



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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October 4, 2019

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS

(By 5 p.m. on Monday, November 4, 2019)

RE: Rulemaking for Energy Independence Act (EIA), WAC 480-109, Docket UE-190652

TO ALL INTERESTED PERSONS:

On October 4, 2019, 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 related to the Energy Independence Act, codified at chapter 19.285 RCW, require revision to comply with new statutory requirements. The Commission adopted its existing EIA rules as chapter 480-109 WAC by General Order R-578 in Docket UE-131723 on March 12, 2015.

This rulemaking will address amendments to the EIA enacted by Laws of 2019, chapter 288, and Laws of 2017, chapter 315. The portion of the Laws of 2019, chapter 288, that constitute the Clean Energy Transformation Act are now codified at chapter 19.405 RCW. Additionally, select proposed changes stem from other drivers (*e.g.*, the 2019 review of renewable portfolio standard reports). This notice includes draft rule language for stakeholder review and feedback.

The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's website at <http://www.utc.wa.gov/190652>. 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.

ISSUE DISCUSSION

The rulemaking addresses changes in the rule definitions (WAC 480-109-060), the energy efficiency resource standard (WAC 480-109-100), the Renewable Portfolio Standard (RPS) (WAC 480-109-200), RPS reporting (WAC 480-109-210), and the energy and emissions

intensity metrics (WAC 480-109-300) sections. The least controversial of these potential amendments are discussed in Attachment A to this Notice.

Stakeholders will note the Commission has proposed several revisions to the low-income conservation language in WAC 480-109-100(10) as well as several new definitions in WAC 480-109-060 pursuant to the Laws of 2019, Chapter 288, § 12. The Commission expects to address other elements of the Laws of 2019, Chapter 288, § 12 in other proceedings and will consider comments on low-income conservation and energy assistance in all relevant proceedings listed in the “2019-2022 Energy Legislation Implementation Plan (final)” issued in Docket U-190485 in August 2019.

QUESTIONS FOR CONSIDERATION

The Commission seeks comment on the draft rule language. To facilitate this inquiry, the Commission poses the following questions for stakeholder feedback:

Low-income conservation

1. Do stakeholders have concerns with the additions of the statutory definitions for “energy assistance” and “energy burden” in WAC 480-109-060?
2. Please propose the level of energy burden that should be included within the definition of “Energy assistance need.” Please explain and provide justification for your proposal. Industry literature suggests an affordability benchmark as low as six percent of household income.¹
3. Please propose a definition of “low-income” based on area median household income or percentage of the federal poverty level. Please explain and provide justification for your proposal. The maximum allowed in Laws of 2019, Chapter 288, § 2(25), is the higher of 80 percent of area median household income or 200 percent of federal poverty level, adjusted for household size. Investor-owned utilities currently use 200 percent of the federal poverty level, adjusted for household size, for the low-income conservation programs.
4. Do stakeholders have concerns with the proposed changes to WAC 480-109-100(10) addressing funding and programs for low-income energy assistance as described in the Laws of 2019, Chapter 288, §§ 2(16) and 12? Is additional language necessary? If so, please propose alternative rule language.
5. The Laws of 2019, Chapter 288, § 12(2), requires utilities to plan for the provision of energy assistance aimed toward reducing household energy burdens. To the extent practicable, this energy assistance must prioritize low-income households with higher

¹ Drehobl, A., and L. Ross. 2016. *Lifting the High Energy Burden in America’s largest Cities: How Energy Efficiency Can Improve Low-Income and Underserved Communities*. Washington, DC: American Council for an Energy-Efficient Economy (ACEEE) and Energy Efficiency for All.
<https://aceee.org/research-report/u1602>.

energy burdens. What considerations should the Commission consider in determining what is practicable in the context of low-income conservation?

Incremental hydropower method three

6. The Commission proposes to eliminate incremental hydropower method three and its associated five-year evaluation from its rules (*see* WAC 480-109-200(7)(d) and (e)). A recent analysis by Avista Utilities showed method three overestimated incremental generation. The Commission subsequently approved Avista's switch from method three to method one. Since no investor-owned utility currently uses method three, the Commission believes it reasonable to remove it from the rules. Additionally, while the proposed rules would allow the transfer of incremental hydropower renewable energy credits (RECs) per statute (*see* RCW 19.285.040(2)(e)(ii)(B)), this transferability would only apply to bundled RECs that cannot be calculated using method three because method three does not deal with real-time generation. Do stakeholders have concerns about deleting method three and its associated five-year evaluation?

