



November 16, 2007

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RE: Comments on October 4, 2007 Notice of Proposed Rule Making Re:
RCW 19.285 – The Energy Independence Act (Initiative 937)

Dear Mr. Schwartz:

The following comments on CTED's proposed rules regarding RCW 19.285 are submitted by Inland Power & Light Co. (Inland). Inland is a cooperative electric utility serving approximately 33,000 members in eastern Washington with affordable, reliable and environmentally sound electricity.

We appreciate that opportunity to provide these comments on a subject critically important to Inland and other Washington consumer-owned utilities. As you are aware, Inland has participated in numerous CTED workshops on the proposed rules for implementing RCW 19.285. Furthermore, Inland is fully supportive of cost-effective conservation and renewable energy resources.

First, we want to indicate that we support and incorporate by reference the separately submitted written comments of numerous other consumer-owned utilities and customers as conveyed in the November 16, 2007 letter of Donald S. Cohen. The comments contained in that separate joint letter are of critical importance and address many fundamental issues, including our view that the proposed CTED rules are inconsistent with or exceed CTED's statutory authority as specified in RCW 19.285. While we will not repeat here the views and positions expressed in the joint letter, we urge you to seriously consider the various legal and technical matters addressed in that letter. It is in the interests of all that RCW 19.285 be implemented consistent with the provisions of law and that the objectives of RCW 19.285 be achieved in an efficient and cost effective manner.

Furthermore, we would urge CTED to adopt an approach to its rules wherein the rules establish one means of demonstrating compliance, but not the exclusive means to demonstrate compliance with RCW 19.285. A consumer-owned utility that elects not to employ the path established by the final CTED rules would, of course, recognize that it would have the burden of demonstrating that its alternative path is, in fact, in compliance with RCW 19.285.

In the attachment, Inland is providing some additional input for CTED's consideration. The attachment does not include all the additional issues and questions Inland has

regarding the proposed rules, but nonetheless presents a number of matters which we believe need to be addressed by CTED. We look forward to CTED addressing in written form both the matters included in the joint letter and those issues included in the attachment.

Thank you for your consideration of our views.

Sincerely,

/signed/

Kris Mikkelsen
CEO and General Manager
Inland Power & Light Co.

Attachment

Attachment to:
Inland Power & Light Co.
November 16, 2007 Letter

**Additional Comments on CTED Rulemaking to Implement chapter 19.285
RCW, the Energy Independence Act (Initiative 937)**

Federal Hydroelectric System Efficiency Improvements (WAC 194-37-100)

RCW 19.285.030(10)(b) has been interpreted by CTED to exclude hydro efficiency improvements to the Federal Columbia River Power System (FCRPS), and similar efficiency improvements at hydro projects owned by utilities that are not qualifying utilities, from being “eligible renewable resources”.

We do not concur with this interpretation. We request that CTED modify its proposed rule to permit hydro efficiency improvements to the FCRPS and non-qualifying utility dams be treated as “eligible renewable resources”.

As noted, RCW 19.285 has been interpreted by CTED to exclude new energy produced by hydro efficiency improvements at existing federal dams. However, the very same improvements, if done by state utilities with more than 25,000 consumers, will count as renewable energy. So, Avista for example, will get to count new energy from their hydro improvements towards their RCW 19.285 target. Inland, and the 12 other Washington I-937 utilities who purchase electricity from BPA, will not, and will in fact be in the unenviable position of getting what amounts to a double whammy. We get to pay for the federal hydro efficiency improvements, but can't count them towards our RPS requirements. I would point out that Oregon utilities will be glad to count that new BPA energy towards their RPS Standard.

Additionally, hydro efficiency improvements undertaken by state utilities with less than 25,000 meters don't count toward the RPS standard either. Inland has several utilities in its area that fall into this category and are planning hydro upgrades. They could be natural partners for us, with easy transmission access and proximity to our service area, but the CTED rules preclude these as qualifying resources as well.

The exclusion of federal and small utility hydro efficiency improvements will simply raise costs for consumers and create a number of equity issues between utilities. Because the definition in 19.285.030(10)(b) is silent as to the inclusion of efficiency improvements at FCRPS and non-qualifying utility dams, we maintain that the provision should be interpreted to treat efficiency improvements at any dams in the Pacific Northwest the same for the following reasons: (1) the provision does not specifically include or exclude FCRPS hydro, (2) including purchases of power from the FCRPS is consistent with the treatment of the same resource if owned by a covered utility and (3) it would be arbitrary and capricious and possibly violative of other constitutional principles if RCW 19.285 was interpreted to treat similar resources differently.

Treatment of Electricity from a Renewable Generating Resources located Outside the Pacific Northwest (WAC194-37-040(13)(a)(ii))

CTED's proposed narrow interpretation of RCW 19.285.030(10)(a)(ii) regarding delivery of electricity from renewable resources to Washington imposes an unnecessary and significant barrier to the effective acquisition and cost effective management of renewable resources located outside the Pacific Northwest.

We do not concur with this interpretation. We request that CTED modify its proposed rule to provide sufficient flexibility to permit renewable resources located outside the Pacific Northwest to be competitive and an additional source of renewable energy with the renewable resources located within the region. We note that in early proposal materials CTED did provide for some limited flexibility in the treatment of renewable resources located outside the Pacific Northwest.

