



March 13th, 2020

**Mr. Mark Johnson
Executive Director and Secretary
Washington Utilities and Transportation Commission
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Re: Climate Solutions comments on Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases Electricity, Docket UE-190837.

Dear Mr. Mark Johnson,

Climate Solutions thanks you for the opportunity to submit comments and recommendations on Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity, Docket UE-190837. Climate Solutions is a clean energy nonprofit organization working to accelerate clean energy solutions to the climate crisis. The Northwest has emerged as a hub of climate action, and Climate Solutions is at the center of the movement as a catalyst, advocate, and campaign hub.

A clean and efficient grid serves as the foundation to deeply decarbonizing Washington's economy and achieving science-based greenhouse gas limits. Strong resource solicitation requirements that encourage competition and promote a diverse portfolio of clean energy resources will facilitate achieving compliance with the Clean Energy Transformation Act at the lowest reasonable cost, protect customers and lead to a more fair and transparent process for acquiring resources. In response to questions posed by the Utilities and Transportation Commission ("Commission") on February 6, 2020, Climate Solutions offers the following responses relating to the Purchases of Electricity under the Clean Energy Transformation Act, followed by specific redline suggestions on the draft rules.

1. Acquiring Resource in Compliance with RCW 19.405.040(8)

Do the requirements of RCW 19.405.040(8) affect how utilities acquire resources?

The intent of the Clean Energy Transformation Act is to transition to a 100% clean electric grid in a manner that all customers benefit from the transition to clean energy, with an emphasis on ensuring benefits to vulnerable populations and highly impacted communities. The language in RCW 19.405.040(8) regarding broad public interest benefits and an equitable distribution of those benefits is found in multiple sections of the statute, indicating that these broad public benefits and requirements to ensure an equitable distribution should be holistically incorporated into all components of a utility's planning, procurement, and compliance processes. Therefore, Climate Solutions interprets both the intent of the law and the statutory language to require utilities to incorporate RCW 19.405.040(8) into all components of the procurement process.

a. Will utilities ever need to solicit requests for proposals (RFPs) solely to comply with RCW 19.405.040(8) (e.g., acquire equity-specific resources)? Or should compliance with RCW 19.405.040(8) be evaluated only with respect to generation, conservation, and other resources acquired by utilities as a result of other regulatory and system needs?

Climate Solutions strongly supports the Clean Energy Transformation Act's emphasis on a broader set of public benefits beyond lowest cost, and the requirement to ensure that all customers are benefiting from the transition to clean energy. In order to achieve the intent of the Act, we recommend that the requirements of RCW 19.405.040(8) be holistically incorporated into decisions around resource procurement for generation, conservation, and other resources acquired by utilities as a result of system needs. These impacts include short-term and long-term public health impacts, economic benefits, resiliency impacts, and benefits to energy security. The utility's RFP solicitation content, ranking criteria, and summaries should incorporate the broader set of impacts, and prioritize ensuring that the benefits flow to, and burdens are reduced in, vulnerable populations and highly impacted communities.

However, scenarios in which a utility must acquire specific resources as they relate to ensuring an equitable distribution of benefits and a reduction in burdens to vulnerable populations and highly impacted communities may also arise. We recommend maintaining flexibility that allows utilities to solicit specific bids for equity purposes if the holistic approach mentioned above does not result in a reduction of burdens or a flow of benefits to vulnerable populations and highly impacted communities. In some cases, the utility may wish to specifically target benefits to an identified highly impacted community within their service area, and ensure that resource choices provide a broad set of benefits to the community, including short-term and long-term public health impacts, environmental impacts, economic benefits, economic security, and resiliency benefits as described in the statute.

b. What, if any, revisions should be made to the solicitation content requirements in WAC 480-107-025(1) to incorporate the provisions of RCW 19.405.040(8)?

In order to incorporate the provisions of RCW 19.405.040(8) into the solicitation content requirements, the utility should request project specific information as it relates to each bid or project. This information should include, at a minimum, potential short- and long-term impacts to public health, environmental impacts, local economic benefits and job quality standards, resiliency and energy security impacts, and any identified adverse impacts or benefits to vulnerable populations and highly impacted communities, especially those located adjacent to project site, when available. These impacts, both positive and negative, should be an important consideration in the selection, and is therefore critical that the information be collected as a part of the solicitation content.

