

March 8, 2022

Mr. Stoyan Bumbalov  
Managing Director  
State Building Code Council  
Washington State Department of Enterprise Services  
1500 Jefferson St SE  
Olympia, WA 98501

RE: Proposed Changes to the Washington State Commercial Building Code:  
Requirement for On-Site Renewable Energy for Commercial Buildings over  
10,000 square feet - Section # C411, with carry over to C406, C407

Dear Mr. Bumbalov:

In our letter of September 13, 2021, the Washington Public Utility Districts Association (WPUDA) strongly implored the State Building Code Council (SBCC) to defer action on the proposed code change that would mandate on-site renewable energy for commercial buildings over 10,000 square feet (Section #C411). Our letter demonstrated that the proponent's Initial Cost-Benefit analysis was deeply flawed. As such, the SBCC has no reasonable basis to conclude that the probable benefits of this proposal exceeds its probable costs; or that it would impose the least burden necessary to achieve the general goals and specific objectives of the statute it implements. These are non-discretionary findings that our state legislature requires the SBCC to make for each distinct part of proposed significant legislative rules (see RCW 34.05.328)<sup>1</sup>.

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<sup>1</sup> The state legislature, when amending the administrative rulemaking procedures in 1995 declared that: "...Washington's regulatory system must not impose excessive, unreasonable, or unnecessary obligations; to do so serves only to discredit government, makes enforcement of essential regulations more difficult, and detrimentally affects the economy of the state and the well-being of our citizens."

While taking no position on the proposed requirement for on-site renewable energy for commercial buildings over 10,000 square feet, WPUDA reminds the SBCC of the seven fundamental flaws in the initial Cost-Benefit analysis identified in our September 13, 2021, letter. We enclosed that letter so that it may be included in the official rulemaking record.

Furthermore, by this letter we add an important eighth item that fundamentally affects the cost-effectiveness of larger on-site generation systems. A super majority of utilities in Washington state purchase wholesale power from BPA under terms specified in Tier I contracts. Those terms impose significant consequences on utilities when their customers install generating resource(s) larger than 200kW in capacity:

- If all or part of a consumer-owned resource reduces the retail load served by the host utility, then that utility's rights to Tier 1 or Tier 2 purchases is decremented.
- BPA requires the host utility submit a small generation interconnection request and a \$2,500 application fee.
- The host utility must obtain a transmission interconnection agreement with BPA that meets certain requirements:
  - Compliance with BPA's open access transmission tariff for small generation;
  - Compliance with NEPA standards;
  - Revenue quality metering with hourly values available via telephone dial-up;
  - Protective relaying to prevent islanding when isolated from the grid;
  - Multi-party operations & maintenance agreements among participants in the project; and
  - Participation by local serving utility staff and their active communications with the BPA Dispatcher.

Enclosed is a document from BPA that provides more information about the requirements it places upon utilities should a utility customer seek to interconnect a generating facility larger than 200kW.

WPUDA brings these contract terms to the attention of the SBCC because of the 249kW solar system required for the "Large Office" prototypical building. The proponents' Cost-Benefit analysis included none of the costs associated with the

consequences triggered by this larger than 200kW generating system. It is important to note that the proposed code mandating “On-Site Renewable Energy for Commercial Buildings” has no upper limit size of the generation system that must be installed.

In conclusion, WPUDA reminds the SBCC that our request is only that you defer action on the proposed code change **On-Site Renewable Energy for Commercial Buildings Over 10,000 - Section # C411, with carry over to C406, C407**. We make this request so that the Technical Advisory Group may correct the fundamental flaws in the accompanying initial Cost-Benefit analysis. It is WPUDA’s firm conviction that the SBCC can neither affirm that the proposal satisfies the standards set by the legislature for significant legislative rules, nor assess whether the proposal is in the public interest without an accurate and sound economic analysis.

Finally, WPUDA stands ready to assist the SBCC in correcting flaws in the Financial Analysis so that it more accurately and fairly reflects the likely financial impacts to citizens of this state.

Sincerely,



Nicolas Garcia, Policy Director  
Washington Public Utility Districts Association

enclosures