

May 18, 2007

**VIA ELECTRONIC FILING**

Ms. Carole J. Washburn, Executive Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Drive SW  
Olympia, WA 98504-7250

**Re: Docket UE-061895  
Comments on Rulemaking to Implement Initiative Measure No. 937**

Dear Ms. Washburn:

In response to the Commission's March 30, 2007 Notice of Opportunity to File Written Comments, BP Alternative Energy North America Inc. ("BP Alternative Energy") hereby submits these comments on the issues discussed at the March 26, 2007 workshop with respect to the March 14<sup>th</sup> draft of new Chapter 480-109 WAC ("Draft Rules"), implementing Initiative Measure No. 937 (RCW 19.285.040(1)(c)).

**Background Regarding BP Alternative Energy**

BP was one of the first major energy companies to publicly acknowledge the need to reduce carbon emissions. BP Alternative Energy was formed in November 2005 to provide low and zero-carbon electricity from solar, wind, hydrogen and natural gas-fired power generation. We focus on power because the plants that generate electricity are the main source of the world's carbon dioxide emissions, producing twice as much as the transport sector. And with over two-thirds of the power capacity needed in 2020 still to be built, there is a big opportunity now to create a new, low-carbon power industry.

In 2006, BP Alternative Energy made significant investments in wind development. In July, we entered into a strategic alliance with Clipper Windpower for a long-term turbine supply and joint development of five wind power projects in the U.S. In August, we acquired Greenlight Energy, Inc., a U.S.-based developer of wind power generation with some 39 potential projects, and in December of last year, we announced the acquisition of Orion Energy, LLC, a leading U.S. developer of large-scale wind energy projects. Over the next 10 years, BP Alternative Energy will invest at least \$8 billion in solar, wind, hydrogen power with carbon capture and storage and natural gas-fired power technology and projects with \$1.8 billion due to be spent by 2008. By 2015, we expect to have reduced projected greenhouse gas emissions by 24 million metric tons a year – an amount roughly equivalent



to make Chicago a carbon-free zone.

In Washington, BP Alternative Energy is developing a natural-gas fired cogeneration facility to be located adjacent to BP's Cherry Point refinery north of Bellingham in Whatcom County. The facility under consideration would generate some 550 megawatts (MW) of electricity, a portion of which (about 100 MW) would be used at the refinery, with the remainder sold into the market. The cogeneration facility is expected to meet the requirements for "high-efficiency cogeneration" under RCW 19.285.040(1)(c), which has led to BP Alternative Energy's keen interest in the Draft Rules.

### Overview of Comments

RCW 19.285.040(1)(c) provides in relevant part that:

In meeting its conservation targets, a qualifying utility may count high-efficiency cogeneration owned and used by a retail electric customer to meet its own needs.

BP Alternative Energy believes that RCW 19.285.040(1)(c) should be interpreted and implemented in a manner that encourages the development of high-efficiency cogeneration within the State of Washington. To that end, we believe that the Draft Rules should:

- clarify the interpretation of RCW 19.285.040(1)(c) with respect to the sizing of high-efficiency cogeneration facilities; and
- define the standards for determining whether high-efficiency cogeneration qualifies as conservation counting toward a utility's biennial conservation target.

According to the March 30 Notice in this docket, the Commission requests that we assign our issues in this proceeding to one of three categories:

1. Regulatory issues best dealt with in adjudications or other fact-specific decision making processes;
2. Regulatory issues best dealt with in rules but that do not need immediate Commission action; and
3. Regulatory issues for which near term Commission action is needed so that utilities may properly implement the statute.



Our comments are presented below within these categories.

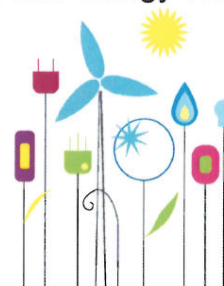
## Proposed Revisions to Draft Rules

### 1. Regulatory Issues for Which Near-Term Commission Action is Needed

Three separate issues should be clarified in rules adopted by the Commission, and prompt action is necessary so as not to delay the possible development of high-efficiency cogeneration in Washington.

First, it should be clarified in rules that use of the term "to meet its own needs" does not act as a limitation on the size of the cogeneration facility to be installed. Rather, these words are definitional, *i.e.*, they clarify that the purpose of installing the facility is to provide energy for the customer's own use. That being said, this purpose is served by installation of a unit that may be greater in size than the customer's load. In fact, it would likely be inefficient to limit the size of a facility so as not to exceed the customer's load. For example, a cogeneration facility that is sized to meet a 100 MW host load would cost upwards of 50% to 60% more per installed kilowatt than a 550 MW cogeneration development. Most of the site preparation costs are the same in both developments which, without the ability to capture economies of scale, might actually have the opposite result from what was intended by RCW 19.285.040(1)(c) by making the development of high efficiency cogeneration facilities in Washington State cost prohibitive. Given that the objective of RCW 19.285.040(1)(c) is to encourage conservation and energy efficiency in part through the development of high-efficiency cogeneration, it would be inconsistent with that objective to interpret the statute in a manner that (i) thwarts development of high-efficiency cogeneration by disqualifying efficiently and economically sized units, or (ii) reduces the benefits of high-efficiency cogeneration by requiring the installation of smaller, less efficient facilities.