In addition, Climate Solutions recommends that the rules ensure that the utility will accept bids from a broader set of distributed energy resources and customer-owned resources than the draft rules specifically highlight. Distributed resources and resources that are directly owned by customers and community members can play an important role in facilitating the flow of benefits to vulnerable populations and highly impacted communities, and should be prioritized in the bidding process.

*Please see Climate Solutions' recommended changes to the draft rules in WAC 480-107-025 in Appendix A below.

c. What, if any, revisions should be made to the project ranking procedures in WAC 480-107-035 to incorporate the provisions of RCW 19.405.040(8)?

Climate Solutions appreciates that the ranking procedures in the draft rules incorporate a consideration of benefits that are known to be in the public interest, including environmental effects, resiliency attributes, and reliability costs and benefits. While these impacts are important considerations, we recommend the Commission expand the ranking procedure considerations to include the broader set of considerations that are clearly identified in statute. These additional considerations include short-term and long-term public health impacts, economic benefits and labor standards, and any adverse impacts or benefits to vulnerable populations and highly impacted communities.

*Please see Climate Solutions' recommended changes to the draft rules in WAC 480-107-035 in Appendix A.

d. What, if any, additional summaries of solicitation responses would assist with understanding bid proposals pursuant to the requirements of RCW 19.405.040(8) (e.g., geographic location of proposed projects, bidder information such as women and minority owned business certifications, etc.)?

In order to obtain a comprehensive understanding of the solicitations and the range of potential impacts or benefits from the collection of bids and projects, Climate Solutions recommends that utilities incorporate additional information into their summaries of solicitation responses regarding the broader public interest language in RCW 19.405.040(8). We recommend that utilities document the number of projects located within highly impacted communities, categorize the number projects by ownership structures, identify the number of women-, minority-, and veteran-owned enterprises, and the indicate the number of projects that used the different levels of labor standards referenced in the Clean Energy Transformation Act.

*Please see Climate Solutions' recommended changes to the draft rules in WAC 480-107-145 in Appendix A.

Question 2: Timing for Issuing a Request for Proposal

a. To what extent should the requirement to issue an RFP under WAC 480-107-015 be tied to the IRP versus the CEIP? Should the PoE rule contain the triggers for invoking sections of the PoE? If so, which rule, CEIP or IRP, should describe the measurement of the metrics on which the threshold trigger is based?

In order to ensure proper approval procedures are followed before the issuance of an RFP, Climate Solutions recommends that the Commission require the RFP under WAC 480-107-015 be tied to an approved CEIP. The statute states that the CEIP be informed by the Clean Energy Action Plan, which is a component of the IRP. While the IRP takes a broader look at planning for resource needs over a 20-year time horizon, the CEIP will then identify more specific resource needs necessary to meet the utility's load and comply with the specific and interim targets as adopted by the utility over a four-year time horizon. The four-year CEIP will identify specific targets and interim targets before going through a formal approval process, which should be required prior to issuing an RFP. This order of operations will help avoid a situation in which a utility begins an RFP process on an implementation plan that has not been formally approved, and therefore may require additional conditions for ultimate approval by the Commission.

We support the rule containing a trigger for invoking the RFP process, but recommend a four-year trigger instead of a three-year trigger. A four-year trigger better aligns with the CEIP timeline, which we recommend that the trigger be based on an approved CEIP. However, because the CEIP is only approved every four years, we recommend that the RFP process also be triggered when updated resource needs are identified during the biennial IRP check-in after acknowledgement by the Commission. This will help avoid situations in which a utility does not have sufficient time to implement the RFP process before the RFP requirement has been triggered.

We note that following an IRP → CEIP → RFP order results in the CEIP relying on estimated cost assumptions, rather than real price estimates derived from RFP bids. However, specific targets and interim targets are not based solely on costs, and provided there is a true-up mechanism that allows for discrepancies between the estimated costs and the realized costs in the incremental cost of compliance calculation, we believe this concern can be addressed by allowing over- or underruns to roll over into future years.

