



## PUBLIC UTILITY DISTRICT NO. 1 *of* CHELAN COUNTY

P.O. Box 1231, Wenatchee, WA 98807-1231 • 327 N. Wenatchee Ave., Wenatchee, WA 98801  
(509) 663-8121 • Toll free 1-888-663-8121 • [www.chelanpud.org](http://www.chelanpud.org)

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Liz Klumpp  
Washington Department of Community,  
Trade and Economic Development  
PO Box 43173  
Olympia, WA 98504-3173  
e-filed to [carolees@cted.wa.gov](mailto:carolees@cted.wa.gov)

Dear Ms. Klumpp:

Public Utility District No. 1 of Chelan County (Chelan PUD) appreciates this opportunity to comment on the Washington Department of Community, Trade and Economic Development's (CTED's) notice of opportunity to file written comments regarding the implementation of the Energy Independence Act (RCW 19.285), commonly known as Initiative No. 937 ("Initiative").

### I. Introduction

Using the format suggested by CTED, Chelan PUD's comments focus on four critical issues:

- a) Definition of incremental hydropower. *RCW 19.285.030(10)(b)*
- b) Consideration of production and distribution conservation measures. *RCW 19.285.030(4)* and *19.285.040(1)(a)*.
- c) Consideration of "reliable and feasible" in identifying cost-effective conservation targets. *19.285.040(1)*.
- d) Evaluation of the cost of incremental eligible resources. *19.285.050(1)(b)*.

One general comment applies to each of these four issues. Under Section 8 of the Initiative, CTED's rulemaking authority regarding consumer-owned utilities is more limited than the authority of the Utilities and Transportation Commission (Commission) regarding investor-owned utilities in two important respects. First, CTED's authority regarding consumer-owned utilities is limited to "rules concerning only process, timelines, and documentation...", a constraint that does not apply to the Commission's authority. Second, CTED's authority is limited to "implementation of this chapter...", while the Commission's rulemaking authority extends to "implementation **and enforcement** of this chapter...."

These differences clearly require that consumer-owned utilities be given substantially more deference in decisions made and in implementation of the Initiative. Accordingly, the proposed rule language that follows is crafted for application to consumer-owned utilities.

## II. Specific Comments

### (a) Incremental Hydropower

#### 1. Statutory Citation

- *19.285.030(10)(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.*

#### 2. Issue Statement

The Initiative does not define the phrase “Incremental electricity produced as a result of efficiency improvements,” as used in RCW 19.285.030(10)(b). In order to implement this provision, the regulations need to define “incremental electricity” and “efficiency improvements.” In particular, “efficiency improvements” should be defined to include “equipment or operational efficiency improvements.”

#### 3. Proposed Rule Language

1. “‘Efficiency improvements’ means efficiencies at a hydroelectric generating project resulting from equipment or operational improvements.”
2. “‘Incremental electricity’ means the amount of electricity generated by a hydroelectric generating project as a result of efficiency improvements completed after March 31, 1999, minus the amount of electricity generated at the same facility prior to March 31, 1999 without such efficiency improvements.”
3. “Where eligible renewable resources are produced by incremental electricity resulting from efficiency improvements, a qualifying consumer-owned utility shall submit documentation to the Department: (a) stating the amount of incremental electricity produced; (b) describing the efficiency improvements that produced the incremental electricity; (c) stating that the efficiency improvements were completed after March 31, 1999; (d) stating that the efficiency improvements were made to a hydroelectric project owned by the qualifying utility and located in the Pacific Northwest, or to hydroelectric generation in irrigation pipes and canals located in the Pacific Northwest; and (e) stating the additional generation does not result in new water diversions or impoundments.”

#### 4. Explanation of the Proposed Rule Language

The proposed rule language clarifies two key points that will be essential to the effective administration of this provision: the scope of efficiency improvements, and the manner in which their benefits are to be documented. As to scope, it is important to understand that efficiency improvements in hydropower production can be achieved in various ways. For example, upgraded turbines and rewind generators can result in more electricity production from the same amount of water. Similarly, improved operational protocols, such as more efficient dispatching of generating units, can have the same effect.

To assist in the verification of the benefits, the proposed language requires the consumer-owned utility to provide certain documentation to CTED. This documentation will create a record as to the amount of incremental electricity produced, and the means by which it was produced. Finally, the proposed language requires documentation that the other requirements of the statutory definition are met.

#### **(b) Production and Distribution Conservation Measures**

##### 1. Statutory Citation(s)

- *RCW 19.285.030(4): "Conservation" means any reduction in electric power consumption resulting from increases in the efficiency of energy use, production, or distribution.*
- *RCW 19.285.040(1)(a): By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019...*

##### 2. Issue Statement

The term "conservation" is key to Initiative 937 because the Initiative requires each qualifying utility to engage in a three-step process: (a) identify its achievable cost-effective conservation potential through 2019, using methodologies consistent with those used by the Northwest Power Planning Council (Council), then (b) set a biennial acquisition target for cost-effective conservation, and then (c) meet that target. "Conservation" is defined in RCW 19.285.030(4) to mean any reduction in electric power consumption resulting from increases in the efficiency of: (1) energy use; (2) production; or (3) distribution.

