

ADOPTION HEARING MEMORANDUM

April 30, 2019

To: Chairman Dave Danner, Commissioner Ann Rendahl, and Commissioner Jay Balasbas
Cc: Mark Johnson, Executive Director
From: IRP Rulemaking Team
Re: IRP Rulemaking, Public Utility Regulatory Policies Act, and Obligations of a Utility to a Qualifying Facility, Docket U-161024

Recommendation

Commission Staff (Staff) recommends that the Utilities and Transportation Commission (commission) adopt Staff’s proposed edits to chapters 480-106 and 480-107 WAC, as published with the CR-102 and included as Attachment A to this memorandum. Staff recommends the following additional revisions to WAC 480-106:

1. WAC 480-106-030(2)(a) strike “must be memorialized” and replace with “will be considered”
2. WAC 480-106-030(2)(b) at the end of the paragraph add the following sentence, “In making its determination, the commission will recognize that the formation of a legally enforceable obligation is based on a qualifying facility committing itself to sell or part of its electric output to an electric utility”
3. WAC 480-106-040(1)(a) strike “fifteen” and replace with “twenty”
4. WAC 480-106-040(1)(b) strike “ten” and replace with “twenty”
5. WAC 480-106-040(1)(b)(i) strike “filed” and replace with “acknowledged”
6. WAC 480-106-050(4)(a)(i) after “contract execution” insert “or a legally enforceable obligation”

Background

On September 1, 2016, the commission filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to examine whether the commission’s rules in WAC 480-90-238, WAC 480-100-238, and WAC 480-107 related to the integrated resource plan (IRP) process and utility bidding processes should be revised to keep up with recent trends in the energy industry. On March 16, 2017, the commission issued a Notice of Workshop and Notice of Opportunity to Comment on the Public Utility Regulatory Policies Act (PURPA), Obligations of the Utility to Qualifying Facilities, WAC 480-107-105.

The commission hosted workshops to discuss PURPA on May 17, 2017 and May 14, 2018, and Staff facilitated an informal stakeholder discussion on legally enforceable obligations on September 6, 2018. The commission also solicited written comments from stakeholders three

times, including a Notice of Opportunity to submit written comments and Notice of Opportunity to Respond to Small Business Economic Impact Statement.¹

On February 20, 2019, the commission filed a Notice of Proposed Rulemaking (CR-102) with the Office of the Code Reviser. On February 22, 2019, the commission issued a Notice of Opportunity to File Written Comments on the Proposed Rules.

During the rulemaking phase, the commission proposed separating the rules pertaining to PURPA from the rules pertaining to requests for proposals. Therefore, the commission proposed a new PURPA-only chapter as WAC 480-106 and also revised WAC 480-107.

Stakeholder Comments

The commission received eight comments in response to the Notice of Opportunity to File Written Comments on the Proposed CR-102 Rules filed in the docket on February 22, 2019. The commenting parties include Avista Utilities, DGEP Holdings, LLC., the Northwest and Intermountain Power Producers Coalition and Renewable Energy Coalition, OneEnergy, Pacific Power, Puget Sound Energy, Renewable Northwest, and Sun2o Partners. The parties' comments are included as a summary of issues in Attachment B, including Staff's response.

Conclusion

Staff recommends that the commission adopt revisions to chapters 480-106 and 107 WAC, consistent with Staff's recommended changes, and as shown in Attachment A.

Attachments

A – WAC 480-106 with Staff's Recommended Edits

B – WAC 480-107

C – Comment Summary and Staff's Response

¹ March 16, 2017, March 14, 2018, and November 14, 2018.