*Please see Climate Solutions' recommended changes to the draft rules in WAC 480-107-015 and WAC 480-107-025 in Appendix A.

Question 3: Resource Adequacy Relating to Exemptions from the RFP process

a. Should the rules allow the use of a resource adequacy analysis conducted by other entities in addition to the Council?

Climate Solutions supports the intent to require comprehensive regional resource adequacy analysis prior to allowing an exemption from the RFP process due to a reliance on short-term market purchases. While we support utilities' consideration of the Northwest Power and Conservation Council's analysis, we recommend that utilities rely more heavily on independent analysis that may be targeted to each individual utility's unique resource needs. In the development of independent resource adequacy analysis, we recommend that the Commission provide clear oversight and guidance to ensure the use of a consistent methodology across Washington utilities, and create a process by which stakeholders can participate as necessary.

b. To what extent should transmission modeling be required in the resource adequacy analysis?

Climate Solutions supports transmission modeling as part of the resource adequacy analysis, and sees this as an important component of creating a diverse clean energy system that ensures reliability at the lowest reasonable cost. Because transmission modeling is complex in a rapidly changing energy landscape, we recommend that the rule language maintain enough flexibility to allow for the specific modeling practices and methodologies to evolve over time.

Question 4: Use of Independent Evaluator

a. Should the utility be required to have an independent evaluator examine the utility's performance as a developer in the case of a utility proposing to self-build or a utility's subsidiary or affiliate bidding in a build-to-lease or build-to-own project?

Climate Solutions supports a requirement for an independent evaluator to be involved in developing the RFP and reviewing bids, as well as providing third-party review of the utility's performance as a developer. The use of an independent evaluator will help provide an unbiased opinion and protect against any unfair advantages to projects that are affiliated with the utility. This will lead to a more fair and transparent process, increase bidder confidence, and create more competition that ultimately reduces costs to customers.

b. Should there be a MW or MWh threshold to determine whether an independent evaluator should be used? Should it be different than the threshold triggering a utility to comply with the requirements regarding an RFP?

We support the 50 MW threshold as indicated in the draft rule for the use of an independent evaluator, as well as the trigger for the use of the RFP requirements. This threshold is large enough to not create an undue burden on small resource development, while also ensuring competition and oversight for large projects and utility participation.

c. The draft rule at WAC 480-107-035 provides a list of items that must be included in the ranking criteria. Those items may expand under CETA, especially for RCW 19.405.040(8). What items should be in the criterion list and included in the independent evaluator's scope of work?

As mentioned above in response to Question 1(c), we recommend that the ranking criteria include broader public benefits, costs, and risks that were identified in the statute, such as short-term and long-term public health impacts, environmental impacts, economic benefits and labor standards, resiliency and energy security impacts, and any adverse impacts or benefits to vulnerable populations and highly impacted communities, especially as these pertain to a selected site, when available. Additionally, we recommend that the independent evaluator also evaluate assumptions around resources costs, which the draft rules do not currently include.

*Please see Climate Solutions' recommended changes to the draft rules in WAC 480-107-035 in Appendix A.

Additional Comments

Title of docket: We agree with comments made at the February 25th workshop that "Purchase of Electricity" does not adequately reflect the broad set of resource options that utilities will consider in the procurement process. The Clean Energy Transformation Act emphasizes the importance of a diversity of resources, including energy efficiency and conservation, demand response, storage, and other distributed energy resources that go beyond the generation of electricity and provide unique benefits to the electric system and to customers. We recommend updating the title of the docket to "Resource Procurement" to better reflect the broader resource procurement process.

"Distributed energy resource:" We recommend including a definition of "distributed energy resources," and clarify that the utility must accept solicitations from this broader set of demand-side resources. We additionally recommend requiring that solicitations from customer-owned resources be accepted. Please see Climate Solutions' recommended changes to WAC 480-107-015 below in Appendix A.

"Lowest reasonable cost:" As stated in our comments on the Integrated Resource Plan draft rules dated December 20, 2019, the Commission should update the definition of "lowest reasonable cost" to include the broader set of public benefits identified in the statute, including short- and long-term public health, economic, environmental, resiliency and energy security benefits. The statute clarified in numerous parts of the legislation, including legislative intent that these benefits are broadly in the public interest, and therefore should be included when making resource decisions moving forward.

