

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.

Respondent.

DOCKET UE-011570

JOINT MOTION TO MODIFY
TWELFTH SUPPLEMENTAL
ORDER

I. RELIEF REQUESTED

I Pursuant to WAC 480-07-375, the Washington Utilities and Transportation Commission Staff (“Commission Staff”), Puget Sound Energy, Inc. (“PSE”), the Public Counsel Section of the Washington Attorney General’s Office (“Public Counsel”), the NW Energy Coalition (“NWEC”), and the Industrial Customers of Northwest Utilities (“ICNU”) (collectively referred to as “Movants”) jointly move for an order amending the Twelfth Supplemental Order entered June 20, 2002, in the above-captioned docket to conform to agreed conditions that the Movants have proposed for adoption in Docket UE-100177.¹ Movants ask the Commission to replace Appendix A, Exhibit F, of the Twelfth Supplemental Order with the “Agreed Conditions for Approval of Puget Sound Energy, Inc.’s 2010-2011 Biennial Electric Conservation Targets Under RCW 19.285 Docket No.

¹ Docket UE-100177 is the docket in which the Commission is reviewing PSE’s conservation target filing for compliance with RCW Chapter 19.285.

UE-100177 and Agreed Modifications to Electric Settlement Terms for Conservation in Docket No. UE-011570” (“Settlement Agreement”) filed in this docket and in Docket UE-100177 on September 3, 2010 and attached hereto. Specifically, the Movants seek an order amending Paragraph 63 (Ordering Paragraph (2)) of the Twelfth Supplemental Order as follows (proposed additional language underlined):

- (2) THE COMMISSION ORDERS FURTHER That, except as provided below, the Settlement Stipulation filed by the parties on June 6, 2002, which is attached to this Order as Appendix A and incorporated by reference as if set forth in full in the body of this Order, is approved and adopted as a full and final resolution of this general rate proceeding, subject to the clarifications, modifications, and conditions stated in the body of this Order. Exhibit F to the Settlement Stipulation, “Settlement Terms for Conservation” shall no longer be effective in Docket UE-011570 and is vacated. In its place, the “Agreed Modifications to Electric Settlement Terms for Conservation in Docket No. UE-011570” filed by the parties on September 3, 2010, is approved, adopted, and incorporated by reference as if set forth in full in the body of this Order. The “Settlement Terms for Conservation” that the parties filed on June 6, 2002 as Exhibit F to the Settlement Stipulation shall continue in effect in Docket UG-011571.

2 RCW 80.04.210 and WAC 480-07-875 authorize the Washington Utilities and Transportation Commission (“Commission”) to amend an order after providing notice to the affected public service company and to all parties in the underlying proceeding. On September 3, 2010, Movants filed the Settlement Agreement in Docket UE-100177. A copy was also filed in Docket UE-011570. At that time, Movants provided informal notice to the parties in Dockets UE-011570/UG-011571 of their intent to seek a modification of the Twelfth Supplemental Order in Docket UE-011570. With the filing of this motion, Movants provide formal notice to all parties in Docket UE-011570 and its natural gas companion, UG-011571.

II. STATEMENT OF FACTS

A. The Relationship Between Dockets UE-011570 and UE-100177

3 In the Twelfth Supplemental Order entered on June 20, 2002, the Commission approved a multi-party Settlement Stipulation of disputed electric and common issues in PSE's then-pending general rate case, Docket Nos. UE-011570 and UG-011571.² Exhibit F to the Settlement Stipulation was entitled "Settlement Terms for Conservation" ("2002 Conservation Stipulation").³ Among other things, the 2002 Conservation Stipulation established a Conservation Resource Advisory Group ("CRAG") to advise PSE on its electric and gas conservation programs, established electric and gas savings targets, and set up a mechanism for assessing penalties if PSE failed to achieve the targets.

