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PUBLIC RULEMAKING MEETING)WSR 07-20-126

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NOVEMBER 9, 2007 - 10:00 A.M.

OLYMPIA, WASHINGTON

Reported by:

Judith A. Robinson, CCR
CCR No. 2171

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A P P E A R A N C E S

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TONY USIBELLI/CAROLEE SHARP/HOWARD SCHWARTZ
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1 BE IT REMEMBERED that the public rulemaking
 2 meeting was taken on November 9, 2007, at the hour of 10:00
 3 a.m., at 906 Columbia Street, 1st Floor, Olympia, Washington
 4 98504, before Judith A. Robinson, CCR, Notary Public in and
 5 for the State of Washington, residing at Seattle,
 6 Washington;

7 Whereupon, the following proceedings were had,
 8 to-wit:

9 * * * * *

10 MR. USIBELLI: Good morning. I'd like to
 11 welcome everyone here to this hearing, and begin the hearing
 12 on the rules proposed by the Department of Community Trade
 13 and Economic Development pursuant to chapter 194-37 in the
 14 Washington Administrative Code.

15 I appreciate everyone's flexibility and indulgence
 16 on this, as we had a power failure over in our building this
 17 morning, and had to do a last-minute shift over to this
 18 location.

19 I'm Tony Usibelli. I'm the director of the energy
 20 policy division and the presiding officer here at the
 21 hearing this morning.

22 I will officially call this hearing to order at
 23 10:10 a.m. on Friday, November 9th. And we are at 905 Plumb
 24 Street, Building #3.

25 Our purpose here today is to receive testimony

1 from the public on the proposed rules filed with the Code
2 Revisor's Office on October 3rd of this year. And let me
3 just quickly summarize what we have here, and then I will
4 ask Howard Schwartz from my staff to provide a brief
5 synopsis of the provisions of the proposed rules.

6 The purpose of this hearing is to take testimony
7 on the rules. The rules propose -- we propose to adopt
8 rules that facilitate the implementation of the RCW chapter
9 19.285, the Energy Independence Act, which codifies the
10 November 2006 passage of voter initiative 937.

11 The statute directs the Department of Community
12 Trade and Economic Development to adopt rules that apply to
13 qualifying utilities that are not investor owned. The rules
14 address the process, time lines, and documentation needed to
15 ensure the proper implementation of chapter 19.285 RCW. The
16 rules include, but are not limited to, rules associated with
17 a qualifying utility's development of conservation targets,
18 a qualifying utility's decision to pursue alternative
19 compliance, and format and contents of reports required in
20 this statute.

21 The reasons for the proposal that we have before
22 us, 19.285.080 (2), require the department to adopt rules to
23 ensure the proper implementation of the chapter. The rules
24 will provide additional clarity beyond that contained in the
25 initiative to guide the utilities in their implementation of

1 the statute, and to assist the Washington State's auditor's
2 office and independent third-party auditors with their
3 compliance audits, and the Washington Attorney General's
4 office with its enforcement role.

5 With that I will ask Howard Schwartz for your copy
6 of the rules, and to provide a very brief summary of the
7 major provisions of the rule.

8 MR. SCHWARTZ: The rules are essentially
9 divided into three parts.

10 The first part are definitions, third part --
11 second part, rules governing the documentation reporting of
12 conservation targets and achievements. And the third deal
13 with the reporting and documentation of acquisitions.

14 The definition section -- the definitions section
15 pretty much takes the definitions from the statute, but then
16 adds others that are included -- that were terms that were
17 used in the rules, but they were not specifically identified
18 in the statutes.

19 The conservation sections can be found in -- the
20 conservation reporting requirements can be found in sections
21 13.437.060 through 100.

22 And the first section, 060, is conservation
23 reporting requirements where it is explained how utilities
24 will report their conservation achievements.

25 The rest of the conservation section has to do

1 with -- 070 deals with how utilities will document their
2 compliance with the methodology with -- with the section of
3 the statute that requires the development of the
4 conservation target using methodology consistent with that
5 of the fifth power plant of Northwest Power & Conservation
6 Council, and section 070 explains how that might be done.

7 080 provides guidance for documentation of the
8 actual conservation savings, and sections 090 and 100 deal
9 with the documentation of improved efficiency from a
10 distribution system and production for the facilities.

