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*Filed Via Web Portal*

Mark L. Johnson, Executive Director and Secretary  
Washington Utilities and Transportation Commission  
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Olympia, Washington 98504-7250

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COMMISSION

**Re: Docket UE-161024: Comments of Puget Sound Energy in Response to Rulemaking on Public Utility Regulatory Policies Act, Obligations of the Utility to Qualifying Facilities, WAC 480-107**

Dear Mr. Johnson:

Puget Sound Energy (“PSE”) appreciates the opportunity to respond to Notice of proposed rulemaking (CR-102) to implement the Public Utility Regulatory Policies Act (“PURPA”), and the obligations of utilities and qualifying facilities. From PSE’s perspective, the purpose of the various rules and processes being discussed here is to find an appropriate balance to ensure a transparent and efficient market so that customers do not overpay for resources and utilities can act in the best interest of protecting customers from decisions that lead to unjust, unreasonable or insufficient rates. PSE’s customers must be the ultimate beneficiaries of these processes and their benefits must be known and measurable as defined by existing statute. PSE appreciates the Commission including some of PSE’s previous suggestions into this latest draft, but continues to disagree with the Commission’s rationale that a simple cycle combustion turbine is the appropriate proxy for calculating the value of avoided cost of capacity of market purchases. PSE urges the Commission to adopt a more technology neutral approach.

PSE has been an active participant in this rulemaking docket over the past two years. On March 20, 2017, the Commission issued a Notice of Workshop and Opportunity to File Written Comments to consider whether additional revisions are necessary to rules in WAC 480-107 that outline a utility’s obligations under PURPA. In addition, workshops were set for May 17, 2017, and September 5, 2017.

On February 26, 2018, PSE filed a Joint Recommendation with other stakeholders in this docket<sup>1</sup> (the “Joint Recommendation”) that strikes an appropriate balance of customer protection and PURPA development.

On March 14, 2018, the Commission issued a Notice of Opportunity to File Comments on informal draft PURPA rules (the “March 14 Informal Draft Rules”). On April 13, 2018, PSE filed comments in response to such Notice (the “PSE April 13 Comments”). In the PSE April 13 Comments, PSE provided comments to informal rules that adhered to the principles outlined in the Joint Recommendation.

On May 14, 2018, the Commission held an additional workshop to discuss comments on the informal draft PURPA rules. In that workshop, the Commission requested that the participants provide comments on the Commission’s informal draft PURPA rules and provide a recommendation on the legally enforceable obligation (“LEO”) under PURPA. On May 21, 2018, the Commission issued a Notice of Opportunity to Submit Written Comments. On June 8, 2018, PSE filed comments in response to such Notice (the “PSE June 8 Comments”). In the PSE June 8 Comments, PSE provided comments on the Commission’s informal PURPA rules.

On September 6, 2018, members of the Commission’s rulemaking team facilitated a meeting with stakeholders to discuss how to identify in rule when a LEO occurs, including the minimum information that a qualifying facility should provide prior to a utility committing to sell power, and the conditions that would presumptively trigger a LEO.

On November 14, 2018, the Washington Utilities and Transportation Commission issued a Notice of Opportunity to File Written Comments, requesting comments on draft rules related to avoided cost pricing and qualifying facility contracts under PURPA (the “November 14 Draft Rules”). The November 14 Draft Rules propose revisions to WAC 480-107 and new rules identified as WAC 480-106. PSE submitted written comments on the November 14 Draft Rules on December 14, 2018.

PSE has participated in each step of this process and appreciates the opportunity to offer these additional comments in response to the Notice. PSE looks forward to continuing to engage with staff and other stakeholders to finalize draft rules that ensure a clear and consistent process for execution of contracts between utilities and qualifying facilities under PURPA.

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<sup>1</sup> Joint Recommendation Regarding Implementation of Public Utility Regulator Policy Act for Utilities and Qualifying Facilities, on behalf of Puget Sound Energy, Northwest and Intermountain Power Producers Coalition, Renewable Energy Coalition, Renewable Northwest, Northwest Energy Coalition, and Climate Solutions, Docket UE-161024 (Feb. 26, 2018).

**A. PSE's Suggested Revisions or Clarification to the proposed rules****1. Proposed WAC 480-106-040(1)(b) Proxy for planned market purchases.**

PSE continues to advocate that the Commission adopt a technology neutral proxy for calculating avoided costs. The current proposed language that uses a simple cycle combustion turbine as a proxy for calculating avoided costs would likely result in PSE customers overpaying for resources based on a faux capacity need. A simple cycle combustion turbine does not reflect existing market conditions that are long on both energy and capacity, as well as changing technologies for meeting capacity such as demand response, energy storage and others. PSE proposes a technology-neutral approach for calculating avoided costs based on an agreed upon planning standard in the utility's most-recent Integrated Resource Plan that better reflects market conditions.

