[Service Date June 9, 2006]

June 9, 2006

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By August 11, 2006)

RE: Public Utility Regulatory Policies Act Standards
Docket UE-060649

TO INTERESTED PERSONS:

On June 7, 2006, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to examine whether new regulations are needed to govern five aspects of investor-owned electric utility operations for which new federal standards are included in the Energy Policy Act of 2005. These new federal standards address: 1) net-metering, 2) fuel sources, 3) fossil fuel generation efficiency, 4) smart metering, and 5) interconnection. The CR-101 is available for inspection on the Commission's web site at <www.wutc.wa.gov/060649>. If you are unable to access the Commission's web page and would like a copy of the CR-101 mailed to you, please contact the Records Center at (360) 664-1234.

BACKGROUND

On August 8, 2005, the President signed the Energy Policy Act of 2005 ("Energy Policy Act"). Sections 1251(a), 1252(a) and 1254(a) of the Energy Policy Act amend Section 111(d) of the Public Utility Regulatory Policies Act of 1978 ("PURPA") to add five new utility standards. The Energy Policy Act further amends PURPA Sections 112 and 115 to require that state regulatory authorities examine these new standards and determine whether they should be adopted as requirements for state regulated electric utilities.[1]

Section 1251(a) establishes three new utility standards: net metering, fuel source diversity, and fossil fuel generation efficiency. State regulatory authorities are required to begin consideration of these three standards by August 8, 2007, and to determine whether to adopt

[1] Energy Policy Act §§ 1251(b), 1252(b),(g),(i), 1254(b)

the standards by August 8, 2008. The requirement for regulatory authorities to consider the three standards established in Section 1251(a) does not apply if a state has taken "prior action" to adopt or consider the standard or a comparable standard, or if the state's legislature has voted on the standard or a comparable standard.[2]

Section 1252(a) establishes a standard for "Smart Metering" to require that utilities make available to retail customers time-based metering and a time-of-use rate schedule by February 8, 2007. State regulatory authorities are required to consider this standard and make a determination of whether it should be adopted for each utility by February 8, 2007.[3] The requirement to consider the standard established in Section 1252(a) does not apply if a state has taken "prior action" to adopt or consider the standard or a comparable standard within the three years prior to August 8, 2005, or the state's legislature has voted on the standard or a comparable standard during that same three year period.[4]

Section 1254(a) establishes a standard to require that utilities make available to utility customers with on-site generation facilities interconnection service to the utility's local distribution system. State regulatory authorities are required to begin consideration of this standard by August 8, 2006, and make a determination of whether to adopt the standard by August 8, 2008. The requirement for regulatory authorities to consider the interconnection standard established in Section 1254(a) does not apply if a state has taken "prior action" to adopt or consider the standard or a comparable standard, or the state's legislature has voted on the standard or a comparable standard.[5]

COMMISSION INQUIRY

The Commission initiates this inquiry to consider the five new federal standards and to establish compliance with the time limitations included in the Energy Policy Act for each standard. Each standard is listed below as set forth in the Energy Policy Act.

As described below, Washington has already established standards comparable to the net-metering, fuel source, and fossil fuel generation efficiency standards set out in Section

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[2] Energy Policy Act § 1251(b)(3).
[3] The Energy Policy Act is inconsistent with regard to the schedule for consideration and the requirement for state regulatory authorities to issue a decision regarding this standard. The standard itself requires review and determination within 18 months of enactment of the Energy Policy Act notwithstanding subsequent amendments to PURPA Section 112 that give state regulatory authorities until August 8, 2007 to make this decision. At this point, the Commission will consider the 18 month time-frame to control because that is the schedule set out in the standard itself.
[4] Energy Policy Act § 1252(i).
[5] Energy Policy Act § 1254(b)(3).

1251(a) of the Energy Policy Act. Accordingly, the Commission does not expect its current inquiry to include further discussion of these topics.

Net-Metering

Section 1251(a) establishes this standard as:

> (11) NET METERING—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

Washington State requires that utilities provide net-metering service pursuant to RCW 80.60. The Legislature reviewed and amended this statute during its 2006 Session.[6] Consequently, the Energy Policy Act provisions regarding prior state action apply to this standard and no further consideration of the standard is necessary or required at this time.

Fuel Sources

Section 1251(a) establishes this standard as:

> (12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

Engrossed Substitute House Bill 1010 (Chapter 195, Laws of 2006) requires certain Washington electricity utilities, including the three investor-owned utilities that are jurisdictional to the Commission, to regularly prepare "integrated resource plans" (IRP). This statutory requirement is reflected in WAC 480-100-238. The utility IRPs are required to be "a plan describing the mix of energy supply resources and conservation that will meet current and future needs at the lowest reasonable cost to the utility and its ratepayers." WAC 480-100-238 requires utilities to consider and include in their planning both commercially available conservation and a wide range of conventional and non-conventional generation technologies including renewable technologies.

[6] Chapter 201, Laws of 2006.

Thus, the Energy Policy Act provisions regarding prior state action apply to this standard and no further consideration of the standard is necessary or required at this time.

