

**BEFORE THE WASHINGTON STATE UTILITIES AND TRANSPORTATION
COMMISSION**

RE: INTERPRETIVE AND POLICY
STATEMENT REGARDING STANDARDS
FOR NET-METERING, FUEL SOURCES,
FOSSIL FUEL GENERATION EFFICIENCY
AND TIME-BASED METERING

DOCKET NO. UE-060649

COMMENTS OF PUBLIC COUNSEL

August 8, 2007

I. INTRODUCTION

The Public Counsel Section of the Washington Attorney General's Office (Public Counsel) respectfully submits these comments in response to the Commission's July 10, 2007, Notice of Opportunity to File Written Comments on the Draft Interpretive and Policy Statement in the above captioned matter. These comments are limited to the smart metering section of the Draft Interpretive and Policy Statement (hereafter, "Draft Statement"). Though Public Counsel has not previously filed comments in this proceeding regarding smart meters, it does so now largely in support of the Draft Statement. However, Public Counsel recommends that the list of specific costs that will be considered as part of a cost-effectiveness analysis be modified to also include the costs associated with achieving load reduction. We also recommend that certain additional issues should be considered in any evaluations of smart meters and time of use rate design.

II. COMMENTS

Public Counsel supports the recommendation of Commission Staff, reflected in the Draft Statement, to reaffirm the Commission's policy adopted in 1980 that "time-of-day ratemaking is

acceptable only if cost-justified.”¹ We also agree with the finding that it would not be appropriate to require electric utilities to install smart meters and offer time-of-use pricing schedules to customers.²

The Draft Statement aptly observes that Puget Sound Energy’s time-of-use (TOU) pilot program, implemented in 2001, was terminated early in large part because an evaluation concluded that 94 percent of customers participating in the program paid more under the TOU tariff than they would have under standard tariffed service.³ In approving early termination of the pilot program, the Commission found that PSE’s TOU rates were no longer fair, just, and reasonable.⁴ The TOU Milestones report, filed with the Commission July 1, 2003, contained comments and results of analyses by PSE, Commission Staff, and Public Counsel. All parties concluded the program was not cost-effective, although in some areas they used different assumptions and inputs.⁵

The Draft Statement contains a listing of various costs and benefits the Commission will consider, among other things, in evaluating the cost-effectiveness of TOU metering and rate designs.⁶ Public Counsel strongly supports the Draft Statement’s inclusion of “rate equity” issues in any such analysis. A recent report by consumer affairs consultant Barbara Alexander highlights a range of issues and concerns for residential customers, particularly limited income households, associated with the implementation of smart meters and time-of-use or real time

¹ Draft Statement at ¶ 23.

² *Id.* at ¶ 24.

³ *Id.* at ¶ 16.

⁴ Docket Nos. UE-011570 & UG-011571, *WUTC v. PSE*, Fourteenth Supplemental Order: Granting Application to Amend Twelfth Supplemental Order, November 15, 2002, at ¶ 22.

⁵ Docket No. UE-011570, PSE Compliance filing, TOU Milestones Report, July 1, 2003. As discussed below, the Department of Community, Trade, and Economic Development’s (CTED) Energy Policy Division also provided comments regarding the costs associated with achieving load reductions.

⁶ Draft Statement at ¶ 26.

pricing programs.⁷ For example, many residential customers, particularly limited income customers, use low levels of electricity and therefore “there is not a great deal of elasticity in their ability to reduce or shift usage, at least without suffering some potential discomfort or harm to health”⁸ Households with elderly individuals or young children, for example, may have little to no ability to shift or reduce usage. Ms. Alexander’s report indicates that in California, an impact evaluation of the California Statewide Pricing Pilot program found that for limited income customers (those participating in a rate discount program) “the elasticity of substitution ... is essentially zero.”⁹

A. The Commission Should Also Consider Costs Associated with Achieving Load Reduction in Evaluating Cost Effectiveness.

Public Counsel recommends that the list of specific costs that will be considered as part of a cost-effectiveness analysis be modified to also include the costs associated with achieving load reduction. These are costs associated with energy efficiency, fuel switching, and curtailment. These costs were considered in the final evaluation of PSE’s TOU pilot.¹⁰ The analyses by PSE, Commission Staff, and Public Counsel each reflected cost inputs associated with achieving load reductions, although Public Counsel and the Department of Community, Trade and Economic Development’s (CTED) Energy Policy Division believed the cost inputs of PSE and Commission Staff were far too low.¹¹ As Public Counsel stated in the final TOU

⁷ *Smart Meters, Real Time Pricing, and Demand Response Programs: Implications for Low Income Electric Customers*, by Barbara Alexander, prepared under contract with Oak Ridge National Laboratory, May 30, 2007.

⁸ *Id.*, p. 13.

⁹ *Id.*, p. 33.

¹⁰ Docket No. UE-011570, PSE Compliance filing, TOU Milestones Report, July 1, 2003.