"Short-term market purchases:" We recommend including a definition of "short-term market purchases" to specify the duration of market purchases that are referenced in the exemption under the RFP process.

Stakeholder Participation in the RFP process: The RFP process is a critical piece of determining which resources will be selected to meet a utility’s resource need, and who will benefit from those investments. Interested parties and stakeholders should play a much larger role and have the right to participate in the RFP development and selection process. While we do not have specific language to recommend at this time, we recommend a combination of consultation with stakeholders, stronger outreach processes that increase awareness when RFP processes are open, and public comment processes on draft RFPs before they are formally filed with the Commission. These processes should be holistically incorporated into WAC 480-107.

Selection of an Independent Evaluator: We recommend that the Commission require certain criteria in the selection of an independent evaluator. Among other criteria, we believe it is important that the independent evaluator have a high level of independence from the utility, as well as significant experience and credibility as an evaluator. We support looking to other states, such as Oregon, to align with their selection process.

Competitive Procurement of Energy Efficiency and Conservation: We appreciate the requirement for energy efficiency and conservation to undergo a competition procurement process, but recommend that utilities aim to achieve 100% of their conservation and energy efficiency procurement through a competitive process. In determining a plan for achieving all conservation and efficiency procurement through a competitive process, the utility should work closely with the conservation advisory group. If the 100% target cannot be achieved, the utility should discuss various options, barriers, and how to overcome those barriers with the advisory group. We do not provide recommended language changes at this time, and defer to other stakeholders on the best approach to achieve all energy efficiency and conservation programs through competitive procurement.

Thank you again for the opportunity to provide comments and recommendations on the Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity. Please see Appendix A below for recommended changes to the draft rules. We look forward to continuing to engage with you as this process moves forward.

Sincerely,



Kelly Hall
Senior Policy Manager
Climate Solutions



Vlad Gutman-Britten
Washington Director
Climate Solutions

Appendix A: Suggested redline edits on draft Purchase of Electricity rules

Chapter 480-107 WAC

WAC 480-107-001 Purpose and scope. (1) The rules in this chapter require utilities to solicit bids, rank project proposals, and identify any bidders that meet the minimum selection criteria. The rules in this chapter do not establish the sole procedures utilities may use to acquire new resources. Utilities may construct electric resources, operate conservation and efficiency resource programs, purchase power through negotiated contracts, or take other action to satisfy their public service obligations.

(2) The commission will consider the information obtained through these bidding procedures when it evaluates the performance of the utility in rate and other proceedings.

WAC 480-107-002 Application of rules. (1) The rules in this chapter apply to any utility that is subject to the commission's jurisdiction under RCW 80.04.010 and chapter 80.28 RCW.

(2) Any affected person may ask the commission to review the interpretation or application of these rules by a utility or customer by making an informal complaint under WAC 480-07-910, Informal complaints, or by filing a formal complaint under WAC 480-07-370, Pleading-General.

(3) The commission may grant an exemption from the provisions of any rule in this chapter in the same manner and consistent with the standards

and according to the procedures set forth in WAC 480-07-110 Exceptions from and modifications to the rules in this chapter; special rules.

WAC 480-107-004 Additional requirements. (1) These rules do not relieve any utility from any of its duties and obligations under the laws of the state of Washington.

(2) The commission retains its authority to impose additional or different requirements on any utility in appropriate circumstances, consistent with the requirements of law.

WAC 480-107-006 Severability. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected.

WAC 480-107-007 Definitions. "Affiliate" means a person or corporation that meets the definition of an "affiliated interest" in RCW 80.16.010.

"Commission" means the Washington utilities and transportation commission.

"Conservation and efficiency resources" has the same meaning as defined by WAC 480-100-238(2).

"Conservation supplier" means a third-party supplier or utility affiliate that provides equipment or services that save capacity or energy.

"Distributed energy resource" means a nonemitting electric generation or renewable resource or program that reduces electric demand, manages the level or timing of electricity consumption, or provides storage, electric energy, capacity, or ancillary services to an electric utility and that is

located on the distribution system, any subsystem of the distribution system, or behind the customer meter, including conservation and energy efficiency.