11 Renewables are contained in sections. 110 details
12 the overall reporting requirements for renewable
13 acquisitions, and as does 120, which talks about how to
14 document renewable achievements, including the use of RECs,
15 or renewable energy credits, for the record.

16 Section 130 talks about the specifics of the
17 documentation of renewables for incremental hydropower.

18 And then pretty much the rest of the conservation
19 part, sections 140 through 200 deal with the reporting and
20 documentation when utilities comply with the statute using a
21 financial path rather than a renewable acquisition path.
22 That is dealing with the cost cap. Provisions of the
23 statute.

24 Section 140 deals with how to document compliance
25 if you claim to be a low-growth utility. 150 establishes

1 how to document the annual revenue requirement, which is an
2 integral component of the cost cap calculation. Sections
3 160 through 190 talk about the details of how to report the
4 compliance via the cost cap. Section 200 details compliance
5 of how to report and document the use of renewable energy
6 credits.

7 MR. USIBELLI: Thank you, Howard.

8 Just a few other logistical issues here.

9 We'll be asking folks to please come up and
10 testify. We ask you to confine your comments to five
11 minutes or less. We would appreciate that. This is an
12 opportunity for the public to provide comments on the rule.
13 This will not be a question-and-answer session. We will
14 just be receiving comments from the public.

15 I would ask you to come up here. When you
16 testify, please state your name and affiliation, if you have
17 one, and your address, please.

18 I'd ask you to speak clearly and loudly for the --
19 we have a court reporter, and we'll have a -- she'll be
20 providing us with a transcript of this so it will appear on
21 the recorder, and she can catch the details. And the
22 clearer and more distinct you can be, the sooner we can get
23 the transcript. So we would appreciate that. Thank you.

24 We will be accepting written comments on the rules
25 from now through a week from this Friday through

1 November 16th. The information on that is on our website.
2 It should be sent to Howard Schwartz's attention at CTED,
3 P.O. Box 43173. That's 906 Columbia Street Southwest in
4 Olympia 98504. We'll also accept comments by Email to
5 Howard S. at CTED.wa.gov or by fax at 360-586-0049.

6 I will go ahead and go through the sign-up sheet.
7 I ask folks to indicate if they were going to testify, but I
8 think I'll probably just work through it. But let me first
9 ask if there's anyone who might have to leave early. I'll
10 let you go ahead and testify first if you like.

11 SPEAKER: I don't need to testify first.

12 MR. USIBELLI: Anyone who wants to testify
13 that does need to leave early? Otherwise, I will begin.
14 And I'll ask the first person to please come up, state your
15 name, affiliation and address. And if you could confine
16 your comments to approximately five minutes or less.

17 I'll start out with Stan Price.

18 SPEAKER: Where would you like me to be?

19 MR. USIBELLI: Over there by the microphone
20 if you would, please, Mr. Price. (indicating)

21 SPEAKER: Right here is good? (indicating)

22 MR. USIBELLI: That's fine.

23 SPEAKER: Good morning. My name is
24 Stan Price. I'm with the Northwest Energy Efficiency
25 Council. And our address is 605 First Avenue, Suite #401,

1 Seattle, Washington, 98104.

2 Thank you for the opportunity to provide comments
3 on these proposed rules.

4 First, I'd like to just provide a note of
5 appreciation to Community Trade & Economic Development for
6 the process that they ran throughout the summer to get
7 stakeholder input and participation in the formation of the
8 rules that are before us today.

9 Specifically, I want to thank certainly,
10 Tony Usibelli and Howard Schwartz and certainly, Ms. Klumpp,
11 for what I thought was a very accommodating and professional
12 demeanor throughout the process to hear from a variety of
13 different constituents. The process is appreciated.

14 The comments that the Northwest Energy Efficiency
15 Council have today on the rules focus on three key areas of
16 concern to the proposed rules as published in the CR-102.

17 The first area is related to section 070, and it's
18 probably our greatest area of concern, and that's having to
19 do with the determination of achievable conservation as a
20 percentage of technical potential.

21 Throughout most of the discussions over the
22 summer, the power council methodology listing 85% of
23 retrofit potential, and 65% of lost opportunity was
24 specified in the early drafts of these rules. We felt that
25 that was an appropriate approach to take in the rules and

1 consistent with the statutory language. That's in the I-937
2 language.