4 In 2006, Washington voters approved Initiative 937, the Energy Independence Act, now codified in Chapter 19.285 of the Revised Code of Washington. In 2007, the Commission adopted rules implementing the act in WAC Chapter 480-109.⁴ Together, the act and rules address some of the matters covered in the 2002 Conservation Stipulation, but not necessarily in the same way that the 2002 Conservation Stipulation addresses them. Among other things, the law requires electric utilities with 25,000 or more customers to set and meet energy conservation targets, and pay penalties for non-compliance.⁵ RCW Chapter 19.285 does not address natural gas conservation.

² *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), [Twelfth Supp. Order](#): Rejecting Tariff Filing; Approving and Adopting Settlement Stipulation Subject to Modifications, Clarifications, and Conditions; Authorizing and Requiring Compliance Filing (June 20, 2002).

³ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), [Twelfth Supp. Order](#) (June 20, 2002), [Settlement Stipulation Ex. F](#).

⁴ *In the Matter of Adopting Rules to Implement the Energy Independence Act*, Docket UE-061895, [General Order R-546](#) (Wash. Utils. & Transp. Comm'n, Nov. 30, 2007); Wash. St. Reg. [07-24-012](#).

⁵ See [RCW 19.285.040\(1\)](#); [RCW 19.285.060\(1\)](#).

5

Under WAC 480-109-010, each investor-owned electric utility was required to file with the Commission, by January 31, 2010, a report identifying the utility's 2010-2019 ten-year achievable conservation potential and 2010-2011 biennial conservation target under RCW 19.285.040(1). The Commission considered PSE's report in Docket UE-100177. After commencing an adjudicative proceeding and ruling on dispositive issues, the Commission directed PSE to file a revised report, which PSE did. The intervening parties to Docket UE-100177 agreed that the revised report complied with the Commission's order, but recommended that conditions be developed by the interested parties and approved by the Commission. Working through the PSE CRAG created by the 2002 Conservation Stipulation, all parties in Docket UE-100177 as well as some additional CRAG members negotiated the Settlement Agreement, which contains agreed conditions for approval of the 2010-2019 achievable conservation potential and 2010-2011 biennial conservation target contained in PSE's revised report.⁶ The parties filed the Settlement Agreement in Docket UE-100177 on September 3, 2010 and have asked the Commission to approve it under RCW 19.285.040(1)(e).

6

The Movants herein are the signatories to the Settlement Agreement in Docket UE-100177. As described in the Joint Narrative filed in that docket on September 3, 2010, Movants used the 2002 Conservation Stipulation in Dockets UE-011570/UG-011571 as their starting point for the Settlement Agreement. Movants sought to revise the 2002 Conservation Stipulation with respect to electric conservation so that it would be consistent with RCW Chapter 19.285 and WAC Chapter 480-109, while preserving the provisions that

⁶ Not all members of the PSE CRAG formally intervened in Docket UE-100177. All CRAG members were invited to participate in the negotiation of the Settlement Agreement, and the Northwest Industrial Gas Users and the Energy Project did so. Both were signatories to the 2002 Conservation Stipulation, though not parties in Docket UE-100177. Microsoft, also a signatory to the 2002 Conservation Stipulation, and the Northwest Energy Efficiency Council, a CRAG member but not a signatory, attended one of the negotiation sessions.

apply to natural gas. They intended that the Settlement Agreement would resolve the issues in Docket UE-100177 and, in addition, would replace the 2002 Conservation Stipulation in Docket UE-011570 with respect to electric conservation, while retaining certain important elements of the 2002 Conservation Stipulation, as described in Section II.B below.

7 The participants in the UE-100177 negotiations, including Movants, recognized the need to avoid disturbing the natural gas provisions in the 2002 Conservation Stipulation. For that reason, the Settlement Agreement modifies the 2002 Conservation Stipulation in Docket UE-011570 as it relates to electric conservation, but it does not modify the 2002 Conservation Stipulation as it relates to natural gas conservation in Docket UG-011571. As stated in the first section of the Settlement Agreement, the 2002 Conservation Stipulation in UG-011571 remains in full force and effect with respect to natural gas issues. The Northwest Industrial Gas Users and the Energy Project have given permission to the parties in Docket UE-100177 to represent that they do not object to the Settlement Agreement.

