



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION
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October 11, 2018

NOTICE OF OPPORTUNITY TO FILE WRITTEN REPLY COMMENTS
(By 5 p.m. on Friday, October 26, 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.

On August 24, 2018, the Commission issued draft rules WAC 480-107 Competitive Resource Acquisition by RFP for comment. On October 2, 2018, the Commission held a stakeholder workshop in this docket. Discussion at the workshop prompted this request for additional feedback on several new questions. Commenters are also encouraged to respond to comments filed in the docket September 21, 2018.

QUESTIONS FOR CONSIDERATION

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. Independent Evaluator Requirement

Draft rule WAC 480-107-AAA requires the use of an independent evaluator (IE) when the resource need is greater than 50 megawatts or the utility, its subsidiary, or an affiliate plans to submit a bid. During the workshop stakeholders discussed requiring the use of an

IE when bids contain a utility ownership option and how that requirement may in practice result in requiring an IE in all RFPs.

The Commission requests feedback on a new proposal to encourage the use of an IE in circumstances that differ from what is required in the draft rule. WAC 480-107-015(5) prescribes a ninety day process between when a utility files a proposed RFP with the Commission and Commission approval of the RFP. The new proposal would allow a utility to shorten this to a 30 day comment period with Commission approval at the next regularly scheduled open meeting after the comment period closes when the utility has obtained the services of an IE for the RFP and early enough to allow the IE to participate in the formulation of the RFP.

- a. Does the incentive of a shortened regulatory approval process for the RFP encourage the use of an IE?
- b. Does the use of an IE adequately assure sufficient review of the RFP considering the tradeoff in the length of the stakeholder comment period?

2. Role of the Independent Evaluator

During the workshop there was significant discussion on the proper role of an IE. General ideas were that an IE will oversee a bidding process to make sure there is no bias or perception of bias in the bidding process, or that an IE will monitor each step of the RFP evaluation process to determine that the utility has acted in a fair and impartial manner in conducting the evaluation.

Keeping in mind the proposed role of the IE in rule will be the minimum role and that a utility may contract for more in depth involvement at their discretion, specifically describe what you envision to be the proper role of an IE in the draft rule. In doing so please address the following specific questions.

- a. How deeply should the IE be involved in the development of the RFP? Should an IE independently score all bids, a sampling of bids, or only bids resulting in utility ownership?
- b. How should the IE be involved in communication between the utility and bidders?
- c. Should there be a requirement that the IE document and file all communications with the Commission?

- d. In situations where there is a direct conflict between the IE and the utility should additional process be proscribed?

3. Conservation RFP

In the draft rules, three options for conservation RFPs were presented at WAC 480-107-065(3). Option 3, under which the utility develops a competitive procurement framework in consultation with their conservation advisory group, appears to be the only option that commenter would utilize.

- a. What additional guidance on the development of such a framework would be useful, either in rule or in an adoption order?
- b. What particular rule language would allow sufficient flexibility to the utility while ensuring conservation RFPs are performed on a cadence to ensure the utility pursues all cost-effective conservation at the lowest reasonable cost?

4. Market Purchases Resource Adequacy Exemption

The draft rules at WAC 480-107-015(3)(b) rely on the Northwest Power and Conservation Council's resource adequacy assessment to reduce the number of requests for exemptions from rule and allow resource needs to be covered by short-term market purchases. This is not intended to eliminate the need for a utility to perform its own resource adequacy assessment within an IRP and the exemption has no bearing on the determination of market risk. During the workshop, stakeholders suggested adding additional language to limit the degree of reliance on the market a utility may have in order to qualify for this type of automatic exemption.

- a. If this idea were to be incorporated into rule, what level of reliance on the market would be reasonable?
- b. Should the degree of reliance be tied to a separate metric? If so, what metric should be used?
- c. Should an RFP be required for firm resources whenever there is significant market risk?
- d. This section also uses the undefined term "short-term market purchases." Please provide comments on the following proposed definition: "Purchases of energy or capacity on the spot or forward market contracted for a term less than four years."

5. RFP Transparency

In their September 21, 2018, comments Public Counsel provided redline edits to the draft rules that state “The RFP must include a sample evaluation rubric that either quantifies the weight each criterion will be given during the project ranking procedure or provides a detailed explanation of the aspects of each criterion that would result in the bid receiving higher priority.”

Here Staff will provide one additional edit for comment. “The RFP must include a sample evaluation rubric that either quantifies the weight each criterion will be given during the project ranking procedure or provides a detailed explanation of the aspects of each criterion specifically identified that would result in the bid receiving higher priority.”

- a. Is this language sufficient to elicit the transparency stakeholder’s desire in an RFP? Is this language reasonably flexible?
- b. Will this requirement result in the utility being tied to and limited to criterion established prior to review of the bids that does not fit or account for the complexity of the evaluation of actual bids?
- c. Should instead the utility be required to establish contemporaneous documentation of its criterion prior to receipt of bids and provide its contemporaneous reasoning for any changes to its criterion?

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, October 26, 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 Kathi Scanlan, at (360) 664-1267 or kathi.scanlan@utc.wa.gov.

Stakeholders will have further opportunity for comment. Information about the schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's website as it becomes available. If you wish to receive further information on this rulemaking you may:

- 1) Call the Commission's Records Center at (360) 664-1234.
- 2) Email the Commission at records@utc.wa.gov.
- 3) Mail written comments to the address below.

When contacting the Commission, please refer to Docket U-161024 to ensure that you are placed on the appropriate service list(s). The Commission's mailing address is:

Executive Director and 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 Executive Director and Secretary in one of the ways described above and ask to be included on the mailing list for Docket U-161024. If you do not do this, you might not receive further information about this rulemaking.

MARK L. JOHNSON
Executive Director and Secretary