3 They were changed to 64% of retrofit and 23% of
4 lost opportunity. Justified by the fact that these are were
5 consistent with a 10-year technical potential planning
6 horizon, as opposed to the 20-year planning horizon used by
7 the Northwest Power Conservation Council.

8 We don't have necessarily an objection to the
9 change to 64% and 23%, however it's unclear in the rules
10 that in fact that change has to be conditioned by the fact
11 that the 10-year technical potential should be a number that
12 is roughly analogous to the 20-year potential.

13 Otherwise, the change in the fraction of
14 achievability seriously will fall the amount of conservation
15 that would be acquired over both the 10-year and the 20-year
16 time frame. It would be inconsistent with the statutory
17 language to acquire all cost-effective achievable and
18 technically-available conservation in the utility service
19 territories.

20 These rules are silent on that regard, and much of
21 the discussion during the rulemaking discussions focused on
22 the fact that the 10-year technical potential might indeed
23 be a number that was reasonably half of the 20-year
24 potential.

25 If you have both of those numbers together and you

1 simply do the math, you find that the amount of conservation
2 that's achieved in two 10-year increments does not equal a
3 20-year potential at 85% and 65% achievable fraction. This
4 is a technical point, and we'll provide some more examples
5 and written comments at the CTEC.

6 Second point I'd like to make is on section 060.
7 And we think, despite clear and compelling comments from us
8 as well as others in the process this summer, that credits
9 for conservation in the area of production and distribution
10 efficiencies should not be used to meet conservation goals
11 in the short term.

12 Production and distribution conservation is
13 mentioned in only one place in the -- in the statute, and
14 that's in the definition section. The definition section is
15 clearly caveated by the words, unless the context clearly
16 requires otherwise.

17 The fifth power plan does not contemplate
18 production and distribution efficiency as part of the fifth
19 power plan itself. So we believe the production and
20 distribution efficiency, while meritorious, and we would
21 encourage utilities to acquire that in their own economic
22 self-interest, should not be used to meet end use
23 conservation goals.

24 A third area of concern is in section 080, and
25 this is on the language and relationship to cogeneration.

1 We believe that language is incomplete. In the process we
2 have provided some specific comments on language
3 deficiencies in that particular area. Those have not been
4 embraced in the final rule draft.

5 We're concerned that the language as written needs
6 to add phrasing that's directly out of the statute itself to
7 clarify when and how cogeneration can be accounted for. The
8 current rules are loose and could lead to conservation being
9 accounted for that are outside the statute.

10 In closing I just want to say that I think the
11 litmus test for the quality of the rules that are being
12 proposed here is really in the results. While these rules
13 are complex and technical and clearly acknowledge the fact
14 that utilities are affected by this rule, do not
15 individually necessarily always reflect regional averages.
16 We strongly believe that in some the utilities affected by
17 this do in fact reflect the region, and in fact they are the
18 balance of much of the region.

19 So when the conservation targets are added up at
20 the end of the day, we believe that the litmus test of these
21 rules will be due. They, by and large, reflect what we
22 would have expected to see under the Northwest Power &
23 Conservation Council's fifth plan.

24 If, in fact, the summation of those performance
25 targets by the 14 affected utilities did not, then these

1 rules have failed in their obligation to faithfully reflect
2 the requirements by 937.

3 Thank you much for the opportunity to comment.

4 MR. USIBELLI: Thank you. Next on my list is
5 Mark Kragnowsky, not wishing to testify. Jennifer Martin,
6 not wishing to testify?

7 SPEAKER: No thanks.

8 MR. USIBELLI: Marian Wineman, wishing to
9 testify?

10 SPEAKER: Yes. Thank you for the opportunity
11 to comment on the proposed 937 rules.

12 My name is Marian Wineman. I'm a citizen
13 volunteer for I-937. I have collected over 2,300 signatures
14 for the ballot measure. And I'm also a co-portfolio Chair
15 of energy and climate change for the League of Women Voters
16 of Washington. We have a number of addresses, and so I
17 don't have a specific -- we have the Seattle office and the
18 Olympia office. I don't know whether you want one of those.
19 We can get you one of those.