Greenhouse gas emissions reporting

7. Do stakeholders have concerns with the additions of the statutory definitions for "carbon dioxide equivalent" and "greenhouse gases"?
8. Electric utilities currently report their carbon dioxide emissions through the energy emissions intensity reports required by WAC 480-109-300. The Laws of 2019, Chapter 288, § 7, requires reporting of "metric tons" of "carbon dioxide equivalent," which is further defined in the Laws of 2019, Chapter 288, § 2(22). Do stakeholders have concerns with the changes proposed in WAC 480-109-300? If so, please provide alternative rule language or justifications for retaining the existing language.
9. The Laws of 2019, Chapter 288, §§ 2 and 7, define "greenhouse gas" and "carbon dioxide equivalent." However, the Laws of 2019, Chapter 288, § 7, does not provide a default emissions rate for greenhouse gas emissions other than carbon dioxide from unspecified electricity. How should the Commission's rules specify an emissions rate for greenhouse gas emissions other than carbon dioxide from unspecified electricity? What data source(s) and methodology should the Commission use to establish a default emissions rate from greenhouse gases other than carbon dioxide?
10. The Laws of 2019, Chapter 285, § 15, requires natural gas companies to put a price-per-ton cost on greenhouse gas emissions, including "emissions occurring in the gathering, transmission, and distribution" processes. Should WAC 480-109-300 include language requiring electric companies to report on greenhouse gas emissions occurring during the gathering of fuel for electricity generators?

Definitions and other changes

11. Do stakeholders have concerns with any of the proposed changes to chapter 480-109 WAC described in Attachment A?
12. Do stakeholders have suggestions to simplify or clarify the language? If so, please cite the specific rule and propose alternative rule language.

Additional questions

13. Do stakeholders believe a workshop is necessary for this rulemaking?
14. Are there other definitions from Laws of 2019, Chapter 288, that the Commission should include in chapter 480-109 WAC?
15. Should this rulemaking establish protocols for designating confidential information in utilities' annual RPS reports? If so, how should the language in chapter 480-109 WAC be revised to address such protocols?
16. Should the Commission consider changes to WAC 480-109-200 addressing incremental cost calculation for eligible renewable resources? Specifically, what modifications to the language in chapter 480-109 WAC do you propose to address potential upgrades or renovations to existing eligible renewable resources?
17. The Laws of 2019, Chapter 288, § 10, requires the Commission and the Department of Commerce to adopt rules that "streamline" the implementation of this statute with chapter 19.285 RCW. Given that the Commission and the Department will be conducting several rulemakings resulting from enacted legislation in the next few years, should this streamlining be addressed in the current rulemaking or should streamlining take place closer to the point when both agency's finalize rulemakings implementing statutory changes? What sections of rules in WAC 480-109 should be subject to streamlining?
18. The Laws of 2019, Chapter 288, § 6(a)(i), requires specific targets for energy efficiency, demand response, and renewable energy. Should planning and reporting requirements for energy efficiency integrate the planning and reporting requirements for demand response and other distributed energy resources? If so, how? Should any of this be addressed in chapter 480-109 WAC?
19. Do stakeholders recommend any additional changes to chapter 480-109 WAC in this rulemaking? If so, please explain and provide justification for the change.

WRITTEN COMMENTS

Written comments in response to the Notice must be filed with the Commission no later than 5 p.m. on November 4, 2019. Pursuant to WAC 480-07-250(3), written comments must be submitted in electronic form, specifically in searchable .pdf format (Adobe Acrobat or comparable software). As provided in WAC 480-07-140(5), those comments must be submitted via the Commission's web portal at www.utc.wa.gov/e-filing. If you are unable to submit documents via the portal, you may submit your comments by email to the Commission's Records Center at records@utc.wa.gov or by mailing or delivering an electronic copy to the Commission's Records Center on a flash drive, DVD, or compact disc that includes the filed document(s). Comment submissions should include:

- The docket number of this proceeding (UE-190652).
- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post on its website (<http://www.utc.wa.gov/190652>) all comments that are provided in electronic format.

If you are unable to file your comments electronically, the Commission will accept a paper document. Questions may be addressed to Andrew Rector by calling (360) 664-1315 or emailing Andrew.Rector@utc.wa.gov.

Information about the rulemaking and its schedule, as well as filed comments, will be posted on the Commission's website, when 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) E-mail the Commission at records@utc.wa.gov.
- 3) Mail written comments to the address below.

When contacting the Commission, please refer to Docket UE-190652 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
621 Woodland Square Loop S.E.
P.O. Box 47250
Olympia, Washington 98504-7250

NOTICE

If you do not wish to comment now, but you 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 UE-190652. If you do not do this, you may not receive further information about this rulemaking.

MARK L. JOHNSON
Executive Director and Secretary