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Mark L. Johnson, Executive Director and Secretary
Washington Utilities and Transportation Commission
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Re: Docket U-161024: Comments of Puget Sound Energy on Commission Rulemaking for Integrated Resource Planning, Competitive Resource Acquisition by Request for Proposals (RFP), Chapter 480-107 WAC

Dear Mr. Johnson:

Puget Sound Energy (“PSE”) appreciates the opportunity to respond to the questions for consideration posed in this docket and submits the following comments in response to the request in the Washington Utilities and Transportation Commission’s (“Commission”) Notice of Opportunity to File Written Comments issued in Docket U-161024 (“Notice”) on December 31, 2018.

General comments

In previous comments, PSE asserted that an Independent Evaluator (IE) should, at most, serve an auditor role in the early stage design and development of the request for proposal (RFP) process. This role would allow an IE to participate in the RFP process but not hinder the existing Integrated Resource Plan (IRP) and RFP processes that work in harmony to allow a utility to be nimble in the market to acquire cost-effective resources for customers. This ability to move quickly to acquire resources is necessary as utilities reevaluate market reliance policies and face rapid technological change.

Unfortunately, the current proposed draft rules would disrupt the critical timing between the RFP and IRP cycles and reduce the ability of utilities to respond quickly to market conditions and policy changes. The proposed rules would layer on significant evaluation and approval processes to the existing rules, which will add unnecessary costs and disrupt the harmony of the IRP and RFP cycles. In particular, the broader role of the IE, the project ranking procedure, and the RFP approval and evaluation processes are components of the proposed draft rules creating these costs and timing obstacles.

For example, utilities in Washington generally conduct IRPs in two-year cycles. If an IRP shows a need within three years, the utility must file a draft RFP within 135 days of the IRP due date.

Stakeholders have 60 days to comment on the draft RFP after which time the Commission approves, rejects or modifies the RFP. The utility must solicit bids within 30 days of the RFP being approved by the Commission.

PSE has typically been able to conclude its RFP processes before the analysis stage begins in the next IRP. This process allows PSE to focus analytical resources, reduce costs, and provide flexibility to make cost-effective acquisition decisions for customers. PSE is concerned that the additional layers of process in these proposed rules, such as the proposed selection process for an IE (described further below), will eliminate the ability of the utility to complete the RFP prior to the start of the next IRP cycle. Since these processes work in together, the IRP process will not have the benefit of using the latest market feedback from a completed RFP.

PSE's Suggested Revisions or Clarifications to the December 31 Draft Rules

1. Proposed WAC 480-107-025 describes the contents that must be included in an RFP solicitation.

PSE supports the language in WAC 480-107-025(4) that would allow utilities to include a qualitative narrative explanation of the aspects of each criterion of an RFP that would result in a proposal receiving higher priority. This provision would provide utilities with flexibility to take into account aspects or characteristics that may satisfy a rigid metric but are not the right choice for customers or the utility for qualitative or other reasons. PSE generally opposes uniform or rigid scoring criteria because they do not take complexity into account when evaluating proposals nor allow for incorporating new learnings during the evaluation process that should be judged during the prudence process on their reasoning and rationale. Eroding utility flexibility to make reasoned decisions increases the potential for unintended consequences in the RFP process. The Commission should not require any process that would require utilities to blindly follow an evaluation system based on hard criteria.

2. Proposed WAC 480-107-AAA describes the role of an Independent Evaluator for Significant Resource Needs or Utility or Affiliate Bid.

WAC 480-107-AAA(1)(c) would require the utility to use an IE if an RFP accepts bids that result in the transfer of the project to the utility, its subsidiary, or an affiliate upon project completion. In today's market and into the foreseeable future, there are project developers who specialize in the front-end of development, seeking to sell their projects to others who have the resources and wherewithal to complete development, finance and construct the project. For these players, offering ownership to a utility may be their best opportunity. Indeed, PSE regularly receives unsolicited ownership proposals as part of its RFP process. Thus, as a practical reality, WAC 480-107-AAA(1)(c) would likely require a utility must use an IE to conduct any RFP.

WAC 480-107-AAA(2) would require utilities to design an RFP for an IE, consult with Commission staff, and subsequently seek approval for that IE by the Commission. Introducing a formal approval process for an IE increases time and complexity into an already compressed RFP schedule. PSE prefers that the utility select the IE in consultation with Commission staff

and notify the Commission of its choice. Further, the term “appropriate stakeholders” is an ambiguous term against which to be judged. PSE proposes the following changes:

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

WAC 480-107-AAA(4) would require the utility to give the IE full access to the utility’s production cost, risk, and other internal proprietary models. In addition to proprietary concerns, this requirement would significantly increase the costs and time to conduct an RFP. Simply providing access to a utility’s modeling software would not be sufficient for an IE to generate a quality report or evaluation. Modeling software (and the various inputs) are complex and would require several months (potentially a year) for an IE to completely grasp. PSE proposes the following changes:

