

**Comments of the Renewable Northwest Project &
the NW Energy Coalition
Docket No. UE-061895**

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The Renewable Northwest Project and the NW Energy Coalition submitted an initial list of issues on January 24, 2007. These additional preliminary comments are in response to the questions issued by the Commission on January 30, 2007.

A. With regard to utility energy conservation potential, conservation targets and conservation performance

1. WAC 480-100-238 requires electric utilities to file integrated resource plans every two years. Such plans are required to include long-term assessments of cost-effective conservation resources as well as short-term action plans for acquisition of conservation and other resources. What, if any, additional analysis and information should the commission require of utilities to demonstrate compliance with RCW 19.285.040(1)(a) (10 year conservation assessment) and RCW 19.285.040(1)(b) (biennial conservation target)?

The existing IRP process seems appropriate for determination of cost-effective conservation potential, recognizing that the IRP must identify the 10-year achievable cost-effective conservation potential for a specified timeframe, i.e., Jan 1, 2010 – Dec. 31, 2019; Jan. 1, 2012 – Dec. 31, 2021; etc. The methodologies used by the utilities and their consultants in conducting the potential assessment should be consistent with those used by the Northwest Power and Conservation Council.

2. What process and timeframe should the Commission use for review and approval of electric utility biennial conservation targets? Would a review and approval process similar to the practice for approval of requests for proposals under WAC 480-107-015(3)(b) be adequate?

Under RCW 19.285.040, a utility must establish its biennial acquisition target beginning in January 2010, and every two years thereafter. The Commission has an existing process for reviewing and approving utility conservation targets. Typically a utility will convene stakeholders (through one or more meetings) to discuss savings targets, budgets and programs. The utility then files with the Commission its proposal, which is considered at an open meeting. We suggest directing utilities to submit their biennial acquisition targets to the Commission for review no later than December 1 for

each upcoming two-year period, and otherwise follow the existing process. The process described within WAC 480-107-015(3)(b) may be more complex than needed.

We note that the calculation of the biennial target itself should be a simple one – a utility must pursue at least the pro rata share of its 10-year potential in the 2-year period. We believe the utility and stakeholders therefore would focus on associated programs and budget.

3. Should the Commission by rule establish standard input assumptions and calculation formula for determining whether high-efficiency, customer-owned cogeneration qualifies as conservation counting toward a utility's biennial conservation target? If so, what should be the standard assumptions and formula? What documentation should the Commission require from utilities regarding customer-owned cogeneration equipment and thermal loads to determine utility compliance with RCW 19.285.040(1)(c)?

The Commission can standardize at least some of the assumptions related to cogeneration resources that qualify for the energy conservation requirements in RCW 19.285, e.g., the heat rate on a new and clean basis of a best commercially available technology combined cycle natural gas fired combustion turbine. We recognize that best commercially available CCCTs is a moving target, and the Commission should establish a process for determining how it will adjust the heat rate accordingly over time. The Commission also should consider establishing standard assumptions related to how the kWhs produced at the cogeneration facility will be counted towards meeting the biennial target in the same manner as traditional end-use conservation savings. With regard to documentation of customer-owned cogeneration equipment, the Commission should require manufacturer's specifications and a professional engineer's stamped calculations of loads and system performance. Documentation also must include the date that operations commence for the cogeneration facility, and how the utility helped incent the customer to begin serving its needs with high efficiency cogeneration.

B. With regard to renewable resource targets and exceptions:

1. RCW 19.285.030(10)(a) requires that electricity from a generation facility outside the Pacific Northwest must be "delivered into Washington state on a real-time basis without shaping, storage, or integration services" to qualify as an eligible renewable resource. What contract, system dispatch, or other information should the Commission require of utilities to demonstrate compliance with this provision?

First, it is important to note that several other states with renewable portfolio standards, including states in New England, New York, and California have relied on real time delivery requirements. This is not a new concept.

