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**RE: DOCKET NO. UE-131723 (I-937 rulemaking)
Comments of NW Energy Coalition and Renewable Northwest re
Renewables-Related Rules**

The NW Energy Coalition and Renewable Northwest submit the following comments in response to the Commission's April 9 Notice of Opportunity to File Written Comments regarding the Energy Independence Act (I-937, WAC 480-109) rulemaking.

NW Energy Coalition separately submitted comments on the rules related to conservation. For ease of reference, we have separated renewables and conservation comments into two documents. This document contains our joint comments on draft rules related to the renewables standard.

Staff's draft rules for renewables are a major step forward. They present an excellent starting point for creating clearer and more effective I-937 implementing rules. In the comments that follow, we suggest a few areas for additional refinement during the rulemaking process.

Our renewables comments are organized thematically, in the following order: **(1) reporting and review; (2) incremental cost; (3) incremental hydroelectric energy; and (4) miscellaneous.** Within each thematic section, we have combined our comments on the draft rules, our responses to the questions raised by the Commission's Notice, and any additional comments.

1. Reporting and Review

Staff's proposed rule amendments significantly clarify the timeline and content of reporting and review. We suggest one slight wording change to help clarify what we believe to be Staff's intention: throughout WAC 480-109-040, change the phrase "*the target year*" to "*that target year*" (emphases added).

To date, one of the most significant areas of confusion and disagreement in I-937 renewables implementation has been *which* target year the June 1 report is meant to cover. We understand Staff's proposed amendments to require that "every June 1, utilities must detail the resources the utility has acquired or contracted to acquire to meet its renewable resource obligation for" the target year commencing January 1 of the year in which the report is filed. (See proposed WAC 480-109-040(1) and 480-109-007(29).) Then, within two years of that report, the utility must submit a final compliance report to show actual WREGIS retirements for that target year. (Proposed WAC 480-109-040(6).)

We agree with this approach, and it may be that the proposed wording is clear enough. But, to reduce the risk of continued differing views of which target year is intended, we recommend either changing the phrase “*the* target year” to “*that* target year” (emphases added) throughout WAC 480-109-040—or, to be even more clear, adding to the end of proposed WAC 480-109-040(1) the phrase “commencing January 1 of the year in which the report is filed.”

2. Incremental Cost

Incremental cost calculation methodologies can be relatively complex, and Staff’s proposed rules make a good start at outlining a set of consistent expectations for those calculations. Staff outlines a logical, step-by-step process for the analysis. We support Staff’s effort to enhance the guidance in the WUTC rules in a manner aligned with the statute.

Here, we identify three points on which workshop discussion about the intent of the proposed rules would be helpful. We also respond to the question about integration costs on page 3 of the Notice.

First, we would like to confirm our understanding of Staff’s concept for incorporating capacity costs into the analysis. Capacity is mentioned in proposed WAC 480-109-040(2)(a)(v), and we want to be sure that Staff and parties are on the same page about the mechanisms available to identify the costs of acquiring equivalent energy and capacity.

Second, we would like to confirm how Staff’s proposal identifies the incremental cost associated with meeting the minimum renewables percentage for the year, as distinct from the cost of all renewables acquisitions. We think that proposed WAC 480-109-040(2)(a)(ix) is intended to capture the latter, and proposed WAC 480-109-040(2)(a)(x) the former. Discussion of this point would be helpful.

Third, proposed WAC 480-109-040(2)(a)(vii) introduces the concept of unbundled renewable energy credits for the first time. We assume that the following meaning is intended: when, at the time of purchase, the utility acquires *only* renewable energy credits and the customers on whose behalf it purchases those RECs do not receive any associated electricity in the transaction. In this situation, there will be a clear contract price for unbundled RECs that can be easily summed as proposed in new WAC 480-109-040(2)(a)(vii). So long as the rules maintain the incremental cost analysis for bundled purchases and add the REC cost only for unbundled purchases, this should not be a problem. But the Commission may wish to consider adding a definition of “unbundled” to avoid any future confusion.¹

¹ On the Commerce side of I-937 implementation, there is an emerging problem with how purchases of unbundled RECs versus bundled REC-power purchases are treated in cost calculations. In one case, a utility made a bundled purchase of power and RECs at an undifferentiated contract price, but because the underlying power was not used to serve its load, it has conceptualized the resulting compliance instrument as an “unbundled REC.” Determining the