*(4) The utility must ~~give the~~ **educate the** independent evaluator ~~full access to examine and test on~~ 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-AAA(5) outlines minimum requirements for an IE. PSE has concerns that (i) a few of these requirements are vague and should be removed and (ii) other requirements are beyond the scope of PSE’s preferred auditing role for the IE. Subsections (a), (b) and (c) describe an appropriate role for an IE (i.e., helping to formulate and audit an RFP and its processes). Subsections (d), (e), and (f) go beyond the scope of a proper auditing role, and PSE proposes they be removed. Inputs, assumptions, risks and scoring are elements that should be considered in a prudence proceeding, and having an IE attempting to evaluate and determine reasonableness of those elements could be viewed as a tacit pre-approval. In addition, these are further examples of requirements that could add considerable time and expense to conducting an RFP. PSE proposes the following changes:

~~(d) Verify that the utility’s inputs and assumptions, including capacity factors and capital costs, are reasonable;~~

~~(e) Evaluate the unique risks of each bid; and~~

~~(f) Assess whether the utility’s scoring of the bids and selection of the initial and final shortlists are reasonable.~~

WAC 480-107-AAA(6) would require the IE to prepare and submit initial and final reports to the Commission during the RFP process. PSE has two concerns with this section. First, the IE report should not include the IE’s reconciled rankings with utility because the proper role for the IE should not be to independently score proposals. Second, the final rules should make clear that any initial report remain confidential until the final report is released. PSE proposes the following:

(6) The independent evaluator will prepare an initial report to the commission at the conclusion of the bid evaluation 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.~~ (1) The initial report may be filed with the

*commission simultaneously with the final report, **but must remain confidential until the final report is made public.***

3. WAC 480-107-035 describes the procedures and criteria a utility must use in its RFP to evaluate and rank proposals.

PSE seeks clarification with changes to WAC 480-107-035(1) regarding Commission approval. Do the proposed changes require the Commission to separately approve a utility's procedures and criteria for evaluating and ranking proposals? Would this proposed change create a separate proceeding from the Commission's approval of the larger RFP as described in WAC 480-107-015(5)? If so, PSE would oppose the changes because they could significantly affect the timing and cost of an RFP. In addition, PSE would propose removing the proposed language regarding evaluation criteria because it is confusing and redundant with WAC 480-107-025(4). PSE proposes the following changes:

*WAC 480-107-035 Project ranking procedure. (1) The commission must approve the procedures and criteria the utility will use in its RFP to evaluate and rank project proposals. Evaluation criteria should be ~~standardized and applied equally to all bids and bidders~~ **consistent with WAC 480-107-025(4).***

PSE proposes an addition to WAC 480-107-035(2) that acknowledges IRP and RFP processes can use slightly different analytical tools and processes to reach a prudent outcome. For example, the RFP may receive a discounted proposal, or may have to move quickly to take advantage of an obvious market opportunity that would benefit customers. In those cases, the IRP analytical framework may hamstring or delay the ability of the RFP to act quickly. PSE proposes the following language at the end of this section that would provide the necessary flexibility for utilities to act quickly and prudently to take advantage of market opportunities.

*WAC 480-107-035(2)... and be consistent with the analytical methods developed in the utility's most recently acknowledged integrated resource plan **or prudent utility decision making.***

WAC 480-107-035(4) includes changes that are confusing and unnecessary. PSE opposes the IE and utility separately scoring and ranking qualified bids. It is unclear from the proposed redlines whether the contract between the utility and IE would allow for excluding a separate scoring and ranking. PSE proposes the following changes to reduce confusion and make clear the utility will consult with the IE.

WAC 480-107-035(4) ~~The utility and, when applicable as determined in the contract, the independent evaluator will separately score and produce a ranking of the qualifying bids following the RFP ranking criteria and methodology. If, as a result of unexpected contents in the bids, the utility, in consultation with the independent evaluator, deems it necessary to modify the ranking criteria, notification must be sent to all bidders describing the change and an opportunity must be granted to bidders that choose to subsequently modify submitted bids.~~

WAC 480-107-035(9) would require the utility to publically disclose its detailed rankings and results for all proposals. PSE has concerns that the proposed requirement to publicly disclose detailed rankings for all proposals and winning bid pricing and scores will have a chilling effect on

developers submitting proposals. Winning bid pricing and scores, in particular, should remain confidential to encourage more and better proposals. Disclosure of rankings for all proposals should remain consistent with subsection WAC 480-107-025(4). PSE proposes the following changes:

*WAC 480-107-035(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 ~~and the details of the winning bid pricing and scores.~~ **consistent with WAC 480-107-025(4).***

4. PSE supports the Commission staff's proposed changes to WAC 480-107-065 regarding acquisition of conversation and efficiency resources.

Conclusion

PSE appreciates the opportunity to provide responses to the questions for consideration proposed in the Commission's Notice of Opportunity to File Written Comments. Please contact Nate Hill at (425) 457-5524 for additional information about these comments. If you have any other questions, please contact me at (425) 456-2142.

Sincerely,

/s/ Jon Piliaris

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