**UTC Comment form for Energy Independence Act Rulemaking, WAC 480-109, Docket UE-131723**

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Comments on behalf of Pacific Power & Light Company

The following tables contain Pacific Power’s comments and suggested revisions to the specific WAC sections, along with its rationale for the suggested revision.

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| Comment 1 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-007 | Several terms that are defined in RCW 19.285 are repeated in the draft. For instance:  Commission  Conservation  Customer  Department  Distributed Generation | Please remove all repetitive definitions | There was no explanation relative to why certain definitions were replicated in the WAC revisions.  As noted in the December 2, 2013 comment summary, it is not efficient or useful to replicate RCW definitions in the WAC. |

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| Comment 2 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-007 | (6) “Cost-effective" means, consistent with RCW 80.52.030, that a project or resource is forecast:  (a) To be reliable and available within the time it is needed; and  (b) To meet or reduce the electric power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof. | Remove (a) and (b) | There was no explanation provided as to why the additional language is needed in rules. Pacific Power believes it is unnecessary, as this repeats RCW 80.52.030(7)(a) & (b). |

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| Comment 3 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-007 | 1. “Pro rata” means the   calculation dividing the utility’s projected ten-year conservation potential into five equal proportions to establish the minimum biennial conservation target. | Do not change the existing WAC language. | There was no explanation provided for this change and the calculation is inconsistent with methodologies used by the Council in the development of the 6th Regional Power Plan. The calculation is too simplistic in that it does not recognize the differences in availability of resource potentials within the forecast period (i.e. lost opportunity verses discretionary), the rate at which emerging technologies become available in the market, or the barriers to ramping up in hard-to-reach markets. |

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| Comment 4 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-007 | 1. “Single large facility conservation savings” means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a utility whose recent annual electricity consumption prior to the conservation savings exceeded five average megawatts. | “Single large facility conservation savings” means cost-effective conservation savings achieved in a single biennial period at the premises of a single customer of a utility whose annual electricity consumption prior to the conservation savings exceeded five average megawatts. | Remove “recent”, as it alters the wording of the statute.  The “Proposed Text” restores the wording of the rule to that of HB 1643. |

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| Comment 5 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-010 (1)(b) | This projection must be derived from the utility's most recent IRP, including any information learned in its subsequent resource acquisition process, or the utility must document the reasons for any differences. When developing this projection, utilities must use methodologies that are consistent with those used by the council’s Sixth Northwest Conservation and Electric Power Plan. | This projection must be derived from the utility's most recent IRP, including any information learned in its subsequent resource acquisition process, or the utility must document the reasons for any differences. When developing this projection, utilities must use methodologies that are consistent with those used by the council’s most recent Northwest Conservation and Electric Power Plan, meaning specifically that utilities must utilize the following approach in developing the potential:              (i) Technical Potential:  An estimate of the amount of conservation potential available without regard to market barriers;              (ii) Achievable Potential:  The subset of Technical Potential the utility could expect to achieve given market barriers;              (iii) Economic Potential:  The subset of Technical Potential that is cost effective.              (iv) Avoided energy portfolio costs must reflect the 10% credit from the Northwest Power Act | There was no explanation for the revised “Current Text”. The proposal does not indicate a gain in efficiency or practical application of the rule.  The Current Text supports Pacific Power’s assertion that conditions, developed collaboratively on a biennial basis, rather than permanent rules, be maintained.  As presented, the WAC will need to be updated every time the Council updates the power plan.  If needed, the “Proposed Text” clarifies the Council methodology and eliminates the inefficiencies of requiring regular rulemaking procedures. |