The Council currently analyzes the cost-effectiveness of conserving energy use, thereby avoiding the expansion of the transmission system, but not of conservation resulting from improvements in energy production or distribution. For example, distribution upgrades can reduce line loss, thereby conserving energy. Consequently, as to production and distribution, consumer-owned utilities need not seek consistency with the Council's

methodology for identifying cost-effective conservation. Further, Chelan PUD must also comply with other statutory and constitutional provisions in determining how public funds can be expended on conservation measures.

### 3. Proposed Rule Language

“In identifying its achievable cost-effective conservation potential through 2019 with respect to production and distribution, each qualifying utility shall make a written assessment based on economic and engineering practices adopted by such utility, and such assessment shall be submitted to CTED biennially. As to energy use, each such utility shall include in its assessment a description of how such utility’s assessment is consistent with the methodologies used by the council.”

### 4. Explanation of the Proposed Rule Language

The proposed language provides clear guidance regarding the identification and assessment of cost-effective conservation potential regarding energy use, production, and distribution.

#### **(c) Consideration of “Reliable and “Feasible”**

##### 1. Statutory Citation(s)

- *Sec. 4(1) Each qualifying utility shall pursue all available conservation that is cost-effective, reliable and feasible.*
- *RCW 19.285.040(1)(a) By January 1, 2010, using methodologies consistent with those used by the Pacific Northwest electric power and conservation planning council in its most recently published regional power plan, each qualifying utility shall identify its achievable cost-effective conservation potential through 2019...*

##### 2. Issue Statement

Section 4(1) clearly requires qualifying utilities to pursue all available conservation that is cost-effective, reliable, and feasible, and Chelan PUD is committed to doing so. However, the real-world application of each of these terms – cost-effective, reliable, and feasible – depends on the particular physical and fiscal circumstances of each qualifying utility. In pursuing conservation measures, each qualifying utility must therefore have the flexibility to consider the totality of its circumstances. This flexibility is further supported by the substantial deference to consumer-owned utilities discussed in the introduction.

##### 3. Proposed Rule Language

“Each qualifying utility that is not an investor-owned utility shall assess in writing whether prospective conservation measures are cost-effective, reliable, and feasible,

using methodologies adopted by such utility, and such assessments shall be submitted to CTED biennially.”

#### 4. Explanation of the Proposed Rule Language

Based on Section 8(2) of the Initiative, substantial deference should be given to consumer-owned utilities considering the cost-effectiveness, reliability, and feasibility of potential conservation measures. As discussed above, the Council’s methodology is a useful starting point for determining the cost-effectiveness of a conservation measure relating to energy use, but the cost-effectiveness of improvements in production and distribution, as well as factors relating to reliability and feasibility, are best assessed by each qualifying utility, based on its particular circumstances. For example, a utility may need to consider its financial policies (such as payback periods and internal rate of return), other laws regarding the expenditure of public funds and how its role as a purchaser or seller of electric energy impacts the prioritization of different conservation options.

##### **(d) Incremental Eligible Resources**

#### 1. Statutory Citation

- *RCW 19.285.050(1)(b) The incremental cost of an eligible renewable resource is calculated as the difference between the levelized delivered cost of the eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life.*

#### 2. Issue Statement

The meaning of “reasonably available substitute resources” should be clarified to ensure that a consumer-owned utility can compare the incremental cost of eligible renewable resources against the levelized delivered cost of an equivalent amount of its own generation resources, if available.

#### 3. Proposed Rule Language

“Reasonably available substitute resources” may include an equivalent amount of resources owned by the qualified utility that do not qualify as eligible renewable resources, where the resources being compared have the same facility life.”

#### 4. Explanation of the Proposed Rule Language

RCW 19.285.050(1)(a) provides that a qualifying utility is in compliance with the new law “if the utility invested four percent of its total annual retail revenue requirement on the incremental costs of eligible renewable resources, the cost of renewable energy

credits, or a combination of both...” RCW 19.285.050(1)(b) then provides that the incremental cost is “the difference between the levelized delivered cost of the eligible renewable resource, regardless of ownership, compared to the levelized delivered cost of an equivalent amount of reasonably available substitute resources that do not qualify as eligible renewable resources, where the resources being compared have the same contract length or facility life.” The purpose of these provisions is to create a four-percent cap on the incremental cost that the utility incurs for eligible renewable resources.

In cases where the qualifying utility has surplus power, the reasonably available substitute resources that do not qualify as eligible renewable resources may be the utility’s own generation resources. In those cases, the utilities’ own resources are the less expensive “reasonably available substitute resource” and should be used as the benchmark for determining when the four-percent cap has been reached. Otherwise, these utilities would involuntarily incur more than a four-percent cost increase due to the acquisition of eligible renewable resources, an outcome barred by RCW 19.285.050(1)(a).

### **III. Conclusion**

Again, Chelan PUD appreciates this opportunity to provide input as CTED prepares draft regulations for the implementation of I-937. We intend to actively participate as this rulemaking goes forward. Please do not hesitate to contact me with questions about this submission.

Sincerely,



Gregg Carrington  
Director of Hydro Services

Public Utility District No. 1 of Chelan County  
327 N. Wenatchee Ave.  
Wenatchee, WA 98807  
Gregg.carrington@chelanpud.org  
(509) 661-4178