



STATE OF WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION

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June 1, 2020

NOTICE OF OPPORTUNITY TO FILE WRITTEN COMMENTS
(By 5 p.m. on June 29, 2020)

Re: In the Matter of Amending, Adopting, and Repealing WAC 480-107, Relating to Purchases of Electricity, Docket UE-190837

TO ALL INTERESTED PERSONS:

On February 5, 2020, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) in Docket UE-190837 to update its purchases of electricity (PoE) rules in WAC 480-107.

Along with the CR-101, the Commission issued a Notice of Opportunity to File Written Comments for stakeholders to answer questions related to the PoE chapter and reference rules. Those rules were developed in the prior rulemaking docket, UE-161024, and issued in this docket, UE-190837. The Commission received comments from 11 stakeholders.

The CR-101, as filed with the Code Reviser, is available for inspection on the Commission's website at <http://www.utc.wa.gov/190837>. If you are unable to access the Commission's website and would like a copy of the CR-101 emailed to you, please contact the Records Center at (360) 664-1234.

ISSUE DISCUSSION

The draft rule has two notable components. First, it requires the use of an independent evaluator when the utility has a financial interest in choosing one or more resources to fulfill its identified resource need. Second, this rulemaking focuses on incorporating certain provisions required by the Clean Energy Transformation Act (CETA). Specifically, the draft rule includes language related to the equity provisions in CETA and elements addressing expanded bidder outreach and

process transparency. We note that there is no modification in this draft rule to WAC 480-07-110 (Exemptions from and modifications to commission rules; conflicts with other rules).

QUESTIONS FOR CONSIDERATION

The Commission requests feedback on the entirety of the draft rules, but specifically requests comments in response to the following questions. Stakeholders are encouraged to submit proposed edits to the draft rules as an attachment to their comments.

1. The draft rule at WAC 480-107-015(4), Solicitation Process, shortens the RFP filing period requirement from 135 days to 45 days after a utility files its IRP, reduces the 60-day comment period to 30 days, and requires a Commission decision 60 days after the RFP is filed. The intended outcome is to reduce the time between identifying the resource need and pursuing resources through an RFP. Does the draft rule contain adequate time for public involvement to assure that, in most circumstances, stakeholder concerns are resolved? If not, please recommend an alternative timeline for these filing requirements.
2. The draft rule at WAC 480-107-015(4), Solicitation Process, includes the requirement that the utility “must accept bids for a variety of energy resources that may have the potential to fill the identified resource needs including, but not limited to...” What burden does this requirement impose? What are the benefits or drawbacks of the rule providing that the utility “may accept bids”?
3. The “Contents of a solicitation” section of draft rule WAC 480-107-025(5) requires a sample evaluation rubric or, in the alternative, an explanation of the evaluation criterion. This requirement is intended to better enable bidders to design projects and bids that satisfy the resource needs as identified in the RFP. Does the draft language improve the transparency of the evaluation process? If not, please recommend an alternative approach or alternative components of the evaluation criterion that will provide the necessary transparency.
4. Comments received from stakeholders in this docket on March 13, 2020, presented a variety of options for determining when a utility should be required to use an independent evaluator. Several commenters recommend including a capacity threshold ranging from 20 MW to 100 MW.
 - a. Are there unintended consequences of using a capacity threshold in WAC 480-107-AAA to decide whether an independent evaluator will add value to the Commission’s review?

- b. If a capacity metric (*i.e.*, MW) is used in WAC 480-107-AAA(1)(a), what is the justification for requiring a capacity metric as a threshold for retaining an independent evaluator?
 - c. Should a metric(s) other than capacity be used in WAC 480-107-AAA(1)(a), in addition to financial interest, to decide whether or not the utility must use an independent evaluator? If so, what considerations should be used to determine the value of that metric.
5. The draft rule at WAC 480-107-135(1)(a) provides for the use of an independent evaluator when a utility has a financial interest in the resource choice, including when a utility is considering repowering one of its owned resources at the end of the resource's life to fulfill the resource need identified in the RFP. The draft rule requires that the repowering of the utility-owned resource be evaluated with the other responsive bids to the RFP. What are the benefits and drawbacks of this requirement?
6. Under certain circumstances, the draft rules at WAC 480-107-AAA require utilities to use independent evaluators, approved by the Commission, to assist in the evaluation and ranking of bids. What qualifications demonstrate that independent evaluators have the training or experience to appropriately weigh and consider CETA's equity provisions in their ranking of project bids?
7. In previous comments, stakeholders have requested various provisions for the consideration of minority-, women-, disabled- and veteran-owned businesses as bidders or subcontractors in utility RFPs. Please provide citations to existing federal, state, or local laws applicable to the requirements of utility RFPs related to minority-, women-, disabled- or veteran-owned businesses and how these affect the language in the draft rule.

WRITTEN COMMENTS

The Commission gives notice of the opportunity to submit written comments no later than **5 p.m., June 29, 2020**.

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 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 (Docket UE-190837).

- The commenting party's name.
- The title and date of the comment or comments.

The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <http://www.utc.wa.gov/190837>.

If you are unable to file your comments electronically the Commission will accept a paper document.

To receive future information about this rulemaking, please email records@utc.wa.gov and ask to be included on the email distribution list for Docket UE-190837. You may also receive further information on this rulemaking by:

- Calling the Commission's Records Center at (360) 664-1139
- Emailing the Commission at records@utc.wa.gov
- Mailing written comments to the address below

When contacting the Commission, please refer to Docket UE-190837 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE, Lacey, WA 98503.
P.O. Box 47250
Olympia, WA 98504-7250

If you have questions regarding this rulemaking, you may contact the staff lead Steve Johnson at 360.481.1573, or by email at steven.johnson@utc.wa.gov.

NOTICE

If you do not want to comment now, but would like to receive information about this rulemaking in the future, please notify the Executive Director and Secretary in one of the ways described above and ask to be included on the email distribution list for Docket UE-190837. If you do not do this, you might not receive further information about this rulemaking.

MARK L. JOHNSON
Executive Director and Secretary