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September 13, 2018

Mark Johnson
Executive Director/Secretary
Washington Utilities & Transportation Commission
1300 S. Evergreen Pk. Dr. S.W.
P. O. Box 47250
Olympia, WA 98504-7250

Attn: Filing Center

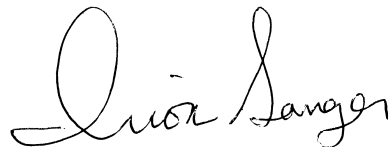
RE: In the Matter of Public Utilities Regulatory Policies Act, Obligations of the Utility
to Qualifying Facilities, WAC 480-107-105
Docket No. U-161024

Dear Mr. King:

Please find the proposed definition of legally enforceable obligations of the Northwest and Intermountain Power Producers Coalition (“NIPPC”) and the Renewable Energy Coalition (“REC”). We have provided the definition in clean and red line format as edits to the informal draft rules. In addition to the proposed definition of legally enforceable obligations, the documents also include NIPPC and REC’s edits to those sections that were previously submitted on June 8, 2018. In other words, the edits are cumulative with those previously submitted.

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

Sincerely,



Irion A. Sanger

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Records Management
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State Of WASH.
UTIL. AND TRANSP.
COMMISSION

CLEAN VERSION

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

Definitions.

A “Legally Enforceable Obligation” is the binding obligation of a qualifying facility to sell, and of an electric utility to purchase, the energy, capacity, or both of the facility over a specified term that is established by the qualifying facility communicating its unequivocal commitment to sell such product to the utility in accordance with these rules.

Comment [IS1]: NOTE: The original NIPPC/REC recommendation had a three sentence definition. We condensed the longer definition into one sentence, and included two of three sentences for the longer explanation in proposed WAC 480-106-FFF(1)(c).

480-106-FFF [Formerly WAC 480-107-095]

Obligations of the utility to qualifying facilities.

(1) Obligations to purchase from qualifying facilities: (a) Pursuant to a contract or other legally enforceable obligation, 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:

(i) Directly to the utility; or

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

(b) A utility’s tariff shall specific the contract procedures for the purchase of any energy and capacity.

(c) A qualifying facility may sell its energy, capacity, or both pursuant to a non-contractual legally enforceable obligation. A legally enforceable obligation is created when a qualifying facility commits itself to 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. In order to create a legally enforceable obligation, the qualifying facility must provide the following information to the utility prior to committing itself:

(i) Qualifying facility owner name, organizational structure and chart, and contact information;

(ii) Generation and other related technology applicable to the qualifying facility;

(iii) Design capacity, station service requirements, and the net amount of power, all in kilowatts (kW), to be delivered to the Company’s electric system by the qualifying facility;

(iv) Schedule of estimated qualifying facility electric output, in an 8,760-hour electronic spreadsheet format, including (to the extent applicable) any expected generation degradation per year;

(v) Ability, if any, of qualifying facility to respond to dispatch orders from the Company

(vi) Map of qualifying facility location, electrical interconnection point, and point of delivery;

- (vii) Proposed commencement date for delivery of electric output;
- (viii) List of acquired and outstanding qualifying facility permits, including a description of the status and timeline for acquisition of any outstanding permits;
- (ix) Demonstration of ability to obtain qualifying facility status;
- (x) Fuel type(s) and source(s);
- (xi) Plans to obtain, or actual, fuel and transportation agreements, if applicable;
- (xii) Where qualifying facility is or will be interconnected to an electrical system besides the Company's, plans to obtain, or actual, electricity transmission agreements with the interconnected system;
- (xiii) Interconnection agreement status (including interconnection queue number);
- (xiv) Proposed contracting term and pricing provisions for the sale of electric output to the Company (i.e., term in years, fixed price, market indexed price); and
- (xv) Evidence of site control, which could be in the form of fee simple ownership of the site, a fully executed site lease, or a fully executed option to purchase or lease the site.

In the event 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.

Comment [IS2]: NOTE: Evidence of site control is the only item we added from Staff's proposed list. This was added because all parties at the workshop agreed that it was reasonable.

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

(3) Obligation to interconnect: A utility must make all the necessary interconnections with any qualifying 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-MMM (Interconnection costs) and the interconnection service tariffs filed under WAC 480-108-080.

(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 electrical company² at the expense

¹ **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.

² **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).

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.³

(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.

³ **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.

REDLINE VERSION

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

A “Legally Enforceable Obligation” is the binding obligation of a qualifying facility to sell, and of an electric utility to purchase, the energy, capacity, or both of the facility over a specified term that is established by the qualifying facility communicating its unequivocal commitment to sell such product to the utility in accordance with these rules.

Comment [IS1]: NOTE: The original NIPPC/REC recommendation had a three sentence definition. We condensed the longer definition into one sentence, and included two of three sentences for the longer explanation in proposed WAC 480-106-FFF(1)(c).

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

(1) Obligations to purchase from qualifying facilities: (a) Pursuant to a contract or other legally enforceable obligation, 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:

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(i) Directly to the utility; or

Deleted: utility’s avoided costs.

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

(b) A utility’s tariff shall specific the contract procedures for the purchase of any energy and capacity.

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(c) A qualifying facility may sell its energy, capacity, or both pursuant to a non-contractual legally enforceable obligation. A legally enforceable obligation is created when a qualifying facility commits itself to 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. In order to create a legally enforceable obligation, the qualifying facility must provide the following information to the utility prior to committing itself:

(i) Qualifying facility owner name, organizational structure and chart, and contact information;

(ii) Generation and other related technology applicable to the qualifying facility;

(iii) Design capacity, station service requirements, and the net amount of power, all in kilowatts (kW), to be delivered to the Company’s electric system by the qualifying facility;

(iv) Schedule of estimated qualifying facility electric output, in an 8,760-hour electronic spreadsheet format, including (to the extent applicable) any expected generation degradation per year;

(v) Ability, if any, of qualifying facility to respond to dispatch orders from the Company

(vi) Map of qualifying facility location, electrical interconnection point, and point of delivery;

(vii) Proposed commencement date for delivery of electric output;

(viii) List of acquired and outstanding qualifying facility permits, including a description of the status and timeline for acquisition of any outstanding permits;

(ix) Demonstration of ability to obtain qualifying facility status;

(x) Fuel type(s) and source(s);

(xi) Plans to obtain, or actual, fuel and transportation agreements, if applicable;

(xii) Where qualifying facility is or will be interconnected to an electrical system besides the Company's, plans to obtain, or actual, electricity transmission agreements with the interconnected system;

(xiii) Interconnection agreement status (including interconnection queue number;

(xiv) Proposed contracting term and pricing provisions for the sale of electric output to the Company (i.e., term in years, fixed price, market indexed price); and

(xv) Evidence of site control, which could be in the form of fee simple ownership of the site, a fully executed site lease, or a fully executed option to purchase or lease the site.

In the event 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.

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

(3) **Obligation to interconnect:** A utility must make all the necessary interconnections with any qualifying 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-~~MMM~~ (Interconnection costs) and the interconnection service tariffs filed under WAC 480-108-080.

(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 **electrical company**² 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**

¹ **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.

² **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).

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Comment [IS2]: NOTE: Evidence of site control is the only item we added from Staff's proposed list. This was added because all parties at the workshop agreed that it was reasonable.

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Deleted: (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.

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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.³

(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.

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³ 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.