the initial report plus the evaluator's response to the reconciliation process and stakeholder comments. The purpose of this two-step process is to ensure that the evaluator's report is free from editorial influence.

However, we recognize that a two-step reporting process will increase the cost and length of the independent evaluator's review. Could the Commission require the reconciliation process to occur prior to the issuance of a single final report and still ensure that the evaluator's work is free from outside influence?

9. **Conservation RFP** A periodic conservation RFP issued to explore what is available in the competitive market is useful to confirm that conservation resources are being delivered at least cost to ratepayers, and that all cost-effective conservation is being pursued by helping to identify innovative approaches and technologies. However, since utility conservation programs operate on a different cycle than the IRP, tying conservation acquisition directly to the IRP schedule could make program planning unworkable.
- a. Does the proposed rule language in WAC 480-107-015(3)(d) and WAC 480-107-065 adequately encourage competitive procurement of conservation resources without negatively affecting current program planning and implementation?
 - b. The proposed language describes a role for the advisory group that is not currently explicit in rule, approving a framework for issuing conservation RFPs. Does this advisory group role fit with the current function of the conservation advisory group? The proposed rule specifies the competitive procurement framework must receive the support of the advisory group. Is this a reasonable condition?
 - c. Do the minimum procurement percentages provide reasonable guidance in the development of a competitive procurement framework for conservation?
10. **Procurement Outside of an RFP** Utilities often have opportunities to procure low-cost resources that are owned by entities that typically will not bid their resources into an investor-owned utility RFP, but will enter into contracts with the IOUs. These types of opportunities can also require the construction of complex components that do not lend themselves to a bid in an RFP. Contracts such as these require proactive behavior from the investor-owned utility outside of the RFP. How can the Commission ensure that

utilities are pursuing these low cost opportunities available outside of an RFP? How can this idea be incorporated in rule?

11. **Evaluation Transparency** One goal of this rulemaking is to increase transparency of the RFP evaluation process. In PSE's recent RFP in Docket UE-180271, several commenters supported applying a weighted percentage to each criteria in order to give bidders an idea of the relative importance of those criteria and make the evaluation process more transparent. However, the utility expressed concerns that providing weighting information creates the potential for bidders to "game" the system. Proposed draft rule 480-107-025(4) requires RFPs to "include a sample evaluation rubric that quantifies the weight each criterion will be given during the project ranking procedure." What are the implications of this language?
12. **Two Stage Bidding** In the first round of comments, the Northwest and Intermountain Power Producers suggested that the Commission require a two-stage bidding process to address the inherent utility preference to own a generation asset. First, all utility-owned generation bids are made, and then purchase power agreement bids are informed of the target price and provided an opportunity to beat the first round of bids. Please discuss the advantages and disadvantages of this approach including whether the bidding structure proposed creates asymmetrical bidding opportunities between IPPs that offer power purchase agreements and those offering to sell their generation. How should the sequence of bid offers be designed if the IPP is offering two differently structured offers for the same project, one that is PPA and one that is a contract with transfer of ownership?

REFERENCED DEFINITIONS IN WAC 480-100-238(2)

For consistency, some definitions in the proposed draft RFP rule reference definitions in the portion of the IRP rule that has not yet gone out for public notice. In order to allow a complete understanding of the proposed RFP rule, and to allow comments on these definitions in relation to the RFP rule, the definitions are provided for review and comment, as outlined in Question 13 below.

"Conservation and efficiency resources" means any reduction in electric power consumption that results from increases in the efficiency of energy use, production, transmission, or distribution.

"Resource need" means any current or projected system deficit identified in the most recently acknowledged IRP, or recognized opportunity for more reliable, efficient, or cost-effective services.

13. **Resource Need Definition** In the proposed draft rules the previous definition of resource block that focused solely on capacity has been replaced with a definition of resource need. This new definition is intended to capture all types of system deficits that may benefit from competitive procurement for example: capacity and associated energy,

capacity needed to meet peak demand in any season, FERC-jurisdictional operational requirements, distribution plant investment, or resources required for regulatory compliance, such as renewable resources or cost-effective conservation and efficiency resources. Should the proposed definition of Resource Need above include specific resource needs that should be subject to competitive bidding? If so, what should be included in that list?

REMOVING PURPA FROM THE RFP RULES

The portions of WAC 480-107 dealing with PURPA implementation have been moved to the draft rules under WAC 480-106. For ease of reading, the attached redline version contains only PURPA related items deleted as part of a section. The following sections have been removed completely from WAC 480-107:

WAC 480-107-055 Schedules of estimated avoided cost
WAC 480-107-085 Obligations of generating facilities to the utility
WAC 480-107-095 Obligations of the utility to qualifying facilities
WAC 480-107-105 Rates for sales to qualifying facilities
WAC 480-107-115 System emergencies
WAC 480-107-125 Interconnection costs

WRITTEN COMMENTS

Written comments in response to this Notice and the questions listed above must be filed with the Commission no later than **5:00 p.m., Friday, September 21, 2018**. The Commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted via the Commission's Web portal at www.utc.wa.gov/e-filing or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

- The docket number of this proceeding (U-161024).
- The commenting party's name.
- The title and date of the comment or comments.

Alternatively, comments may be submitted by mailing or delivering an electronic copy to the Commission's Records Center on a thumb drive, CD or DVD in .pdf format (created using Adobe Acrobat or comparable software) or in Microsoft Word. Include all of the information requested above. The Commission will post on its website all comments that are provided in electronic format. The website is located at the following URL address:
<http://www.utc.wa.gov/161024>.

If you are unable to file your comments electronically, the Commission will accept a paper document. Questions may be addressed to Jennifer Snyder, at (360) 664-1311 or jennifer.snyder@utc.wa.gov, or Brad Cebulko, at (360) 664-1309 or bradley.cebulo@utc.wa.gov.

STAKEHOLDER WORKSHOP

In addition to filing written comments, interested persons are invited to attend a stakeholder workshop on **October 2, 2018, beginning at 9:30 a.m., in Room 206, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.**

The Commission's teleconference bridge line will be available for the workshop. The Commission prefers and recommends that interested persons participate in person and share ideas in a workshop setting. However, if this imposes a hardship, interested persons may participate at the workshop via the Commission's teleconference bridge at **(360) 664-3846**. The conference bridge is limited to 22 access lines.

MARK L. JOHNSON
Executive Director and Secretary