"Generating facilities" means plant and other equipment used to produce electricity purchased through contracts entered into under these rules.

"Independent evaluator" means a third party, not affiliated with the utility, that provides an evaluation of the utility's request for proposal process, evaluation, selection criteria, and related analyses of all project bids and project proposals discussed in this chapter received in response to a request for proposal.

"Independent power producer" means a non-utility entity that owns generating facilities or portions thereof that are not qualifying facilities as defined in WAC 480-106-xxx.

"Integrated resource plan" or **"IRP"** means the filing made every two years by a utility in accordance with WAC 480-100-238 Integrated resource planning.

"Project developer" or **"bidder"** means an individual, association, corporation, or other legal entity that can enter into a contract with the utility to supply a resource need.

"Project proposal" or **"bid"** means a project developer's document containing a description of a project and other information in response to the requirements set forth in a request for proposal.

"Qualifying facilities" means generating facilities that meet the criteria specified by the FERC in 18 C.F.R. Part 292 Subpart B as described in WAC 480-106.

"Request for proposals" or **"RFP"** means the documents describing a utility's solicitation of bids for delivering a resource need.

"Resource need" has the same meaning as defined by WAC 480-100-238(2).

"Resource supplier" means a third-party supplier or utility affiliate that provides equipment or services that serve a resource need.

"Short term market purchases" means purchases of energy or capacity on the spot or forward market contracted for a term less than four years.

"Subsidiary" means any company in which the utility owns directly or indirectly five percent or more of the voting securities, and that may enter a power or conservation contract with that electric utility. A company is not a subsidiary if the utility can demonstrate that it does not control that company.

"Utility" means an electrical company as defined by RCW 80.04.010.

WAC 480-107-015 The solicitation process. (1) The utility must solicit bids for its resource needs identified during the Clean Energy Implementation Plan or biennial IRP check-in process. It must accept bids for a variety of energy resources which may have the potential to fill the identified needs including: electrical savings associated with conservation and efficiency resources; demand response; other distributed energy resources; energy storage; electricity from qualifying facilities; electricity from independent power producers; and, ~~at the utility's election,~~ electricity from utility subsidiaries, ~~and~~ other electric utilities, and customer-owned resources, whether or not such electricity includes ownership of property.

(2) A utility may participate in the bidding process as a resource supplier, or may allow a subsidiary or affiliate to participate in the bidding process as a resource supplier, pursuant to conditions described in WAC 480-107-135 Conditions for purchase of resources from a utility's

subsidiary or affiliate and WAC 480-107-AAA Independent Evaluator for Large Resource Need or Utility or Affiliate Bid.

(3) The solicitation process in this section is required whenever a utility's approved Clean Energy Implementation Plan or most recently acknowledged biennial integrated resource plan check-in, whichever is more recent, demonstrates that the utility has a resource need within four years.

(4) Utilities are exempt from the RFP requirement under this section under the following circumstances:

(a) The utility's identified resource need of capacity is less than 50 megawatts;

(b) The utility plans to satisfy the remainder of its identified resource need for capacity with short-term market purchases so long as sufficient regional adequacy to support these forecasted market purchases has been identified by the Northwest Power and Conservation Council in their latest published power supply adequacy assessment over the entire period of the utility's resource need or the next five years, whichever period is shorter;

(c) The utility's identified resource needs are for conservation and efficiency resources and the utility has previously issued an RFP in accordance with WAC 480-107-065;

(d) The utility's identified resource need is for a distribution system or local transmission resources project estimated to cost less than \$10 million; or

(e) The utility's identified resource need will be acquired under an existing tariff.

(5) A utility must submit to the commission a proposed RFP and accompanying documentation no later than one hundred thirty-five days after

the utility's Clean Energy Implementation or biennial integrated resource plan check-in is due to be filed with the commission. Interested persons will have sixty days from the RFP's filing date to submit written comments to the commission on the RFP. The commission will approve, approve with conditions, or suspend the RFP within thirty days after the close of the comment period.