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| Comment 6 | | Current Text | | Proposed Text | | Rationale for proposed change |
| Regarding WAC 480-109-010(1)(c) | | The projection must include a list of each measure used in the potential, its unit energy savings value, and the source of that value. | | The projection must include a list of each measure category used in the potential. | | There is no explanation for how this rule change would be effective in improving the practical implementation of the EIA, nor does it explain the rationale for the revision.  Currently the company provides extensive detail on end uses, unit energy consumption, unit energy savings and data sources in the CPA (Appendices B&C). Appendix C-6 provides a Washington specific explicit comparison between CPA and regional savings values. The BCP filing includes the CPA as an Appendix.  In addition, the company provides an Appendix in our BCP that shows which measures were selected by the IRP for the current biennial period.  The information provided in the BCP and CPA illustrates that a robust all sector CPA utilizes more than UES values (contextually described in the proposed rules as savings per piece of equipment). CPA’s also incorporate energy savings per building, per sq. ft., per linear foot of refrigerated case, as a percent of end use by industry, etc.  While the proposed obligation generated by the new rules may be able to be satisfied by re-configuring or re-arranging the existing work, it may also require additional detail in the form of access to third party models or work papers which could increase costs.  If needed, the “Proposed Text” is more practical. |
| Comment 7 | Current Text | | Proposed Text | | Rationale for proposed change | |
| Regarding WAC 480-109-010 (2)(b) | The biennial conservation target must be no lower than a pro rata share of the utility’s ten-year cumulative achievable conservation potential. | | The biennial conservation target must be no lower than a pro rata share of the utility’s ten-year cumulative achievable conservation potential. Each utility must fully document how it prorated its ten-year cumulative conservation potential to determine the minimum level for its biennial conservation target. | | See Pacific Power’s rationale for proposed change – Comment 3. The full description in the Proposed text here is needed if no change is made to the Pro rata definition. | |

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| Comment 8 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-010 (3)(b) | The plan must outline the extent of public participation in the development of the ten-year conservation potential and the biennial conservation target | Do not change the existing WAC language. | There is no explanation of how the revision of this rule is necessary to maximize the efficiency and practical implementation of the EIA. |

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| Comment 9 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-010(4)(a)(ii)  and  WAC 480-109-(4)(a)(iii)  And their associated sub-parts | Develop a conservation portfolio that includes all available, cost-effective, reliable, and feasible potential, as well as pilot programs that are not yet proven to be cost-effective.  and  Implement conservation programs identified in the portfolio to the extent that programs remain cost-effective, reliable, and feasible. | Delete parts (ii) and (iii) of Section 4, as they are not needed to enhance the practical implementation of the EIA. | There is no explanation as to the reason for the additional language and the additions are not necessary to maximize the efficiency and practical implementation of EIA.  Aspects of the language in the subparts are confusing and possibly contradictory, such as in (4)(ii)(B): “A utility’s conservation portfolio must contain programs that are not included in the biennial conservation target and are available, cost-effective, reliable, and feasible”.  Pacific Power is concerned that the added language crosses over the line from the requirement under RCW 19.285.040 and 19.285.070 for a utility to identify its achievable ten-year cost-effective conservation potential and establishment of a biennial target to stating how a utility must acquire those resources. By indicating that a utility “must develop” and “must implement” the specifics outlined in (4)(ii) and (iii), the rule would remove an essential element of a utility’s advisory group engaged in the collaboratively-developed and vetted condition that indicates that a utility has the authority and sole responsibility to run its conservation programs with the necessary flexibility and transparency in order to meet the Commission-approved target. If enacted, the utility would run programs required by the Commission however it’s unclear whether it would remove a utility’s responsibility for prudent spending of ratepayers’ funding.  There are also new terms introduced throughout the subparts that are undefined; for instance, “practical uptake”, “collaborative technical activities”, and “collaborative promotional activities”. It is not apparent how such subjective language leads to a more efficient and effective implementation of EIA.  Lastly, there should not be a requirement to include pilot programs in the portfolio. Pilot programs should only be pursued if there is a chance for cost-effectiveness or to provide the market viability of a new technology. If there’s a new technology that is proven and feasible, it may be added to the portfolio without needing to go through a pilot phase. It is unclear how this requirement would increase efficiencies and the practical implementation of the EIA. |