¹¹ *Id.*, pp. 12-13. CTED agreed with Public Counsel’s assumed \$.03/kwh cost to achieve the proposed 1% load reduction through a mix of energy efficiency, curtailment, and fuel switching. CTED’s comments further state in part: “... the Company and WUTC staff have both assumed that up to two-thirds of the savings for this program endure for ten years at no cost – no efficiency program cost, no time-of-use or efficiency educational campaign cost,

milestones report, we believe the costs associated with achieving load reduction should reflect the costs of customer hardship or sacrifice, as well as the costs of energy efficiency and fuel switching.¹²

B. Additional Issues to be Considered in Evaluating Cost-Effectiveness.

Public Counsel recommends that the Draft Statement be modified to reflect additional issues that would be considered in any future evaluation of TOU metering or rate design programs. While the implications associated with these issues may not be quantifiable for inclusion in a cost-benefit analysis, they are nevertheless important issues worthy of the Commission's consideration. In particular, Public Counsel believes the following four issues should also be considered in any such evaluation.

1. Impact on consumer protection policies and programs that rely on personal contact and premise visits.

Analyses of advanced metering technology should consider the potential adverse impact on limited income and payment troubled customers in relation to existing programs that rely on personal contact and premise visits to implement notice and attempts to avoid disconnection. If a utility's proposed new metering technology allows the utility to disconnect without dispatching a utility worker to the customer's premise that would very likely negatively impact limited income and payment troubled customers.¹³ The Commission's rules, for example, provide that electric utilities must allow customers to make a payment to a utility representative at time of

no consumer cost, no hardship cost, no cost. We believe this is an unreasonable assumption and are unaware of a comparable assumption in the analysis of demand management programs." *Id.*, p. 13

¹² TOU Milestone Report, July 1, 2003, p. 12. Public Counsel provided the example of a customer who curtailed their usage by using cold water instead of warm water for laundry, resulting in clothes that are not as clean. We believe it is appropriate to assign a cost to this customer sacrifice. *Id.*

¹³ Alexander, pp. 4, 16-17.

disconnection. WAC 480-100-128 regarding disconnection notification provides in part:

A utility representative dispatched to disconnect service must accept payment of a delinquent account at the service address, but will not be required to give change for cash paid in excess of the amount due and owing. The utility must credit any over-payment to the customer's account. The utility may charge a fee for the disconnection visit to the service address if provided for in the utility's tariff;

WAC 480-100-128 (6)(k).

This is simply one example, and there are likely others in the Commission's rules and utility policies regarding customer notification, disconnection, and payment arrangements.

2. Whether advanced metering technology poses privacy concerns and whether appropriate controls are in place to safeguard private customer usage information.

Advanced metering technology that allows for two-way communication, generating highly detailed customer usage data, raises concerns as to whether the utility will employ sufficient safeguards to prevent misuse or release of private customer information to third parties. As Ms. Alexander points out, “[d]ata mining of such electricity usage data could indicate when customers get up in the morning, whether they use electricity during working hours, when they leave and return, whether and when they use significant air conditioning or other motors, whether they are home weekends, whether they have been terminated for nonpayment, when they take vacations, etc.”¹⁴

The Commission has carefully considered issues related to the use and sharing of private customer information by utilities, and advanced metering technology and time of use programs are very likely to warrant similar careful consideration. The Commission recently penalized PSE nearly \$1M for violating consumer privacy laws by intentionally sharing customers' private

¹⁴ Alexander, p. 25.

information with an outside marketing partner without the customers' written permission.¹⁵ The Commission has also considered privacy issues with respect to telephone companies' use of customer proprietary network information (CPNI) and limitations regarding sharing that information with third party entities.¹⁶

3. Whether any environmental impact, positive or negative, is anticipated from the program.

Time-of-use programs may have environmental impacts, positive or negative, depending upon the utility's marginal resources during on-peak and off-peak periods. For example, if load shifting results in additional reliance on coal as a marginal off-peak resource, as opposed to natural gas as a marginal on-peak resource, the program in this hypothetical would have an adverse environmental impact. There may be sufficient data available to quantify this impact for inclusion in the cost-benefit analysis, but at a minimum it should be considered as an additional issue in any cost-effectiveness analysis.

4. Whether non-time-based rate options, such as demand side management and load control mechanisms could achieve significant savings and benefits at lower cost.

Finally, Public Counsel recommends that any cost-effectiveness analysis of smart meters and time-of-use rate designs should also consider whether there may be other alternatives to achieving similar benefits, such as demand side management and direct load control programs, potentially at lower cost and with fewer implications or concerns for consumers. Direct load control programs, such as a hot water heater program, would not require the widespread installation of advanced metering technology and therefore would likely have substantially lower

¹⁵ Docket No. UE-061239, *WUTC v. PSE*, Order 02 Accepting Settlement Agreement Subject to Condition, January 22, 2007.

¹⁶ See WAC 480-120-202, -217, and -218.

operational and administrative costs. Customers typically receive very clear benefits from such a direct load control program, in the form of lower bills and an incentive payment for participation.¹⁷

III. CONCLUSION

Public Counsel, as a general matter, supports the Draft Statement’s approach to smart meters and time-of-use rate designs. In addition, for the reasons described above, Public Counsel respectfully requests the Commission modify the Draft Statement’s list of specific costs that will be considered as part of a cost-effectiveness analysis to also include the costs associated with achieving load reduction, including costs associated with customer hardship or sacrifice. We also recommend that Draft Statement be modified to reflect “additional issues” that will be considered in any evaluation of smart meters and time of use rate design, including the four issues described in our comments.

¹⁷ See Alexander, pp. 61-64.