Fossil Fuel Generation Efficiency

Section 1251(a) establishes this standard as:

> (13) FOSSIL FUEL GENERATION EFFICIENCY—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

Engrossed Substitute House Bill 1010 (Chapter 195, Laws of 2006) requires certain Washington electricity utilities, including the three investor-owned utilities jurisdictional to the Commission, to regularly prepare "integrated resource plans" (IRP). This statutory requirement is reflected in WAC 480-100-238. The utility IRPs are required to be "a plan describing the mix of energy supply resources and conservation that will meet current and future needs at the lowest reasonable cost to the utility and its ratepayers." WAC 480-100-238 requires utilities to consider and include in their planning both commercially available conservation and a wide range of conventional and non-conventional generation technologies including renewable technologies. Conservation is defined as "any reduction in electric power consumption that results from increases in the efficiency of energy use, *production,* or distribution." *(emphasis added).* Consequently, the Energy Policy Act provisions regarding prior state action apply to this standard and no further consideration of the standard is necessary or required at this time.

Smart Metering

Section 1252(a) of the Energy Policy Act establishes a standard for Smart Metering as:

> (14) TIME-BASED METERING AND COMMUNICATIONS
>
> > (A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

> (B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—
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> > (i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;
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> > (ii) critical peak pricing whereby time-of use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;
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> > (iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and
> >
> > (iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.
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> (C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

Section 1252(b) of the Energy Policy Act amends Section 115 of PURPA to provide further direction regarding factors state regulatory authorities must consider when determining whether this new standard should be adopted as a requirement for state regulated electric utilities:

> (b) In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for time-of-day

> rates established by section 2621(d)(3) and the standard for time-based metering and communications established by section 2621(d)(14) of this title, a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering and communications costs and other costs associated with the use of such rates.
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> (i) In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time based pricing rate schedules and other demand response programs.[7]

The Commission previously examined time-based metering and time-of-use rates on a generic basis in 1980 and with regard to a specific program offered by Puget Sound Energy, Inc. (PSE) in 2002.

In the 1980 proceeding, the Commission considered the original "time of day rates" standard in PURPA Section 111(d)(3) and determined:

> Basically, this standard says that rates to classes of electric customers shall be on a time-of-day basis unless it is determined that time-of-day ratemaking is not cost-effective to the utility and its customers. We agree with this standard, and believe that it should be adopted.[8]

In making this determination, the Commission emphasized that "time-of-day ratemaking is acceptable only if cost-justified" including the cost of metering and consideration of benefits,

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[7] Amendments made by the Energy Policy Act are underlined.

[8] *In the Matter of Investigation on the Commission's Own Motion: Into Rate Design and Rate Structure for Electrical Service of Pacific Power & Light Company, Puget Sound Power and Light Company and the Washington Water Power Company, and the Alterations, if any, that should be Ordered to such Rate Design and Rate Structures, and, Into the Adequacy of Existing Rules of the Commission Relating to Electrical Companies and Amendments or Additions Thereto That May be Appropriate Regarding Master Metering, Information to Consumers, Advertising, and Termination of Service*, Commission Decision and Order at 7, Cause U-78-05, (October 29, 1980).

if any, that might be derived from shifting the load and generation patterns of utilities in Washington.[9]

In 2001, the Commission allowed a pilot time-of-use pricing program offered by PSE. On November 15, 2002, the Commission terminated the program, finding that the time-of-use rates were not fair, just and reasonable and that 94 percent of the customers participating in the pilot program paid more under the time-of-use tariff than they would have paid under standard tariff service.[10] It also examined large customer load reduction buyback programs in 2000-2001.

Pursuant to the Energy Policy Act, the Commission will examine what, if any, regulations are necessary to govern time-based metering and time-of-use rates for customers of investor-owned electric utilities. As context for its Inquiry, the Commission will consider its prior policy and experience regarding time-of-use rates and metering as well as the purposes of PURPA standards to encourage:

- Conservation of energy supplied by electric utilities.
- Optimal efficiency of electric utility facilities and resources.
- Equitable rates for electric consumers.[11]

To begin its examination, the Commission requests that interested parties provide written comments addressing the following issues:

1) Should the Commission, by rule, adopt PURPA Standard 14 – Time-Based Metering and Communications – to apply uniformly to PSE, Avista Utilities, and PacifiCorp requiring each utility to offer by February 8, 2007, a time-based rate to each customer class and the necessary time-based metering to individual customers upon request? Why, or why not?

2) Should the Commission examine and determine whether to adopt the Time-Based Metering and Communications Standard on a generic basis (*i.e.*, applying the same requirements to all utilities), or should it consider the standard within separate proceedings specific to the circumstances of each utility?

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[9] *Id.* at 8.
[10] *In Re: Washington Utilities and Transportation Commission v. Puget Sound Energy. Fourteenth Supplemental Order*. Dockets UE-011570 and UG-011571 (November 15, 2002). An analysis of the time-of-use program was completed pursuant to the settlement of PSE's general rate case and the final report of that analysis was filed with the Commission on July 1, 2003.
[11] 16 U.S.C. § 2611.