Second, we want to emphasize that this provision is limited to eligible renewables that are located outside of the Pacific Northwest. There is no restriction as to how utilities acquire eligible renewables located within Washington, Oregon, Idaho and

western Montana, or the remainder of the Pacific Northwest as defined in 94 Stat. 2698; 16 U.S.C. Sec. 839a.

We suggest two things the utility must demonstrate to the Commission to ensure compliance with this provision:

(1) The utility must dynamically schedule the power from the generator to Washington. They must show evidence that the renewable generator sends an electronic SCADA signal in near real-time (e.g., every 4 seconds) to the receiving control area to take the power; and,

(2) The utility must have proof of a contractual right to transmit the purchased power on a transmission path into Washington. The utility must only show that it was delivered to any entity into the state of Washington, not necessarily the qualifying utility.

We also note that the California Energy Commission issued rules requiring use of NERC tags to verify delivery for their RPS. See, for example, <http://www.energy.ca.gov/2006publications/CEC-300-2006-007/CEC-300-2006-007-F.PDF>, pg. 24.

2. *RCW 19.285.040(2)(f) prohibits electric utilities from crediting eligible renewable resources or distributed generation against their annual targets if renewable energy credits are owned by “a separate entity” or used in an optional green pricing program. RCW 19.285.030(17) defines renewable energy credits as including all of the non-power-related attributes associated with an eligible renewable resource. What reliable documentation should the Commission require of an electric utility to demonstrate compliance with this provision?*

The Commission is asking what kind of documentation is needed to show ownership of renewable energy credits (“RECs” or “green tags”). First, CTED is directed to select a REC tracking system. RCW 19.285.030 (17). It is our hope that CTED will select the Western Renewable Energy Generation Information System (“WREGIS”). WREGIS is an independent regional tracking system providing data to substantiate and support the verification and tracking of renewable energy certificates. It has been in development since 2002 by the California Energy Commission (CEC) and the Western Governors’ Association (WGA). WREGIS is currently in final testing and is expected to “go live” on June 18, 2007.

As we understand it, both generators and utilities will register with WREGIS and then set up accounts (similar to a bank account). The generator will provide a variety of information about its facility (online date, fuel type, geographic location, etc.). WREGIS certificates will be created automatically when power is generated by that generator (the meter will transmit it electronically). Certificates will be created for each MWh sold and each certificate will have a unique identification number.

Certificates can then be transferred between various registered WREGIS users' accounts. Transfers will be recorded in WREGIS to show chain of ownership. As the RECs are bought and sold, they will be transferred throughout WREGIS until they get to a utility's "retirement account." The retirement account has a one-way door – RECs go in, but they don't come back out. The utility will deposit a certain number of RECs into the retirement account to demonstrate that they have been retired (for whatever reason). The utility will be able to mark the reason for the retirement on each certificate – i.e., this one for meeting RCW 19.285, this one for our green power program, etc. – to ensure no double counting. Each certificate can only be marked with one of these reasons for retirement. Utilities do not have to indicate a reason, but the Commission should require utilities to specifically show retirement for compliance with the Initiative.

The Commission, however, will not be able to rely on WREGIS alone. We believe that either the Commission or CTED will need to establish an eligibility certification process for generators or utilities to prove the relevant resource meets the definition of eligible renewables. Once a facility completes this state eligibility certification process, it will be able to record in WREGIS that its RECs comply with RCW 19.285. WREGIS will verify many of the claims made by the generator (e.g., size, fuel type, annual generation total) but they will not be able to verify state-specific requirements.

We recommend the Commission invite representatives from the CEC, WGA or others involved in the development of WREGIS to provide an overview of the system and to answer questions about how it can be used to facilitate compliance with Washington's law.

Under RCW 82.16.120 (9), "the environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive." In cases where the customer-generator decides to sell or otherwise provide to its serving utility the environmental attributes associated with its renewable energy system, we don't expect the RECs will necessarily be registered with WREGIS. In this case, a utility would need to show a contract signed by itself and the customer-generator showing that the utility owns the environmental attributes of the project, and the dates that transfer of ownership is in effect.