20 I worked very hard for this initiative that the
21 voters approved last November. Based on CTED's proposed
22 rules I am quite concerned they are too flexible in allowing
23 the utilities too much reign. And it does not necessarily
24 match what was approved by the Washington voters.

25 Specifically, in terms of implementation of

1 conservation measures that are technically feasible, I think
2 that those should take place as much as possible within the
3 10-year time frame, not the 20-year time frame. And that
4 allowing a longer time frame for conservation reduces, both
5 for the customers and the utilities, energy savings. We
6 really only have 10 years to do this right. And I think
7 that the energy conservation should be front-end loaded.

8 In addition, utility customers should be
9 benefitting from by virtue of having lower bills from many
10 of these cost-effective energy efficiency measures.

11 And energy conservation is clearly the cheapest
12 way to save energy and reduce greenhouse gas emissions.
13 CTED's currently proposed rules allow too much flexibility
14 in implementing the energy efficiency measures.

15 Furthermore, I urge CTED to maintain a clear
16 requirement in the rules which they have in there now, and
17 for utilities to achieve their first installment of the new
18 renewable resources no later than January 1st, 2012. The
19 utilities do not need more time to comply, and it is
20 detrimental to our health, economy and environment to delay.

21 In some cases the proposed rule inaccurately
22 allows the utility to compare cost of a new renewable
23 resource with the cost of existing resources.

24 I urge CTED to use the actual voter-approved
25 language saying the utilities may purchase renewable energy

1 credits if they don't need new power supplies.

2 Finally, we know this initiative is readily
3 achievable with existing technology, as similar or more
4 stringent measures have already been implemented in 24 other
5 states and the District of Columbia, and are proposed on the
6 national level.

7 The health, economy and environment of our state
8 depends on utilities implementing cost-effective
9 conservation measures and meeting the initiative's renewable
10 energy targets.

11 On behalf of the 2,300 signatures I personally
12 gathered, the League of Women Voters of Washington, and all
13 Washington voters, I strongly urge CTED to ensure the voter-
14 approved conservation and renewable goals are met.

15 Thank you.

16 MR. USIBELLI: Nancy Hirsh, not willing to
17 testify?

18 SPEAKER: No.

19 MR. USIBELLI: Rich Arneson?

20 SPEAKER: No.

21 MR. USIBELLI: Eve Johnson?

22 SPEAKER: Good morning. Thank you for
23 letting us be here today. I'm a regular citizen. I live at
24 2221 Walter Street Southwest, Olympia, Washington. Eve
25 Johnson.

1 I worked on this initiative. I didn't gather as
2 many signatures as many people in this room did. But I
3 believe that every person who signed it did so because they
4 believed two things. One, that the results were going to
5 benefit our community, our ecology, and all mankind, and
6 two, that they personally were going to benefit by the
7 economies that the utilities would be implementing under
8 these regulations.

9 I feel that the -- the regulations are not
10 stringent enough to provide that kind of relief in cost of
11 energy that the average person who signed these petitions
12 for 937 expected.

13 I think that the language in that initiative
14 clearly spelled out that conservation as well as new
15 technology should be a benefit to not only the environment,
16 but also to the rate payer. I feel that this is a very
17 important aspect that encouraged people to sign the
18 petition, and it should be implemented through the regs.
19 that you are all promulgating this morning.

20 Any time that more latitude is given to the
21 utility to place profit motive ahead of benefit to the rate
22 payer is not in compliance with the spirit of this
23 initiative.

24 And I urge you to reconsider any area in which you
25 have given the utilities latitude to maybe do less than is

1 possible. I think that more is possible. And that this was
2 a very mild request on the part of the people to the
3 utilities. And I hope that the implementation will at the
4 very least represent accurately the desires of the public
5 who voted for this initiative 937.

6 Thank you.

7 MR. USIBELLI: Thank you very much.

8 Ken Dragoon?

9 SPEAKER: My name is Ken Dragoon with the
10 Renewable Northwest Project. Our address is 917 Southwest
11 Oak Street, #303 in Portland, Oregon 97204.

12 Good morning. RNP appreciates the opportunity to
13 come here and provide comments on the proposed rules.

14 As many of you know, we're a non-profit advocacy
15 organization representing a growing number of environmental
16 and consumer advocacy groups, along with project developers
17 and manufacturers and associated industries.