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| Comment 10 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-010 (4)(b)(iii) | code enforcement | None-delete subpart (b) list | It is not clear why this language was added to the WAC proposed revision, relative to how it will increase the effectiveness of EIA implementation.  Since code enforcement is a function of government entities, this subpart should be stricken from the revision. |

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| Comment 11 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-010 (5) | A utility retains the responsibility to demonstrate the prudence of all conservation expenditures, as required by RCW 19.285.050(2). | A utility retains the operational authority and ultimate responsibility for meeting the biennial conservation target. A utility must demonstrate the prudence and cost-effectiveness of its conservation programs to the Commission after the savings are achieved, as required by RCW 19.285.040(1)(d) and RCW 19.285.050(2). | No rationale was provided on how the “Current Text” will maximize the practical application of the EIA.  The “Proposed Text” reinstates the concept of a utility’s operational authority and emphasizes why the prescriptively-oriented terms in the proposed revisions to 480-109-010(4)(a)(ii) and (iii) are inappropriate. |

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| Comment 12 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-010 (8) | A utility must evaluate all types of conservation using cost-effectiveness tests consistent with those used by the council, except low-income conservation programs.  (a) Low-income conservation programs should be evaluated for cost-effectiveness using the Savings-to-Investment Ratio, as described in the department’s Weatherization Manual For Managing the Low-Income Weatherization Program.  (b) Low-income conservation programs may be excluded from portfolio-level cost-effectiveness calculations. | A utility must evaluate all types of conservation using the TRC test as modified by the Council. | There is no explanation of how the revision of this rule is necessary to maximize the efficiency and practical implementation of the EIA.  The company understands the challenges in delivering low income conservation under the current cost-effectiveness evaluation criteria however until a review of the possible ramifications of this change can be conducted and addressed the company believes its prudent to continue to apply the same cost-effectiveness tests to all programs to ensure compliance with RCW 19.285. |

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| Comment 13 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-AAA  All sections and subparts | Conservation advisory group | None-not needed | There is no explanation as to how the “Current Text” will increase the efficiency of the EIA implementation.  This section is partly transferred from the biennial conditions, with new conditions added.  It is recommended that this section be deleted, allowing the requirement to reside in the biennial conditions, thus allowing maximum flexibility for all stakeholders and the ability for further modifications, as needed, to be made over time. |

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| Comment 14 | Current Text | Proposed Text | Rationale for proposed change |
| Regarding WAC 480-109-BBB  All sections and subparts | Conservation reporting | Delete section | It is unclear as to how this new section will increase the efficiency of EIA implementation.  This transfer and modification of selected biennial conditions is duplicative in some cases, mixes the reporting requirements and intent of separate reports, and introduces some timeframes that conflict with established filing requirements.  Memorializing conditions that are collaboratively developed and vetted by the advisory groups into rigid rules is inadvisable as it removes the ability to adaptively manage these conditions over time as the need arises.  It is recommended that the entire BBB section be stricken. |

Additional Utility Comments

Regarding the question posed in the UTC’s April 9, 2014 Notice of Opportunity to File Written Comments memo:

*Measuring progress across reporting periods*

*The Commission’s rules require the reporting of biennial conservation achievement and annual renewables achievement relative to targets, but do not assess the utilities’ broader progress in meeting the EIA’s policy to “increas[e] energy conservation” and “protect clean air and water.”[[1]](#footnote-1) The reports could be enhanced to reflect the statutory policy by including basic metrics that monitor reductions of load or emissions in utility service territories across reporting periods.*

Pacific Power believes that these metrics are unnecessary, as the metrics required of the utilities are already enumerated in RCW 19.285. Additionally, the metrics mentioned in the question omit other key items noted in RCW 19.285.020. Lastly, any statewide metrics should be performed by the Department of Commerce, rather than the UTC. If enacted, such metrics would place unnecessary and burdensome requirements on the utilities.

1. RCW 19.285.020. [↑](#footnote-ref-1)