(6) Utilities ~~are encouraged to must~~ consult with commission staff and stakeholders during the development of the RFP. Utilities ~~may~~must submit draft RFPs for staff and stakeholder review prior to formally submitting a proposed RFP to the commission.

(7) A utility must solicit bids for resource needs within thirty days of a commission order approving the RFP, with or without conditions, as applicable. To solicit bids, a utility must post a copy of the RFP on the utility's public web site and place notices in relevant industry publications. The utility must maintain a list of potential vendors and communicate to those vendors when an RFP is issued.

(8) The utility must ensure that all bids remain sealed until the expiration of the solicitation period specified in the RFP.

(9) A utility may issue RFPs more frequently than required by this rule.

(10) Any person interested in receiving commission notice of utility proposed RFP filings may place their name on the IRP listserv on the commission's website.

WAC 480-107-025 Contents of the solicitation. (1) The RFP must identify the resource need, including any specific attributes or characteristics the utility is soliciting, such as the amount and duration of power, the avoided cost identified in the integrated resource plan, the

type of technology necessary to meet a compliance requirement, and any additional information necessary for potential bidders to make a complete bid.

(X) The utility must request information, where applicable, identifying impacts to highly impacted communities, short-term and long-term public health impacts, environmental impacts, economic benefits and job quality standards, resiliency and energy security impacts, or other information that may be relevant to identifying the costs and benefits of each bid.

(2) The RFP must document that the size and operational attributes of the resource need requested are consistent with the range of estimated new resource needs identified in the utility's approved Clean Energy Implementation Plan or biennial integrated resource plan check-in.

(3) The RFP must allow any resources that meet a portion of the amount or a subset of the characteristics or attributes of the resource need to bid, including unbundled renewable energy credits for a renewable resource need; ~~or~~ conservation and efficiency resources, demand response, or other distributed energy resources, regardless of ownership structure, for a capacity need; ~~or~~ or other resources identified to ensure an equitable distribution of energy and nonenergy benefits to vulnerable populations and highly impacted communities.

(4) The RFP must clearly explain the specific ranking procedures and assumptions that the utility will use in accordance with WAC 480-107-035 Project ranking procedure. The RFP must include a sample evaluation rubric that quantifies the weight each criterion will be given during the project ranking procedure. The RFP must also specify any minimum criteria and qualifications that bidders must satisfy to be eligible for consideration in the ranking procedure.

(5) The utility's RFP submittal must declare if the utility or an affiliate is allowed to bid into the RFP.

(6) The RFP must specify the timing of process including the solicitation period, the ranking period, and the expected selection period.

(7) The RFP must identify all financial security requirements and the rationale for such requirements.

WAC 480-107-AAA Independent Evaluator for Large Resource Need or Utility or Affiliate Bid. (1) If required to solicit bids under WAC 480-107-015(3), a utility must engage the services of an independent evaluator to oversee the solicitation process if:

(a) The resource need is greater than 50 megawatts; or

(b) The utility, its subsidiary, or an affiliate is allowed to submit a bid.

(2) The utility, after consulting with commission staff and the appropriate stakeholders, must recommend an independent evaluator for approval by the commission.

(3) The independent evaluator will contract with and be paid by the utility. The utility will also manage the contract terms with the independent evaluator.

(4) The independent evaluator will, at a minimum:

(a) Ensure that the RFP process is conducted fairly and properly;

(b) Verify that the utility's inputs and assumptions including capacity factors and resource costs are reasonable; ~~and~~

(c) Evaluate the unique risks of each bid, including short-term and long-term public health risks, environmental risks, resiliency and economic security risks, and any other risks to highly impacted communities; and

(d) Evaluate the unique benefits of each bid, including short-term and long-term public health benefits, environmental benefits, economic benefits, resiliency and economic security benefits, and other benefits to highly impacted communities.

(5) The independent evaluator will provide an initial report to the commission at the conclusion of the process, before reconciling project rankings with the utility, and a final report after reconciling rankings with the utility in accordance with WAC 480-107-035(4) Project ranking procedure.

(a) No stakeholder, including the utility or staff, shall have any editorial control over the independent evaluator's initial report.