18 Our purpose is to promote renewable energy in
19 Oregon, Washington, Idaho and Montana. We're a primary
20 sponsor of ballot initiative 937. We really do appreciate
21 the time and effort CTED staff devoted to developing the
22 rules. While we have some significant issues that we'll
23 point out in a moment, we think that the scope of the rules
24 is appropriate, and the level of detail helps ensure meeting
25 the objectives of the law.

1 Among the most contentious issues in the
2 rulemaking proceeding has revolved around compliance. We
3 believe the act clearly requires utilities acquire renewable
4 energy credits and/or use eligible renewable resources by
5 January 1 of the compliance year. We support CTED's
6 proposed rules implementing that requirement.

7 One compliance-related area we feel deserves
8 revisiting has to do with the provision in 110, 2A, sub I.
9 That provision addresses utilities reporting on after-the-
10 fact performance of the resources relied on, and that any
11 shortfalls in expected performance were made up through
12 additional performance.

13 In the WUTC proceeding, however, this provision
14 was cited by Pacific Corp. and nervous at that to suggest
15 that CTED is providing utilities an extra year to be in
16 compliance with the law. CTED staff has made clear that
17 this is not the intent of their language. However, to avoid
18 any perceived ambiguity, we ask CTED to remove any doubt
19 with an affirmative statement in the adoption order or adopt
20 a nonsubstantive change.

21 RNP proposed language in our previous comments
22 that we felt were consistent with the intent of the rules
23 and of the law, but also provided clarity in the language
24 and will suggest clarifying language with our written
25 comments by November 16th once again.

1 RNP is consistently provided comments opposing
2 CTED's interpretation of the hydro-efficiency improvements
3 that broadens the ability of a utility to market the
4 improvements for the purpose of meeting targets under the
5 act.

6 The act excluded hydro-efficiency improvements
7 from its definition of renewable energy credits,
8 specifically to eliminate the trading of such improvement.
9 Rule language that permits trading those improvements is not
10 consistent with the act in our view and should not be
11 allowed. The legal basis of our claim is contained in RNP's
12 previous written testimony.

13 I appreciate the responsiveness of CTED staff to
14 our concerns with respect to recalculating incremental cost
15 accruing to the cost cap mechanism under section 160.

16 To reiterate our concern, earlier drafts of the
17 rules gave optionality in recalculating incremental cost to
18 utilities, in our view, opening up to the possibility of
19 gaming. The proposed rules now include a last-minute change
20 advocated by the parties allowing utilities to choose either
21 one time only calculation of incremental costs, or
22 alternatively, to recalculate costs in every year in which
23 the utility relies on the cost cap.

24 As written, the rules are clear. The utility must
25 choose one method to calculate the cost cap for all future

1 resources in perpetuity, no longer allowing the possibility
2 of gaming. And we feel this is an enormous improvement over
3 the earlier rules.

4 RNP continues to be concerned about the section
5 addressing for the substitute resource analysis for the cost
6 cap. One provision specifically addresses the utilities
7 with a surplus of resources. We don't think a rule is
8 necessary for this situation because the act is clear in its
9 provisions regarding compliance for utilities. The
10 compliance mechanism anticipated for surplus utilities is
11 purchasing renewable energy credits. All of the costs
12 associated with such purchases are accepted as incremental
13 costs that apply directly towards the cost cap.

14 We therefore feel that the language surrounding
15 special considerations for surplus utilities is not
16 consistent with the act, and request that CTED delete
17 subsection 1D and section 190.

18 We're particularly concerned about this provision
19 because of conversations we've had with utilities regarding
20 their expectation to use forward price curves as their
21 substitute resource. It appears the utilities may be
22 interpreting the ability to rely on forward price curves,
23 without recognizing the other statutory requirements,
24 specifically equivalence.

25 It's a little complicated, but forward price

1 curves are estimates of prices for power to be transacted at
2 some future date. They don't represent the cost of a 10 or
3 15-year strip purchase.

4 Such long-term purchases would be negotiated
5 between the parties partly based on the forward price curve
6 estimate, but also taking into account market volatility and
7 uncertainty in the interim.

8 A long-dated strip purchase would likely entail
9 substantial risk premium, taking into account, among other
10 things, uncertainty in carbon risk.