3) Should the Commission reject, reiterate or modify its policy enunciated in Cause U-78-05 that time-of-day rates are appropriate so long as they are cost-effective?

4) What factors should the Commission consider in determining whether time-based rates and metering are cost-effective?

5) If the Commission adopts the Time-Based Metering and Communications Standard, which, if any, of the 4 listed types of time-based rate schedules should be required? Should the same type of rate schedule be required of all utilities and for all rate classes?

6) What, if any, relationship should there be between a utility's integrated resource plan and its use of time-based metering, time-of-use rates and demand management programs?

7) Are there other issues the Commission should consider in this Inquiry?

Interconnection

Section 1254(a) of the Energy Policy act establishes an Interconnection Standard:

> ''(15) INTERCONNECTION.—Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'interconnection service' means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.''

On August 12, 2005, the Commission initiated a rulemaking inquiry to consider establishing regulations to govern the interconnection of customer-owned generation facilities to investor-owned electric utility delivery systems under Docket UE-051106. On March 6, 2006, the Commission permanently adopted WAC 480-108 establishing standards for interconnection

of consumer-owned generation facilities up to a capacity of 25 kW.[12] These regulations include standards for applications for interconnection, processing of such applications, technical and engineering standards for interconnections, safety standards, insurance and liability provisions, and other provisions.

Having adopted standards for interconnection of relatively small scale systems, the Commission now turns to an investigation of whether standards are needed to govern interconnection of larger systems. In this regard, the Commission notes that the 2006 Legislature enacted ESHB 2352 which amended RCW 80.60 (net metering) to increase the maximum facility size for net metering service from 25 kW to 100 kW.[13] The Commission will consider whether amendments to WAC 480-108 are necessary and appropriate.

As context for its inquiry the Commission will consider the purposes of the PURPA law to encourage:

- Conservation of energy supplied by electric utilities.
- Optimal efficiency of electric utility facilities and resources.
- Equitable rates for electric consumers.[14]

The Commission requests comments on the following questions:

1) Should WAC 480-108 be amended to include customer-owned facilities up to 100 kW? If so, would the increase to facility size necessitate any other changes to the rule?
2) Is there another "break-point" to which it would be appropriate for practical reasons to increase the scope of WAC 480-108 (e.g., 300 kW, 500 kW)? If so, would the increase in facility size necessitate any other changes to the rule?
3) Should interconnection of facilities larger than those covered currently by WAC 480-108 be governed by a standard rule? If so, would the Federal Energy Regulatory Commission's (FERC) Small Generator Interconnection Rule serve as a good model?[15] If so, how should the FERC rule be adapted to Washington circumstances?

[12] General Order No. R-528, Docket UE-051106, § 480-108, filed March 6, 2006, effective April 5, 2006.
[13] Chapter 201, Laws of 2006.
[14] 16 U.S.C. § 2611.
[15] Standardization of Small Generator Interconnection Agreements and Procedures, Order No. 2006, 70 FR 34190-01 (June 13, 2005), 2005 WL 1382263 (F.R.), order on reh'g, Order No. 2006-A, 70 FR 71760-01 (November 22, 2005), 2005 WL 3171564 (F.R.).

4) If interconnection of facilities larger than those covered currently under WAC 480-108 should not be governed by a standard rule, what principles should apply to such interconnections?

The Commission welcomes any comprehensive recommendations or proposals that stakeholders or utilities may propose for state-wide standards for interconnection as an alternative to the FERC model. While the Commission's rulemaking authority extends only to those utilities under its jurisdiction, there may be benefit to state-wide uniformity in interconnection standards. Accordingly, the Commission invites participation in this stage of its inquiry by municipal utilities and public utility districts, which are not within the Commission's jurisdiction.

WRITTEN COMMENTS

The Commission initiates this Inquiry by inviting written comment responding to the questions listed above. Workshops may be scheduled regarding one or more of the utility standards subsequent to the initial round of written comments. Initial written comments on the above-listed issues and questions may be filed with the Commission no later than **August 11, 2006**. 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 by electronic mail to the Commission's Records Center at <records@wutc.wa.gov>. Please include:

- The docket number of this proceeding: UE-060649.
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is to mail/deliver an electronic copy on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The Commission will post on the Commission's web site all comments that are provided in electronic format. The web site is located at <http://www.wutc.wa.gov/060649>.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document. Questions may be addressed to Dick Byers at (360) 664-1209 or e-mail at <dbyers@wutc.wa.gov >.

Your participation is welcomed via written comments and participation in any stakeholder workshops. Opportunity for further comment is anticipated. Information about the schedule

and other aspects of the rulemaking, including comments, will be posted on the Commission's web site as it becomes available. If you wish to receive further information on this rulemaking you may:

- Call the Commission's Records Center at (360) 664-1234.
- E-mail the Commission at records@wutc.wa.gov.
- Mail written comments to the address below.

When contacting the Commission, please refer to Docket UE-060649 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

NOTICE

If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Secretary in one of the ways described above and ask to be included on the mailing list for Docket UE-060649. If you do not do this, you might not receive further information about this rulemaking.

Sincerely,

CAROLE J. WASHBURN
Executive Secretary