(b) The final report should not differ significantly from the initial report and must explain any significant ranking differences and why the independent evaluator and the utility were, or were not, able to reconcile the differences.

(c) The utility, staff, and stakeholders may file responses to the final report with the commission.

(6) The utility must give the independent evaluator full access to examine and test the utility's production cost and risk models and any other model or data that is necessary for the independent evaluator to complete its work.

WAC 480-107-035 Project ranking procedure. (1) The ~~commission~~ utility must receive approval ale from the Commission on the procedures and criteria the utility will use in its RFP to evaluate and rank project proposals.

(2) At a minimum, the ranking criteria must recognize resource cost, market-volatility risks, demand-side resource uncertainties, resource dispatchability, resource effect on system operation, credit and financial

risks to the utility, the risks imposed on ratepayers, public policies regarding resource preference adopted by Washington state or the federal government, short-term and long-term environmental effects including those associated with resources that emit carbon dioxide, resiliency attributes, adverse impacts or benefits to vulnerable populations and highly impacted communities, short-term and long-term public health costs and benefits, local economic benefits, job quality criteria such as prevailing wage, local hire, and contracting with women-, minority-, and veteran-owned enterprises, and reliability costs and benefits. The ranking criteria must recognize differences in relative amounts of risk and opportunities for benefits, including benefits to vulnerable populations and highly impacted communities, inherent among different technologies, fuel sources, financing arrangements, contract provisions, and be consistent with the avoided cost methodology developed in the utility's most recently acknowledged integrated resource plan. The utility must consider the value of any additional net benefits that are not directly related to the specific need requested.

(3) The utility must evaluate project bids that meet only a portion of the resource need in conjunction with other proposals in developing the lowest reasonable cost portfolio. ~~The utility must consider the value of any additional net benefits that are not directly related to the specific need requested.~~

(4) The utility and, when applicable, the independent evaluator will each score and produce a ranking of the qualifying bids following the RFP ranking criteria and methodology.

(5) Within five days after the sealed project proposals have been opened for ranking, the utility must make available for public inspection on the utility's website a summary of each project proposal.

(6) The utility may reject any project proposal that does not specify, as part of the bid, the costs of complying with environmental, public health, or other laws, rules, and regulations in effect at the time of the bid.

(7) The utility may reject all project proposals if it finds that no proposal adequately serves the public ratepayers' interests. The commission will review, as appropriate, such a finding together with evidence filed in support of any acquisition in the utility's relevant general rate case or other cost recovery proceeding.

(8) After the process is concluded, the utility will provide access to each bidder to its own confidential scoring information.

(9) Within five days after executing an agreement for acquisition of a resource or determining that all proposals or bids will be rejected, the utility must make available for public inspection on the utility's website a final detailed ranking of results for all proposals.

WAC 480-107-045 Pricing and contracting procedures. (1) Once project proposals are ranked in accordance with WAC 480-107-035 Project ranking procedure, the utility must identify the bidders that best meet the selection criteria and that are expected to produce the relevant attributes as defined by that portion of the resource need to which the project proposal is directed.

(2) The project proposal's price, pricing structure, and terms are subject to negotiation.

WAC 480-107-065 Acquisition of conservation and efficiency resources. (1) A conservation and efficiency resource supplier may participate in the bidding process for any resource need. A utility or a utility subsidiary

may participate as a conservation supplier, on conditions described in WAC 480-107-135 Conditions for purchase of resources from a utility's subsidiary or affiliate.

(2) All conservation and efficiency measures included in a project proposal must produce savings that can be reliably measured or estimated with accepted engineering, statistical, or meter-based methods.

(3) A utility must acquire conservation and efficiency resources through a competitive procurement process. A utility must use one of the following options:

(a) Option 1. A utility achieves at least thirty-three percent of the utility's conservation and efficiency resource program savings each biennium through competitively procured programs;

(b) Option 2. A utility solicits competitive proposals for each conservation and efficiency resource program in the portfolio at least every six years; or

(c) Option 3. A utility develops a competitive procurement framework in consultation with their conservation advisory group, as described in WAC 480-109-110 Conservation advisory group. If a utility develops a competitive procurement framework:

(i) The framework must define the minimum proportion of the utility's budgeted conservation and efficiency resource programs that must be submitted for competitive bidding over a specified time frame;

(ii) The utility must document that the framework was supported by the advisory group;

(iii) The framework must be filed as an appendix to each biennial conservation plan, as described in WAC 480-109-120 Conservation planning and reporting; and

(iv) The first competitive procurement framework for conservation and efficiency may be filed with the 2020-2021 biennial conservation plan.