11 Because of this confusion in interpretation, we
12 reiterate that the best resolution is to delete the section,
13 the subsection, given the ability of utility instead to rely
14 on a REC purchase to comply with the law.

15 In conclusion, thank you. RNP appreciates all the
16 hard work and really the good work in developing these --
17 this complex set of rules. Thank you.

18 MR. USIBELLI: Thank you. Kevin Lynch?

19 SPEAKER: Good morning. My name is
20 Kevin Lynch. I am director of policy and regulation for PPM
21 Energy. Our address is 1125 Northwest Couch Street. For
22 the benefit of the court reporter, that's C-O-U-C-H. Don't
23 ask me why it's not pronounced "couch." Portland, Oregon
24 97209.

25 PPM Energy develops, operates, and markets

1 renewable energy and associated products. The company here
2 in Washington state controls the output of the state line
3 wind project out by Walla Walla, and owns and operates the
4 Big Horn project in eastern Klickitat County. PPM Energy is
5 a member of the Renewable Northwest Project, and supports
6 the comments just provided by the previous witness on the
7 rules.

8 We also want to provide or offer our thanks to the
9 department and its staff for bringing this process this far.
10 The voters did a great job in 2006, and we think you've done
11 a very good job to this point in 2007. As I say, we support
12 the comments just provided.

13 I wanted to provide just briefly some additional
14 comments on the use of renewable energy credits or RECs to
15 comply with the act. Section 4 of the law sets the terms
16 for the use of RECs for compliance. And my comments for the
17 record here are intended to fill in some background as the
18 department deliberates over the role of RECs in these draft
19 rules.

20 Rather than suggesting additional changes to the
21 rules themselves, we just wanted to try to fill in the
22 record a little bit, and that's because our company actively
23 buys and sells RECs across the country. REC markets have
24 developed in a number of places to help bring utilities into
25 compliance with RPS laws, as well as in voluntary markets

1 where utility customers choose to purchase screened products
2 from their utilities.

3 Sometimes we buy and sell bundled REC products
4 including power, and the RECs attribute themselves all in
5 one package. Other times we buy and sell unbundled RECs in
6 which the renewable attributes of a megawatt hour of
7 generation are severed from the generation itself, and each
8 component is sold to a different party.

9 We've bought and sold in REC markets for both
10 short-term and multi-year periods. The company frequently
11 sells RECs in response to the utility's requests for
12 proposals as they look to comply with renewable's
13 requirements or to meet the need for a voluntary green
14 program. They do that over various periods of time.

15 We understand there has been skepticism about the
16 availability of long-term contracts for RECs, and RFP would
17 be a good mechanism for stimulating REC deals. And we
18 expect that some utilities here in Washington will use RFPs
19 to obtain compliance RECs, just as utilities have done in
20 many other jurisdictions.

21 As utilities in Washington move to comply with the
22 Energy Independence Act, I-937, we're confident that a
23 compliance REC market will develop here. For developers the
24 existence of a REC market is a positive factor in
25 determining whether to proceed with actually building and

1 operating a project.

2 And for utilities, unbundled RECs can have the
3 potential to be a very flexible and cost-effective means of
4 complying with the law. We're glad that the statute
5 recognized this tool, and we think that properly used it
6 will be a very good way to help the utilities meet the
7 requirements of I-937.

8 Thank you again for all your work so far, and
9 thank you for the opportunity to comment.

10 MR. USIBELLI: Thank you. Others that I have
11 listed not wishing to testify?

12 Sam Garst?

13 SPEAKER: My name is Sam Garst. I live at
14 6015 Marantha Lane here in Olympia.

15 And during the petition drive for 937 to get it on
16 the ballot, I was a coordinator in Thurston County, and I
17 ended up being the top signature gatherer in the state. I
18 collected 3,261 signatures.

19 And I can tell you that the people we collected
20 signatures from would have signed a petition if it was 20%
21 renewable energy and this was a stronger bill. What we have
22 here is a fairly modest approach. And I would like to
23 associate myself with the previous several speakers, as far
24 as the weaknesses, and encourage that in the final
25 regulations we have as strong a regulation as possible.