Second, some concern was expressed at the workshop that interpreting RCW 19.285.040(1)(c) in a manner allowing larger high-efficiency cogeneration units may result in utilities undertaking less conservation, as the use of high-efficiency cogeneration to count toward a conservation target would "displace" a utility's conservation activities. In our view, however, a utility's conservation target should be established in a manner that evaluates the entire spectrum of economic energy efficiency and conservation measures, which includes the potential for additional high-efficiency cogeneration in a utility's service territory. If the conservation target takes into consideration the high-efficiency cogeneration potential in a utility's service territory, the utility will have an incentive to evaluate and encourage the development of this highly energy efficient resource. Moreover, such a consideration would not necessarily displace economic demand side energy conservation



measures towards the conservation target, but would enhance the overall energy efficiency in Washington State.

Third, the term "retail electric customer" may need to be clarified to include customers that receive either bundled transmission and commodity service or unbundled transmission service. The BP refinery at Cherry Point, for example, is served by Puget Sound Energy (PSE) under PSE's Schedule 448, which is transmission-only service that permits customers served under that schedule to secure the electricity commodity from suppliers other than PSE. Whether a customer takes transmission-only or bundled transmission and electricity from a utility, it is a "retail electric customer" for purposes of RCW 19.285.040(1)(c). Disqualifying transmission-only customers from the provisions of RCW 19.285.040(1)(c) would be an unintended and unwarranted limitation, and would be inconsistent with the objective of encouraging the development of high-efficiency cogeneration in Washington.

BP Alternative Energy suggests the following language for the Draft Rules to clarify these issues:

Amend subsection (1)(a) in WAC 480-109-010 of the Draft Rules as follows:

(a) This projection need only consider conservation resources that are cost-effective, reliable and feasible. Conservation resources shall include the potential for high-efficiency cogeneration within each utility's service territory.

Insert new subsection (2)(b) in WAC 480-109-010 of the Draft Rules following WAC 480-109-010(2)(a):

(b) The biennial conservation target shall be adjusted, as necessary, to reflect the inclusion of high-efficiency cogeneration located within each utility's service territory. In order for a utility to count high-efficiency cogeneration to meet its conservation target, the utility must provide retail electric service (either transmission-only or bundled electric service) to the customer owning or using high-efficiency cogeneration. In calculating the reduction in load due to high-efficiency cogeneration under RCW 19.285.040(1)(c), the quantity to which the ratio calculated in (i) of that section is applied shall not be limited to the customer's own load.

Existing subsection (2)(b) in WAC 480-109-010 would be renumbered to subsection (c).



## 2. Regulatory Issues not Needing Immediate Commission Action

The Commission solicited comments prior to the March 26 workshop on the issue of the process to be followed for determining whether high-efficiency, customer-owned cogeneration qualifies as conservation counting toward a utility's biennial conservation target. The language in the statute provides sufficient guidance as a general matter to determine eligibility of a particular high-efficiency cogeneration facility. Thus, this is not an issue that requires immediate Commission action, as a delay would serve only to deter the development of high-efficiency cogeneration in Washington.

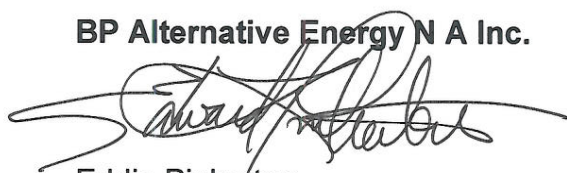
As an intermediate term action, however, the Commission should specify standardized assumptions for calculating the "best commercially available technology combined-cycle natural gas-fired combustion turbine" for purposes of RCW 19.285.040(1)(c). That should be done in a subsequent phase of this rulemaking. With respect to the application of the high-efficiency cogeneration offset under RCW 19.285.040(1)(c) in specific circumstances, that should be the subject of a fact-specific decision making process, since it will depend on the characteristics of each particular installation.

### Conclusion

BP Alternative Energy appreciates this opportunity to participate in shaping the implementation of I-937, and intends to continue to participate in subsequent workshops and rounds of comments in this rulemaking process. Please feel free to contact the undersigned, directly at (713) 354-2156, if the Commission or its policy staff has any questions with respect to these comments or would like to discuss them further. Thank you for your consideration of these comments.

Very truly yours,

**BP Alternative Energy N A Inc.**



Eddie Pinkerton  
Director, Business Development  
Power Americas