WAC 480-107-075 Contract finalization. (1) Unless otherwise prohibited by law, a utility may decide whether to enter into a final contract with any project bidder that meets the selection criteria of the RFP. Any bidder may petition the commission to review a utility's decision not to enter into a final contract.

(2) Any project bidder and utility may negotiate changes to the selected project proposal for the purpose of finalizing a particular contract consistent with the provisions of this chapter.

(3) The utility may sign contracts for any appropriate time period specified in a selected project proposal for up to a twenty-year term. The utility may sign longer-term contracts if such provisions are specified in the utility's RFP.

(4) If material changes are made to the project proposal after project ranking, including material price changes, the utility must suspend contract finalization with that party and rerank, and have the independent evaluator rerank when applicable, projects according to the revised project proposal. If the material changes cause the revised project proposal to rank lower than projects not originally selected, the utility must instead pursue contract finalization with the next ranked project.

WAC 480-107-135 Conditions for purchase of resources from a utility, a utility's subsidiary or affiliate. (1) The utility, its subsidiary, or affiliate may participate in the utility's bidding process. In these circumstances, the solicitation and bidding process will be subject to additional scrutiny by an independent evaluator, pursuant to WAC 480-107-

AAA Independent evaluator for large resource need or utility or affiliate bid, and the commission to ensure that no unfair advantage is given to the utility, its subsidiary, or affiliate.

(2) A utility, its subsidiaries or affiliates may not submit a bid unless the utility provides notice this may occur in the RFP.

(3) A utility must not disclose the contents of an RFP or competing project proposals to its own personnel involved in developing the utility's bid, or to any subsidiary or affiliate prior to such information being made public. The utility must include in the RFP and notice the methods used to assure that inappropriate information is tightly controlled and not communicated internally or with affiliates or subsidiaries.

WAC 480-107-145 Filings—Investigations. (1) The commission retains the right to examine project proposals as originally submitted by potential developers. The utility must keep all documents supplied by project bidders or on their behalf, and all documents created by the utility relating to each bid, for at least seven years from the close of the bidding process, or the conclusion of the utility's general rate case in which the fully-developed project was reviewed for prudence, whichever is later.

(2) The utility must file with the commission within 30 days of the conclusion of any resource RFP process a summary report of responses including, at a minimum:

(a) Specific reasons for any project rejected under WAC 480-107-035(6) Project ranking procedure.

(b) Number of bids received, categorized by technology type;

(c) Size of bids received, categorized by technology type;

(d) Number of projects received, categorized by technology type;

(e) Size of projects received, categorized by technology type; ~~and~~

(f) Median and average bid price categorized by technology type. Categorization should be broad enough to limit the need for confidential designation whenever possible;

(g) Number of projects located in highly impacted communities;

(h) Number of bids received by women, minority, or veteran-owned businesses;

(i) Number of projects received, categorized by ownership structures;

(j) Number of projects using labor standards identified in RCW 82.08.962 and RCW 82.12.962.

WAC 480-107-999 Adoption by reference. In this chapter, the commission adopts by reference all or portions of regulations and standards identified in subsection (1) of this section. The publication, effective date, reference within this chapter, and availability of the resources are as follows:

(1) Pacific Northwest Power Supply Adequacy Assessment as published by the Northwest Power and Conservation Council.

(a) The commission adopts the Pacific Northwest Power Supply Adequacy Assessment for 2023 published in 2018.

(b) This publication is referenced in WAC 480-107-015.

(c) Copies of Pacific Northwest Power Supply Adequacy Assessment for 2023 are available from the Northwest Power and Conservation Council at <https://www.nwcouncil.org/energy/energy-topics/resource-adequacy/pacific-northwest-power-supplyadequacy-assessment-for-2023>.