1 There is always some reason not to do something.
2 The power companies and business interests try to defeat our
3 efforts with a lot of misinformation, campaigns, and try to
4 wiggle out of things saying it didn't have a lot of
5 hydropower and the like.

6 I think that the recent activities of the power
7 companies in this state of Washington and continuing to
8 support things like the Energy Northwest proposal at Kalama
9 really shows there is a lot of bad faith and maybe working
10 on the REC rule, and yet trying to get around it so they can
11 in fact sell more power.

12 At the end, however, the people have spoken.
13 Climate change, energy prices, air pollution are at the top
14 of my issues with the voters. They want decisive action.
15 It's time for the regulators to speak strongly and have a
16 rule that is as strong of a rule as possible.

17 Thank you for all your work. I have not been part
18 of the stakeholder process, but there are a few little
19 tweaks we would like to see happen.

20 Climate change is a moral question. The morality
21 of continuing the same practices of the past that is a
22 detriment to our children is really unacceptable. This is a
23 first step, and it's a modest first step in our effort to
24 address climate change. Therefore, I encourage you to be as
25 strong as possible with the regulatory structure behind

1 implementing 937.

2 The moving forward with -- clearly
3 hydro-efficiency was not included in the -- hydro was not
4 included in 937, and counting efficiencies and power plants
5 seems to me a false efficiency that was really outside the
6 scope of what the intent behind 937 was. We wanted power
7 companies to start helping consumers save energy. Because
8 the cheapest kilowatt is a kilowatt we don't use. Providing
9 flexibility to the power companies is a loophole that in
10 fact they will drive a truck through.

11 There is an inherent conflict of interest for
12 utilities matching conservation efforts. They sell power
13 and it costs money to help commercial, industrial and
14 individuals reduce their individual energy consumption.
15 Therefore, it requires that energy conservation be done by
16 regulation.

17 If there's a loophole for the utilities, you can
18 be assured that they will use that loophole for their
19 personal advantage to the detriment of consumers and our
20 environment and future generations.

21 The cost cap language. I would just comment on
22 that. That was something that was quite extensively
23 discussed during the petition drive. It was -- and the
24 industry used a lot of, I thought, misinformation during the
25 campaign. But just to put it in perspective, the cost of

1 the new Kalama plant is about \$2,000 per kilowatt hour,
2 which is comparable to wind, without figuring in that wind
3 is free, and carbon requires you to buy coal.

4 So any flexibility on implementing the RPS
5 standard is I think -- flexibility is one of those wonderful
6 things that utilities will use to weaken the rule, and I
7 would encourage you to associate -- I would like to
8 associate myself with the previous speakers.

9 Thank you for your time.

10 MR. USIBELLI: Thank you. Continuing on the
11 list.

12 Is it Josh Warner?

13 SPEAKER: No.

14 MR. USIBELLI: Mitzi Bennett?

15 SPEAKER: No, thank you.

16 MR. USIBELLI: Mary Smith? Dave Sjoding?

17 SPEAKER: I was making copies. I didn't get
18 a chance to check.

19 For the record I'm David Sjoding. It's spelled,
20 S-J-O-D-I-N-G. I'm with the Northwest CHP Application
21 Center which is housed within the Washington State
22 University extension energy program.

23 I'm here today to talk about a particular
24 definition. So it's in the 040 definition section. It's
25 sub 18, nonpower attributes. And this is a boundaries

1 question. How far out do the nonpower attributes go? Do
2 they include nonpower-related environmental attributes of a
3 project in addition to power-related?

4 And I'll get at this by talking through the
5 Vanderhawk Dairy in Lindon, Washington, north of Lindon,
6 Washington, where you have a number of different revenue
7 streams coming out of that one project.

8 So I'm going to start by talking about nitrogen
9 and phosphorous extraction. After the power is produced,
10 fiber is separated one way, liquid another. And from that
11 you can extract nitrogen fertilizer and recover it back,
12 thus avoiding it going into the groundwater with excessive
13 groundwater nitrogen. You can do the same for phosphorous.
14 That gives you two additional revenue streams out of that
15 one project. And again, it goes to the boundaries then.

16 Would those revenue streams be included in the
17 nonpower attributes by definition? And I'm pleading here
18 with you for a bit of clarity in the definition. Right now
19 you could read it, yes, they do, even though it's not
20 related to power production.