*WAC 480-106-040(1)(b)(ii) Proxy for planned market purchases: If the utility's most recently acknowledged integrated resource plan identifies the need for capacity in the form of market purchases not yet executed, then the utility shall use ~~the projected fixed costs of a simple cycle combustion turbine unit as identified~~ a planning standard for market purchases developed and agreed to by its stakeholder advisory group and published in the integrated resource plan as the avoided capacity cost of the market purchases; and*

The methodology proposed by PSE in this revision is a more flexible standard that will allow for changes in the market over time. Simply stated, use of the cost of a simple cycle gas turbine peaking plant as a "proxy" for capacity value may have been adequate in the past when growth in demand was a given and the utility additions to meet such demand grown were generally large utility plants. Today, demand growth is not a given, and changes in the generation market have introduced a wider range of technologies with which a utility may meet its capacity needs. Requiring the use of the cost of a gas turbine peaking plant as a "proxy" for capacity value may or may not reflect the true costs of capacity given current and future conditions, and the Commission's rules should provide flexibility to allow a utility's avoided capacity costs to change with market conditions.

**2. Proposed WAC 480-106-030(2) Contracting procedures.**

PSE appreciates the Commission's proposed revisions to WAC 480-106-030(2)(b) to address concerns regarding establishing a legally enforceable obligation ("LEO") via contracting procedures. PSE finds the changes both satisfactory and superior to the existing process. PSE acknowledges that the establishment of an LEO is an amorphous concept. Although not perfect, the Commission's approach is workable.

**3. Proposed WAC 480-106-040(1) Schedules of estimated avoided costs.**

PSE would like to clarify a comment in the UTC Staff's response matrix regarding PSE's proposed edits to WAC 480-106-040(1). In responding to PSE's proposed revisions, Staff

commented that it prefers static avoided cost rates for projects 5MW or below. To be clear, PSE's proposed revisions to WAC 480-106-040(1) would apply solely to purchases from qualifying facilities that do not meet the requirements for standard rates, i.e. below five (5) megawatts. PSE acknowledges the need to establish static standard rates for purchases from qualifying facilities with capacities 5 megawatts or less. For qualifying facilities with capacities greater than 5 megawatts, however, the avoided costs should not remain static but should vary over time based on changes in market conditions and the location and unique operating characteristics of the qualifying facility in question.

An avoided cost methodology would provide better cost signals to qualifying facilities with capacities greater than 5 megawatts than a static avoided cost that would become quickly outdated or simply inapplicable to a given qualifying facility given its location or operating characteristics. Therefore, PSE respectfully requests that the Commission make the proposed revision to proposed WAC 480-106-040(1).

PSE proposed changes to proposed WAC 480-106-040(1) in the November 14 Draft Rules that would require utilities to file avoided cost methodologies in lieu of static avoided cost tariffs for projects above 5 megawatts:

*WAC 480-106-040(1)* A utility must file by November 1 of each year, ~~as a revision to its tariff described in WAC 480-106-030 Tariff for purchases from qualifying facilities,~~ a schedule of estimated avoided cost methodologies that identifies, both separately and combined, its avoided cost of energy and its avoided cost of capacity. All schedules of estimated avoided costs must include:

**4. Proposed WAC 480-106-040(1)(b):**

Proposed WAC 480-106-040(1)(b) would require utilities to identify the cost of avoided capacity based on the fixed costs of the next planned capacity addition that is identified in the utility's most recently *acknowledged* integrated resource plan (IRP). However, in subsection (i) of the Proposed Rules a utility is required to identify the projected fixed costs of its next planned capacity addition using the estimates in its most recently *filed* IRP, or based on the most recent project proposals received in a Rule 480-107 compliant request for proposals (RFP). Subsection (ii) then reverts back to the use of the utility's most recently *acknowledged* IRP with regard to market purchases for capacity. Before adopting final rules the Commission should correct this inconsistency, and adopt the use of information from the most recently *filed* IRP throughout.

Please contact Nate Hill at (425) 457-5524 or [nate.hill@pse.com](mailto:nate.hill@pse.com) for additional information or questions regarding this filing. If you have any other questions, please contact me at (425) 456-2142.

Sincerely,

*/s/ Jon Piliaris*

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