3. *RCW 19.285.030(18)(h) and (i) generally preclude bio-fuels derived from clearing or harvesting old-growth forests from qualifying as eligible renewable resources. What reliable documentation should the Commission require of electric utilities to demonstrate compliance with this provision?*

Existing standards can help the Commission in addressing this question.

First, the Forest Stewardship Council (FSC), an internationally recognized non-profit organization focused on responsible management of the world's forests, has Pacific Coast Standards that define old-growth forests and provide a fairly prescriptive approach to managing in or near old-growth. If necessary, this definition and guidelines could be used to help clarify the types of forests that are "off-limits" to biomass and biodiesel harvesting.¹

FSC also employs a rigorous Chain of Custody procedure that ensures all wood products that make it to the end-user actually come from certified forests.² FSC probably has the most comprehensive such process, which could be modified as necessary here.

At a minimum, land used for the cultivation of oilseeds ultimately used for biomass or biofuel production must be verified as not having been cleared of old growth or first-growth forests prior to November 2006 via the following methods:

1. Designate areas in the major oilseed producing regions of the world that have been in production for long periods of time and from which there is obviously no chance of old growth or first growth deforestation, such as the United States Midwest region and Peninsular Malaysia. This can be done through consultation with oilseed industry experts and non-governmental organizations who make these issues a priority such as The Nature Conservancy and World Wildlife Fund. This will help simplify the process of verification, prevent feedstock procurement from becoming prohibitively expensive, and allow producers an obvious target when negotiating feedstock contracts.
2. For land falling outside of the areas described above, clear documentation showing that the land in question has been cultivated, in its entirety, prior to the above date. This documentation must be made available to designated representatives of the UTC for inspection at any time. If any question arises as to the authenticity of these documents; or the UTC does not feel the documentation is adequate; or such documentation does not exist, then a third-party independent inspection must be completed on the land in question. The third party independent inspection will be completed by a company recognized for their expertise in this field. A list of acceptable companies should be maintained by the UTC, and additions to or subtractions from this list are the sole responsibility of the UTC. (We suggest this is an area where coordination with CTED on rules is important.)

Any biofuel company sourcing raw materials outside of designated areas must maintain clear and concise documentation which allows for audits by independent inspectors to verify the plantation in question meets state rules.

¹ The standard is available on line at http://www.fscus.org/images/documents/2006_standards/pcwg_9.0_NTC.pdf; Section 6.3.d defines old growth stands and forests.

² http://fscus.org/images/documents/COC_Fact_Sheet.pdf

4. *RCW 19.285.040(2)(d) exempts utilities from the requirement to meet annual renewable targets under certain conditions. Should the Commission establish standard assumptions and formula to evaluate these conditions? If so, what should be the assumptions and formula? Should the Commission interpret revenue requirement to mean the last approved normalized level of revenue? If not, what other interpretation of revenue requirement should the Commission use to determine compliance with this condition?*

We do not believe this is an issue the Commission needs to consider in rulemaking. It is highly unlikely that any of Washington’s investor-owned utilities will meet the provisions of this section. In the interest of keeping the rulemaking focused, we recommend that this not be addressed by the Commission at this time.

5. *RCW 19.285.040(2)(g) establishes criteria for the valuation of eligible renewable resources co-fired with fossil fuel resources. Should the Commission by rule establish standard assumptions and formulae to apply to such co-fired generation? What reliable documentation should the Commission require of utilities regarding the “heat values” of renewable fuels to demonstrate compliance with this provision?*

We recommend that the Commission require an independent, third-party expert – e.g., a professional engineer – to certify the percent of eligible renewables used in a co-firing process. Similar such certifications are routinely performed to certify commercial operation status of power plants for the purpose of qualifying equipment for manufacturer warranties and satisfying conditions of power sales contracts.