Finally, we respond to the Commission’s question about determining integration costs. New or special methods for determining integration costs should not be created within I-937 rules. We recommend that integration costs be determined by reference to the integration costs approved for rate recovery in the utility’s most recent power cost case. Referring to the outcome of a power cost case is the best way to ensure that the integration costs in incremental cost calculations reflect what costs have actually been experienced in a time frame relatively near the target year. The alternative source of integration costs—utility integration studies associated with IRPs—may reflect anticipated future changes in integration costs over a longer term, but generally have not been vetted as rigorously and may not reflect the actual costs proved in a rate case for a single year close in time to the target year. On the other hand, if power cost cases are not filed annually and there is a period of years since the last power case that set cost recovery for renewables integration, an IRP integration study may become more appropriate on a case-by-case basis.

3. Incremental Hydroelectric Energy

For this topic, we begin by addressing the questions on pages 2-3 of the Commission’s Notice. We do not have the expertise in hydroelectric or climate modeling to be able to answer the Commission’s questions directly. However, we wish to make two points that relate to the questions posed.

First, we encourage the Commission to select a historical period that is sufficiently representative but balances the depth of historical representation with a recognition that climate modelers expect the Northwest’s hydrologic environment to change significantly over time. The third National Climate Assessment released this week advises the Northwest region of the following:

Changes in the timing of streamflow related to changing snowmelt are already observed and will continue, reducing the supply of water for many competing demands and causing far-reaching ecological and socioeconomic consequences.

By 2050, snowmelt is projected to shift three to four weeks earlier than the 20th century average, and summer flows are projected to be substantially lower, even for an emissions scenario that assumes substantial emissions reductions (B1).

(NCA Ch. 21: Northwest.)

Second, the Commission’s questions imply that incremental hydroelectric production must be measured from a baseline representing actual historic production. We support this conclusion. Alternatively, Method 1 holds the river discharge consistent with that experienced in the target year, and models production with pre-upgrade equipment. We

cost of that “unbundled REC” (if it can even be called that) in a consistent, fair manner is next to impossible. It would be more appropriate to determine which type of cost analysis to apply based on whether the original transaction was for a bundled or unbundled product.

are not certain that all incremental hydroelectric production approved to date has been evaluated against either an actual historical baseline or a Method 1 calculation, and would like to better understand if and when analysis to date may have deviated from those expectations. Relevant to this may be a discussion of proposed WAC 480-109-007(26), which defines the river discharge for purposes of Method 1 as “the total volume of water passing through, over and around” the facility. We would like to understand whether this is a significant change, or instead whether this is consistent with the evaluation of incremental hydroelectric energy that has been undertaken to date.

Several other elements of the hydro-related proposed rule amendments in WAC 480-109-020(7) caught our attention, and we note them in the following bullets:

- We support the rules *not* containing a guarantee that the WUTC will accept the results of the determination by a third-party seller’s I-937 compliance reviewer. The WUTC’s independent, transparent review under its own set of standards is important to successful implementation of the law.
- We support the proposed rules’ preference for Methods 1 and 2 except in exceptional cases where an exemption is granted.
- The rules do not make entirely clear Staff’s conclusion as to whether I-937 allows an apprentice labor multiplier for incremental hydroelectric energy from efficiency improvements. Proposed WAC 480-109-040(4)(a) states that the “eligible resource” commenced operation after 2005, and “eligible renewable resource” is defined in proposed WAC 480-109-007(11) as “incremental electricity produced as a result of efficiency improvements[.]” We would appreciate a discussion of how these two sections match up, and relate to the law. In our opinion, the law does not provide an apprenticeship credit multiplier for hydropower efficiency upgrades to hydropower facilities originally in service before 2005. The 1.2 multiplier for using apprenticeship programs during facility construction applies only when “the eligible renewable resource comes from a *facility* that commenced operation after December 31, 2005.” RCW 19.285.040(2)(h)(i)(A) (emphasis added). The term “facility” is most reasonably understood to be synonymous with the entire hydroelectric project. In that interpretation, the only instance in which a qualifying utility could use an apprenticeship multiplier in conjunction with a hydropower efficiency upgrade would be if the utility commenced operation of a new generation project, irrigation pipe or canal after December 31, 2005, and in a future year improved the efficiency of that project. In addressing this issue, the Commission will need to interpret the terms generation “facility” versus “project.” Both terms are used in RCW 19.285 and WAC 194-37, but neither is defined. Appropriate guidance could come from the Low Impact Hydropower Institute’s Certification Handbook, which contains a definition of facility that indicates that an entire dam would constitute a “facility” and several dams (“facilities”) may work together to form a