Flexibility regarding the delivery of electricity from renewable resources located outside the Pacific Northwest will allow Washington utilities to effectively compete for the most economical and environmentally sound renewable resources regardless of geographic location. Any artificial barrier to the development, acquisition and use of renewable resources located outside the Pacific Northwest is unwarranted and is unnecessarily costly to Washington electric ratepayers. For instance, the high capacity wind power in eastern Montana is of great value and should be available without undue constraint to Washington ratepayers. Additionally, the geothermal resources located in California or Nevada should be effectively available to Washington qualified utilities.

The supply of renewable generation projects located in the Pacific Northwest is not unlimited. Furthermore, utilities in other regions, including those in California, are not constrained by delivery barriers in their acquisition of renewable resources located in the Pacific Northwest and in fact are proceeding with significant purchases of Pacific Northwest renewable energy. Washington's qualified utilities should not be at a competitive disadvantage in the acquisition of renewable resources.

Reasonable flexibility in the proposed rules regarding the type of delivery arrangements to be used will encourage utilities to consider cost effective renewable generation in other areas, and to make the investments needed to bring their output to load.

Renewable Resource Energy Reporting (WAC 194-37-110)

WAC 194-37-110(1)(c)

Per CTED's WAC 194-37-110(1)(c)), CTED is proposing to require that qualified utilities have in place for any target year "a contract dated no later than January 1 of the target year; and the estimated annual quantity (megawatt-hours) of eligible renewable resources or RECs..."

We do not concur that this proposed CTED rule is required by the provisions of RCW 19.285 or is necessary for the implementation of RCW 19.285.

The test for compliance with 19.285.040(2) is a qualifying utility's actual annual use of electricity from eligible renewable resources or RECs during the target year. There is no requirement in RCW 19.285 consistent with CTED's WAC 194-37-110(1)(c) and such proposed rule should be deleted. Performance during the target year with respect to energy from an eligible renewable resource or RECs is the relevant standard, not a contract in place at the beginning of the target year.

WAC 194-37-110(2)(a)(i)(C)

CTED's proposed rule WAC 194-37-110(2)(a)(i)(C) indicates "The utility may demonstrate that acquired RECs in the subsequent year to make up for any performance deficiency and for nonmaterial under-estimates in load projections." (emphasis added)

We do not concur that this proposed CTED rule is required by the provisions of RCW 19.285 or is necessary for the implementation of RCW 19.285.

RCW 19.285 does not provide limitations regarding the use of RECs from a subsequent year to bring a qualified utility into compliance with the annual targets. As stated plainly in 19.285.040(2)(e) "The requirements of this section may be net for any given year with renewable energy credits produced during that year, the preceding year, or the subsequent year." CTED's rule is an unnecessary and unwarranted limitation on the use of subsequent year RECs. There is no provision limiting the use of RECs to "nonmaterial under-estimates in load projections" as proposed by CTED.

Documentation of renewable resource financial path for no-load growth utilities (WAC 194-37-140)(2)(d)

To demonstrate no-load growth CTED's proposed rule states that a utility must document "That its weather-adjusted load for the most recent prior year is lower than the third year prior". In other words, a qualified utility would only be able to employ 19.285.040(2)(d) if the load of the last year of the three year period is less than the load of the first year of the three year period. 19.285.040(2)(d) itself provides when assessing load growth that "The utility's weather-adjusted load for the previous three years on average did not increase over that time period."

We do not concur that this proposed CTED rule is required by the provisions of RCW 19.285 or is necessary for the implementation of RCW 19.285.

While the scenario used by CTED in this proposed rule is one example of "no-load growth", there are other scenarios that also can be reasonably defined as three year periods of "no-load growth". For instance, if the weather adjusted load in year 1 is

100 amws, year 2 97 amws, and year 3 101 amws, CTED's narrow proposed rule would define this as a period of load growth since the load in year 3 is greater than the load in year 1. However, the "average" weather adjusted load in the example given is only 99.3 amws and meets a reasonable definition of a period with no load growth. As indicated in our cover letter, CTED should use an approach to its rules wherein the rules establish one means of demonstrating compliance, but not the exclusive means to demonstrate compliance with RCW 19.285.

Documentation of financial path – Substitute resource and resource equivalence.

(WAC 194-37-190(1)(c))

CTED's proposed rule (WAC 194-37-190(1)(c)) states "Only supply-side substitute resources shall be used by utilities in the calculation of the incremental cost of eligible renewable resources." (emphasis added)

We do not concur that this proposed CTED rule is required by the provisions of RCW 19.285 or is necessary for the implementation of RCW 19.285.

19.285.050(1)(b) itself provides "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." There is no limitation in 19.285 that the substitute resource only be a "supply-side" resource. As clearly provided for in 19.285, demand-side conservation and energy efficiency are substitutes for supply-side resources. CTED's proposed rule appears to be premised on the view that RCW 19.285 already requires all achievable cost effective demand-side measures to be accomplished.

Such is likely the case for those Washington utilities that are "qualified utilities" per 19.285, but other utilities both in Washington and elsewhere may not have that same requirement. Further, other utilities may have load and resource situations that result in a different (lower) conservation cost effectiveness level than qualified utilities and thus such other utilities may represent a voluntary opportunity to partner with a qualified utility. This partnering opportunity goes beyond the energy conservation requirements of 19.285.040(1). In certain circumstances, conservation and energy efficiency measures can provide a "reasonably available substitute resource". CTED rules should not prohibit the latitude that 19.285 provides to qualified utilities.