6. *RCW 19.285.050(1)(a) provides that an electric utility complies with the renewable resource target if it can demonstrate that it invested at least 4 percent of its “total annual retail revenue requirement” on the “incremental costs” of eligible renewable resources or renewable energy credits. Should the Commission by rule establish standard assumptions and formula to apply to this test? If so, what should be the standard assumptions and formula, including assumptions concerning existing eligible renewable resources acquired after March 31, 1999? What reliable documentation should the Commission require of utilities to demonstrate compliance with this provision?*

Yes, the Commission should establish standard assumptions and formula to determine compliance with RCW 19.285.050 (1). This would provide certainty to utilities and other stakeholders. Consistency in application among utilities is very important. Some examples of the kinds of standard assumptions might include: generally accepted engineering economics principles for determining present value; what values to assume for discount rate and inflation rate; and how to account for inflation, taxes, etc.

For the comparison of eligible renewables to other new substitute resources, the utility must declare where the cost data is derived from and demonstrate the resources are comparable in contract length and facility life. We do not think a utility should be required to do an RFP to have “reasonably available substitute resources” but that is one option.

For eligible renewables already included in rate base, the utility must show the cost of those resources on an annual levelized basis and compare that cost with its revenue requirement beginning in 2012. The utility also must document the life of the resource or contract.

The Commission should consider how to address instances where the cost of an eligible renewable resource is less than the cost of a reasonably available new substitute resource. For example, in that case, the cost cap calculation could include a decrement due to cost savings from purchasing that resource that could offset the potential cost of other eligible renewable resources added to the mix.

7. RCW 19.285.050(2) requires the Commission to “address” cost-recovery issues for multi-state electric utilities complying with chapter RCW 19.285. Should the Commission by rule establish policies to govern cost-recovery by multi-state utilities, or should such issues be considered on a case by case basis? If a policy is established by rule, what should that policy be?

We have no opinion on this question.

C. With regard to penalties for noncompliance and whether such penalties may be recovered in customer rates:

1. RCW 19.285.060(6) gives to the Commission authority and responsibility to determine whether utilities have complied with chapter RCW 19.285 and, if not, to assess penalties determined under RCW 19.285.060(1). Should the Commission by rule establish a set of factors it will consider in determining assessment of penalties? If so, what factors should the Commission consider?

We think this is fairly straight-forward. If a utility fails to meet any of the statutory targets (e.g., three percent of its load with eligible renewable energy by January 1, 2012), it is subject to a \$50/MWh penalty. That said, the intent of the law is not to penalize utilities, it is to ensure a gradually increasing amount of clean energy serving Washington customers. To the extent utilities require a brief “true up” period (e.g., three months) to demonstrate compliance and avoid penalties, we would support the Commission implementing that via rulemaking.

2. RCW 19.285.060(4) gives the Commission authority to determine whether electric utilities may recover administrative penalties in electric rates. Should the Commission by rule establish a set of factors it will consider in determining whether administrative penalties can be recovered in electric rates? If so, what factors should the Commission consider?

We do not think utilities should be allowed to recover penalties in rates. Shareholders should be responsible for any penalty incurred as a result of a failure to meet the statutory targets. As we stated above, we can support rules that will give utilities some flexibility in demonstrating compliance with the law. But if a utility ultimately fails to meet the targets – or satisfactorily demonstrate that it was unable to do so – then it should be subject to a penalty which should be incurred by the shareholders.

D. With regard to reporting requirements.

RCW 19.285.070(2) requires electric utilities to submit an annual report to the Commission documenting information relevant to utility targets for conservation and eligible renewable resources as well as related performance, expenditures and other factors pertinent for determining compliance with chapter RCW 19.285. Should the Commission use this report as the primary basis for determining utility compliance with the chapter's various requirements? If so, what, if any, additional information should be included?

Yes, the Commission should rely on the report required in this section as the basis for determining compliance with the law. We anticipate, however, that additional information, beyond what is in this report, may be needed by the Commission. For example, any analysis relied on by the utility showing that it meets the “cost cap” in RCW 19.285.050 (1). There also may be some proprietary information that would not be included in the public report. Obviously, the Commission has standard practices for treatment of proprietary or confidential information.