

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

COMMISSION STAFF'S

Petition for an Order Granting  
Exemption from the Requirements of  
WAC 480-100-238(4)-(5) and  
WAC 480-90-238(4)-(5)

DOCKET UE-180607  
DOCKET UG-180608

ORDER 02

GRANTING PETITION

**BACKGROUND**

- 1 Electric and natural gas utilities must file Integrated Resource Plans (IRPs) at least every two years.<sup>1</sup> The Washington Utilities and Transportation Commission (Commission) holds public hearings on these IRPs and considers the information reported in the IRP when it evaluates a utility's performance in general rate cases and other proceedings.<sup>2</sup>
- 2 In 2019, the Legislature created new statutory requirements for IRPs and a separate planning requirement called the clean energy implementation plan (CEIP).<sup>3</sup> A CEIP must be based on an IRP that complies with the new statutory requirements. Specifically, the CEIP must "be informed by the investor-owned utility's clean energy action plan" (CEAP), which is one of the new legislative requirements for electric IRPs.<sup>4</sup> Subsequent electric IRP filings must, therefore, be fully compliant with the new statutory requirements and be filed timely to allow incorporation of the CEAP into the CEIP.

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<sup>1</sup> WAC 480-100-238; WAC 480-90-238.

<sup>2</sup> WAC 480-100-238; WAC 480-90-238.

<sup>3</sup> See Chapter 19.405 RCW (Clean Energy Transformation Act (CETA)); RCW 19.280.030; RCW 80.28.405; RCW 19.405.060.

<sup>4</sup> RCW 19.405.060(1)(b)(i); RCW 19.280.030.

3 The new legislation directed the Commission to issue rules regarding IRP filings.<sup>5</sup> The  
Commission will complete its rulemakings regarding purchases of electricity, IRPs,  
CEIPs, and Energy Independence Act (EIA) updates by December 31, 2020.<sup>6</sup>

4 On November 15, 2019, Puget Sound Energy (PSE) expects to make filings in its IRP  
dockets.

5 On October 28, 2019, Commission staff (Staff) filed with the Commission in this docket  
a Petition for Exemption from WAC 480-100-238, pursuant to WAC 480-07-110  
(Petition). Staff entered the same or a similar petition in each of the following integrated  
resource plan dockets: Docket UE-180259 for Pacific Power and Light Company (Pacific  
Power); Dockets UE-180607 and UG-180608 for PSE;<sup>7</sup> and, Docket UE-180738 for  
Avista Corp. d/b/a Avista Utilities (Avista) (collectively, the Utilities). On October 28,  
2019, Staff also sent a notice to all stakeholders in Docket U-190485 informing interested  
parties of the petitions filed by Staff in these four IRP dockets.

6 Staff's Petition contains several elements. Staff seeks:

- An exemption from WAC 480-100-238(4) and WAC 480-90-238(4) until December 31, 2020. Staff requests that the Commission waive WAC 480-100-238(4) requiring PSE to file an IRP in 2019, and instead accept its expected filings on November 15, 2019, as progress reports under RCW 19.280.030(1).
- An exemption from WAC 480-100-238(5) and WAC 480-90-238(5) until December 31, 2020. WAC 480-100-238(5) and WAC 480-90-238(5) require Staff to consult with the utility in the development of the IRP, and require the Commission to hear comment at a public hearings after the final plans are submitted.
- The Commission's standard practice is to issue letters acknowledging that an IRP is consistent with the rules. Staff requests that the Commission suspend the practice of acknowledging IRPs until the same dates noted above.

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<sup>5</sup> See e.g., RCW 19.405.100(9); RCW 19.280.030(11).

<sup>6</sup> Docket U-190485, *2019-2022 Energy Legislation Implementation Plan (final)*, at 2-5 (Aug. 27, 2019).

<sup>7</sup> PSE's IRP dockets are not consolidated, but the filings were made on the same date and the filings have been given the same filing deadlines in a shared order: Order 01, Order Granting Petition Subject to Condition (Feb. 15, 2019).

- Lastly, Staff requests that the Commission establish due dates of January 4, 2021, for the next draft IRPs, and April 1, 2021, for the next final IRPs, which will be filed in a new docket.

7 This matter was considered during the Commission’s regularly scheduled Open Meeting on November 7, 2019.

### DISCUSSION

8 The Commission may grant an exemption from, or modify the application of, any of its rules in individual circumstances if the exemption or modification is consistent with the public interest, the purposes underlying regulation, and applicable statutes.<sup>8</sup> We determine that granting the requested exemption meets each of these requirements.

9 RCW 19.280.030 requires that utilities submit an IRP at least once every four years.<sup>9</sup> The Commission’s rules require that utilities submit an IRP once every two years.<sup>10</sup> There are no statutory requirements for natural gas IRPs.<sup>11</sup> Under the circumstances presented here, granting the requested exemptions will not violate or contravene statutory requirements because the Utilities filed IRPs in 2017.

10 The new statutory requirements for IRPs became effective on May 7, 2019. Requiring the Utilities to file 2019 IRPs may result in filings that fail to incorporate the new statutory requirements because the 2019 IRPs were developed prior to the statutory change. Moreover, the Commission’s new rules will not be complete until December 31, 2020, rendering the Utilities unable to comply with those rules in the interim.