“project.”² Interpreting the term “facility” so narrowly as to encompass only efficiency upgrades to an existing dam that commenced operations long before 2005 would run counter to normal industry usage. While use of apprentice labor should be encouraged, we find that applying the apprentice labor multiplier to hydroelectric efficiency upgrades would require an excessively strained reading of the Act.

4. Miscellaneous

(a) Support measurement of emissions intensity in connection with I-937 filings

We commend the Commission for posing questions, on pages 3-4 of the Notice, about how it can measure I-937’s success in meeting the state’s environmental goals. We support extending the Commission’s role beyond review of compliance with the requirements of the Act, toward an assessment of how the utilities’ chosen methods of achieving those requirements are affecting greenhouse gas emissions. Analysis performed in connection with the Climate Legislative and Executive Workgroup process identified I-937 as the state’s most effect policy, by far, at reducing greenhouse gases.³ Governor Inslee’s recent Executive Order 14-04 establishes a clear focus on reducing the state’s carbon emissions reductions, and the Commission is right to find ways to increase our understanding of how existing policies are reducing those emissions. We look forward to further discussion with all parties of exactly which metrics are most accessible and revealing as to progress on reducing carbon emissions.

(b) Question placement of co-firing definition

The definition of “renewable resource” in proposed WAC 480-109-007(24) should not be modified to include co-firing. We recommend placing the co-firing provision in WAC 480-109-020. Placing this new subsection (i) in the definition of renewable resources appears inappropriate. Renewable resources are defined according to fuel source (e.g., solar, wind, water), yet the reference to co-firing focuses on generation facilities. This provision seems more appropriate for inclusion in the substantive rules rather than within the definition of renewable resources as it is simply clarifying that a utility may count toward the renewable standard the electricity produced from an eligible renewable resource (such as biomass) that is co-fired with non-eligible resources. The act of co-firing is not a renewable resource.

(c) Address any differences between report to Commission and report to Commerce or summary report to customers

² LIHI Certification Handbook, Part VII.C (“Definitions”), page 35, *available at* [http://www.lowimpacthydro.org/assets/files/LIHI%20HandbookDecember%202011\(1\).pdf](http://www.lowimpacthydro.org/assets/files/LIHI%20HandbookDecember%202011(1).pdf).

³ State of Washington Climate Executive Workgroup (CLEW), Evaluations of Approaches to Reduce GHG Emissions in Washington State, October 14, 2013 www.governor.wa.gov/issues/economy/climateWorkgroup/documents/Task_4_Final_Report_10-13-2013.pdf

The rules do an excellent job of clarifying what the Commission needs to see, and when, to perform its review function. Parties may wish to consider whether the rules should acknowledge that different or summary content be provided according to Commerce's statewide reporting template and that a format appropriate for posting to customers on the utility's website may be necessary.

(d) Support REC bifurcation language

We appreciate the codification of the Commission's decision on multiplier-REC bifurcation in proposed WAC 480-109-020(4). The language in the proposed rules appears consistent with the Commission's decision.

(e) Question added value of qualifying WAC 480-109-020(1) with "two-year"

The statute already defines load specifically with reference to the average loads of the two prior years. We question the added value of adding this phrase in the above-referenced section.

(f) Support amendment to WAC 480-109-030

We strongly support the proposed amendment to the first sentence of WAC 480-109-030, which further increases clarity around the core principle that alternative compliance mechanisms are available to lessen, but not eliminate, the requirement to deliver renewable energy or retire RECs on behalf of customers.

(g) Support new rule addressing multi-state allocations

We appreciate the new proposed WAC 480-109-040(e), which requires clear documentation that RECs and MWhs have been allocated consistently with ratemaking practices.

5. Conclusion

We appreciate the work that Commission staff has put into crafting a set of clear, effective draft amendments. We look forward to discussing the draft with all parties at the workshop on May 15.

Sincerely,

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