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UTILITIES AND TRANSPORTATION
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I-937 Technical Working Group

Analytic Guidance: Hydrovolts – electric generation powered by fresh water

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Ms. Holmes:

In October 2011, Hydrovolts submitted an inquiry to Commerce seeking interpretation on whether electric generation from equipment installed in irrigation canals and ditches, powered by fresh water, qualifies as an eligible renewable resource under the Energy Independence Act (EIA). Hydrovolts is a renewable energy company developing small-scale turbines designed to generate < 10 kW that can be deployed into irrigation canals (usually fresh water).

The interagency Technical Working Group (TWG) met on November 3, 2011 and again on January 3, 2012 to discuss your inquiry. **Based on the information provided by Hydrovolts, the TWG offers the following opinion:** *It is unclear whether new generation projects installed in irrigation canals and ditches qualify as an eligible renewable resource. It is clear that generation from incremental improvements to existing projects do qualify as an eligible renewable resource.*

Relevant sections of the Energy Independence Act, RCW 19.285.030

(10) *“Eligible renewable resource” means:*

(a) Electricity from a generation facility powered by a renewable resource other than freshwater that commences operation after March 31, 1999, where: (i) The facility is located in the Pacific Northwest; or (ii) the electricity from the facility is delivered into Washington state on a real-time basis without shaping, storage, or integration services; or (b) Incremental electricity produced as a result of efficiency improvements completed after March 31, 1999, to hydroelectric generation projects owned by a qualifying utility and located in the Pacific Northwest or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest, where the additional generation in either case does not result in new water diversions or impoundments.

(18) *“Renewable resource” means:*

(a) Water; (b) wind; (c) solar energy; (d) geothermal energy; (e) landfill gas; (f) wave, ocean, or tidal power; (g) gas from sewage treatment facilities; (h) biodiesel fuel as defined in RCW

82.29A.135 that is not derived from crops raised on land cleared from old growth or first-growth forests where the clearing occurred after December 7, 2006; and (i) biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include (i) wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; (ii) black liquor by-product from paper production; (iii) wood from old growth forests; or (iv) municipal solid waste.

TWG Response

The defining language for "hydroelectric generation in irrigation pipes and canals" is found in RCW 19.285.030 (10) (b). This single sentence defining "eligible renewable resource" includes "generation in irrigation pipes and canals" and "incremental electricity produced as a result of efficiency improvements." In a very literal read of this sentence, the TWG could not conclude that the reference to "generation in irrigation pipes and canals" could be separated from the section detailing "incremental electricity produced as a result of efficiency improvements."

Based on the information provided by Hydrovolts, and the relevant language in the EIA, the TWG provides the following opinion: It is unclear whether new generation projects installed in irrigation canals and ditches qualify as an eligible renewable resource. It is clear that generation from incremental improvements to existing projects do qualify as an eligible renewable resource.

Hydrovolts may wish to consider working with the legislature to provide clarifying language in the law or seek review of this section, through a formal declaratory order from the Utilities and Transportation Commission (UTC).

The TWG offers analytic guidance to provide more clarity on issues related to I-937; however, the guidance does not represent pre-qualification under I-937, nor does it represent a legal opinion. This guidance contains staff opinions based solely on facts presented in your letter and assumes those facts to be true and correct. Agency staff reserve the right to change their opinion should additional information come to their attention. These views are solely those of agency staff and cannot be considered binding in any formal proceeding on this matter. It is incumbent on the stakeholder using this process to make their case to the State Auditor or UTC, as appropriate.

If you have questions, please contact Meg O'Leary at meg.oleary@commerce.wa.gov or (360) 725-3121.

Thank you,



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