11 We agree with Staff that the 2019 IRP filings in Dockets UE-180259, UE-180607, UG-180608, and UE-180738 could not, therefore, be expected to include a CEAP, comply with CETA, or comply with Commission rules implementing the statutory changes when statutory changes were implemented midway through the IRP drafting process. Under these circumstances, it would be unfair to require the Utilities to submit

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<sup>8</sup> WAC 480-07-110.

<sup>9</sup> No public comment hearing is required by statute.

<sup>10</sup> WAC 480-100-238(4); WAC 480-90-238(4). Commission rules also require that a public comment hearing be held for each IRP. WAC 480-100-238(5); WAC 480-90-238(5).

<sup>11</sup> The Commission promulgated natural gas IRP rules in WAC 480-90-238 under RCW 80.01.040 and RCW 80.04.160.

their 2019 IRPs when the Commission would be obligated to reject them for failing to comply with the new statutory requirements.

- 12 RCW 19.280.030 requires that utilities must file, at minimum, a progress report every two years. We find it fair, reasonable, and appropriate under these circumstances that the Utilities' 2019 IRP filings be considered as progress reports under RCW 19.280.030, instead of IRPs that we would be obligated, under the new statutory requirements, to reject.
- 13 In addition, granting the exemption will allow the Commission to optimize the use of its resources to develop the required expertise and the required rules to implement the changes to the statutory requirements.
- 14 There is no statutory requirement that the Commission hold a public comment hearing on IRPs. Accordingly, we find that holding a public comment hearing as required by Commission rules is unnecessary. A progress report that is readily available for public inspection is sufficient to apprise stakeholders of a utility's progress in anticipation of its next IRP filing, which must be compliant with the new statutory requirements.
- 15 Accordingly, we determine that the requested temporary exemptions from Commission rules WAC 480-100-238(4) and WAC 480-100-238(5) until December 31, 2020, are consistent with the public interest, the purposes underlying regulation, and applicable statutes and should be granted. Instead of requiring compliance with WAC 480-100-238(4), we find that the Utilities' filings in their IRP dockets should be considered and accepted as progress reports under RCW 19.280.030.
- 16 We also find that, in the absence of IRP filings, it is unnecessary to continue the Commission's practice of issuing letters acknowledging that an IRP filing complies with rule and statute. We therefore determine that the Commission should suspend its practice of acknowledging IRPs in Dockets UE-180259, UE-180607, UG-180608, and UE-180738 until December 31, 2020.
- 17 We grant the temporary exemptions outlined above, but determine that specific deadlines are necessary for future filings to ensure that the IRP processes for Avista, Pacific Power, and PSE remain on track and in compliance with statutory requirements. Accordingly, the Utilities are required to submit draft electric IRPs by January 4, 2021,<sup>12</sup> followed by final electric IRPs by April 1, 2021.<sup>13</sup> The timing of these deadlines will also promote the

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<sup>12</sup> A draft natural gas IRP for PSE will be due on January 4, 2021.

<sup>13</sup> PSE's final natural gas IRP will also be due on April 1, 2021.

Utilities' compliance with the new statutory requirement regarding CEIPs (which must be informed by the CEAP in a utility's IRP).

**FINDINGS AND CONCLUSIONS**

- 18 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric and natural gas companies.
- 19 (2) PSE is an electric company, a natural gas company, and a public service company subject to Commission jurisdiction.
- 20 (3) PSE expects to make a filing in its IRP dockets by November 15, 2019.
- 21 (4) On October 28, 2019, Staff filed with the Commission a Petition for an Order Granting Exemption from the Requirements of WAC 480-100-238(4)-(5) and WAC 480-90-238(4)-(5).
- 22 (5) This matter came before the Commission at its regularly scheduled meeting on November 7, 2019.
- 23 (6) Staff has demonstrated pursuant to WAC 480-07-110 that the temporary exemptions requested are consistent with the public interest, the purposes underlying regulation, and applicable statutes. Therefore, Staff's Petition should be granted.

**ORDER**

**THE COMMISSION ORDERS:**

- 24 (1) Commission staff's Petition for an Order Granting Exemption from the Requirements of WAC 480-100-238(4)-(5) and WAC 480-90-238(4)-(5), filed October 28, 2019, is granted.
- 25 (2) Puget Sound Energy's filings in its IRP dockets expected on November 15, 2019, will be considered and accepted by the Commission as progress reports under RCW 19.280.030(1).
- 26 (3) The Commission Secretary is authorized to accept Puget Sound Energy's filings expected on November 15, 2019, which must comply with the requirements of this Order.

- 27 (4) The Commission temporarily suspends its practice of issuing IRP  
acknowledgement letters in these dockets until December 31, 2020.
- 28 (5) Puget Sound Energy's next draft IRPs must be submitted by January 4, 2021, and  
its next final IRPs must be submitted by April 1, 2021.
- 29 (6) Nothing in this Order relieves Puget Sound Energy of its obligation to  
demonstrate prudence when acquiring resources consistent with the laws of  
Washington state. Nor does this Order prevent Puget Sound Energy from  
submitting an integrated resource plan to demonstrate resource need, if necessary.
- 30 (7) The Commission retains jurisdiction over the subject matter and Puget Sound  
Energy to effectuate the terms of this Order.

DATED at Lacey, Washington, and effective November 7, 2019.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

DAVID W. DANNER, Chair

ANN E. RENDAHL, Commissioner

JAY M. BALASBAS, Commissioner