21 One that gets a little more tougher to think
22 through, and I'm going to talk about the methane reduction
23 pathway. This project shut down a lagoon that was spewing
24 methane into the atmosphere.

25 And by the way, Vanderhawk sells that methane

1 reduction pathway on the Chicago climate exchange. They get
2 a check in the mail about every quarter as part of that. So
3 it's currently being sold as another revenue stream.

4 One approach, a major coal-producing utility said,
5 well, we'll just put blankets on all these things and flare
6 the gas. And voila, we've got it done.

7 We would rather have our rules enable the power
8 production as part of the equation. But allow the lagoon
9 shutdown as a nonpower, production-related environmental
10 benefit similar to the nitrogen and phosphorous extraction
11 so it doesn't go into the groundwater. It's a different
12 variation on the same thing.

13 As a university we would very much like to have
14 about a hundred of these dairy digesters running in the
15 state. We think that's an achievable goal.

16 We, in cooperation with the Paul Allen Foundation
17 and some Federal funding and some State funding, have about
18 \$3 million invested in research to get all the various
19 revenue streams on line, all working to make the economics
20 of these come out without State's subsidy or funding.

21 We certainly had two dairy digesters funded out of
22 the Energy Freedom program. We would like to lighten the
23 load by improving the economics with things like that.

24 So I would suggest a simple tweak on the
25 definition so it would read, "Nonpower attributes means all

1 environmentally related," and then here's the insert, "power
2 production characteristics."

3 I did provide these comments to you in writing in
4 the initial opening round of comments.

5 I did have one follow-up phone call by Tim Sterns,
6 but that's just a will you please explain this? I thought I
7 better come and testify in this case. It's a boundaries
8 question, and I would hope you would see the merits of some
9 clarity.

10 MR. USIBELLI: Thank you.

11 Greg Carrington?

12 SPEAKER: No.

13 MR. USIBELLI: Nicholas Garcia?

14 SPEAKER: No.

15 MR. USIBELLI: Adam Barte?

16 SPEAKER: No.

17 MR. USIBELLI: I believe it is

18 Florence Vincent?

19 SPEAKER: Yes. My name is Florence Vincent.
20 I'm from 14821 Mountain Vista Drive, Yelm. I'd like to
21 thank you for giving us the opportunity to be here today and
22 talk.

23 I was part of the original I-937 signature
24 gatherers. I gathered over 1,600 signatures. I spoke to
25 many very impassioned people who felt very strongly that the

1 problems going on in the world as far as energy is concerned
2 really deserved looking at.

3 And that was before any of us had heard the IPCC
4 conclusions about what's going on with global warming in the
5 world. And things are getting more urgent, not less urgent
6 since 2006 when we did this.

7 Washington citizens have a right to rules that
8 will ensure the clean energy goals we voted for last
9 November fully realized. The economic and environmental
10 well-being of Washington state depends on utilities
11 capturing all the cost-effective conservation available and
12 meeting initiative's renewable energy target.

13 CTED's proposed rules give utilities more leeway
14 than voters granted them, and thus, put both the
15 conservation and renewable goals in jeopardy.

16 I would like to say that Washington State is
17 amongst the top states in this country for working on -- on
18 forward thinking on renewable energy. And I would encourage
19 you to continue making us one of the top states to make this
20 happen. Thank you very much.

21 MR. USIBELLI: Thank you.

22 Is there anyone else who would like to provide
23 testimony?

24 I will first of all thank everyone for their
25 testimony and appreciate in particular your flexibility in

1 accommodating the change of venue necessitated by the power
2 outage this morning. And I remind you again that we will be
3 taking public comments in writing through next Friday, and
4 that the information on filing those comments is indicated
5 on our website.

6 With that, I will go off the record, as we do have
7 this scheduled until noon. So if anyone comes in in the
8 next hour they can also testify. But at that point we will
9 officially go off the record. And if anybody comes in we
10 will reopen the record before noon. Thank you.

11 (Off the record.)

12 MR. USIBELLI: This is to officially go back
13 on the record for our hearing on the rulemaking for
14 Community Trade & Economic Development.

15 We are closing the hearing at noon on Friday,
16 November 9th.

17 (The rulemaking hearing was concluded at
18 12:03 p.m.)

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