

WAC 480-106-030 Tariff for purchases from qualifying facilities.

(1) **Tariff for purchases from qualifying facilities required:** Each utility must file a tariff consistent with this chapter and with WAC 480-80-102 Tariff content.

(2) **Contracting procedures:**

(a) In the tariff required in subsection (1) of this section, each utility must file contracting procedures that sets forth the obligations of the utility and the qualifying facility entering into contracts for the purchase and sale of qualifying facility output. Such contracting procedures shall provide that a legally enforceable obligation will be considered in an executed written contract between the utility and the qualifying facility prior to commercial operation;

(b) A legally enforceable obligation may exist prior to an executed written contract. If an irreconcilable disagreement arises during the contracting process, the qualifying facility or the purchasing utility may petition the commission to resolve the disagreement, including making a determination about whether the qualifying facility owner is entitled to a legally enforceable obligation and the date that such obligation occurred based on the specific facts and circumstances of each case. In making its determination, the commission will recognize that the formation of a legally enforceable obligation is based on a qualifying facility committing itself to sell all or part of its electric output to an electric utility.

(3) **Schedule of estimated avoided costs offering standard rates for purchases from qualifying facilities of five megawatts or less:** In the tariff required in subsection (1) of this section, all utilities must file a schedule of estimated avoided costs offering standard rates for purchases from qualifying facilities with nameplate capacities of five megawatts or less, as described in WAC 480-106-040 Schedules of estimated avoided costs. Qualifying facility developers proposing projects with a design capacity of five megawatts or less may choose to receive a purchase price for power that is set forth in such standard tariff.

(4) **Standard contract provisions for purchases from qualifying facilities of five megawatts or less:** In the tariff required in subsection (1) of this section, each utility shall specify the information required for qualifying facilities with nameplate capacities of five megawatts or less to obtain draft executable contracts. All utilities shall file standard contract provisions for purchases from a qualifying facility with a capacity of five megawatts or less. Standard contracts may include commercially reasonable milestone events and cure periods including, but not limited to, the qualifying facility's:

(a) Provision of any necessary credit support, necessary governmental permits and authorizations, evidence of construction financing, and as-built supplements;

(b) Completion of interconnection facilities;

(c) Completion of start-up testing; and

(d) Achievement of mechanical availability of operation.

(5) **Information and term sheets for qualifying facilities with capacities of greater than five megawatts:** In the tariff required in subsection (1) of this section, each utility shall specify the information required for qualifying facilities of greater than five megawatts to obtain draft and executable contracts. All utilities shall post upon the utility's website nonbinding term sheets with limited contract provisions for qualifying facilities with capacities greater than five megawatts. Such contract provisions need not be the same as

the standard contract provisions required pursuant to subsection (3) of this section, but shall be consistent with the commission's rules.

[Statutory Authority: RCW 80.01.040, 80.04.160, and 34.05.220. WSR 19-13-031 (Docket U-161024, General Order R-597), § 480-106-030, filed 6/12/19, effective 7/13/19.]