8 Movants now ask the Commission to amend the Twelfth Supplemental Order in Docket UE-011570 by vacating the 2002 Conservation Stipulation and replacing it with the Settlement Agreement. Movants ask that the Commission leave the 2002 Conservation Stipulation in effect with respect to natural gas in Docket UG-011571.

B. Elements of the 2002 Conservation Stipulation Relating to Electric Conservation that are Retained in the Settlement Agreement.

9 **Duration and Future Review.** The 2002 Conservation Stipulation established a conservation program without a sunset date.⁷ Section B of the Settlement Agreement continues that model, while preserving all parties' right to request modifications and to

⁷ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), Twelfth Supp. Order (June 20, 2002), [Settlement Stipulation Ex. F](#) Part B.

comment on PSE's future filings.⁸

10 **Establishment of a Formal Advisory Committee.** Section D of the Settlement Agreement preserves the CRAG created by the 2002 Conservation Stipulation.⁹ As described in Section K of the Settlement Agreement, the Settlement Agreement updates the role of the CRAG under RCW Chapter 19.285.

11 **Cost Recovery and Allocation.** In Docket UE-970686, the Commission authorized PSE to implement an electric tariff rider for recovery of electricity conservation expenditures, and imposed reporting requirements.¹⁰ The 2002 Conservation Stipulation retained that practice.¹¹ Section H of the Settlement Agreement continues it and also provides for a CRAG review of cost allocation.

12 **Conservation Report Card.** The 2002 Conservation Stipulation required PSE to send a Conservation Report Card to its customers regarding its performance in meeting conservation targets.¹² Section I of the Settlement Agreement continues that practice.

C. Elements of the 2002 Conservation Stipulation Relating to Electric Conservation that are Eliminated

13 The Settlement Agreement deletes some elements of the 2002 Conservation Stipulation as obsolete because they concerned activities that were to occur before 2010. The Settlement Agreement deletes other elements of the 2002 Conservation Stipulation because they have been superseded by the enactment of RCW Chapter 19.285 and WAC

⁸ The Settlement Agreement also provides for continuation of a PSE conservation program in the event that RCW 19.285 conservation targets are repealed.

⁹ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), Twelfth Supp. Order (June 20, 2002), [Settlement Stipulation Ex. F](#) Part D.

¹⁰ *In re Puget Sound Energy*, Docket UE-970686, [Order](#) (May 16, 1997), [Second Supp. Order](#) (Mar. 29, 2000).

¹¹ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), Twelfth Supp. Order (June 20, 2002), [Settlement Stipulation Ex. F](#) Part L.

¹² *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), Twelfth Supp. Order (June 20, 2002), [Settlement Stipulation Ex. F](#) Part M.

Chapter 480-109.

14 **Penalties.** The 2002 Conservation Stipulation established a penalty mechanism if PSE failed to meet conservation targets.¹³ With respect to conservation of electricity, Movants agree that the penalties in RCW 19.285.060 supersede those in the 2002 Conservation Stipulation. Should the statutory penalties be repealed, Section I of the Settlement Agreement provides that PSE will develop and propose a replacement penalty mechanism in consultation with the CRAG, and may also propose an incentive program at that time. With respect to natural gas, the penalty mechanism in the 2002 Conservation Stipulation will remain in effect.

15 **Avoided Cost Calculation.** With respect to electricity, the Settlement Agreement changes the methodology for calculating conservation avoided cost that was established in the 2002 Conservation Stipulation.¹⁴ Section E of the Settlement Agreement reflects PSE's agreement to rely on a calculation of avoided costs consistent with the methodology of the Pacific Northwest Electric Power and Conservation Council and RCW 19.285.040. With respect to natural gas, the avoided cost methodology in the 2002 Conservation Stipulation will remain in effect.

III. ARGUMENT

16 The Commission has authority to alter or amend its prior orders.¹⁵ When considering a motion such as this one, the Commission may refer to the Washington

¹³ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), Twelfth Supp. Order (June 20, 2002), [Settlement Stipulation Ex. F](#) Part M.

¹⁴ *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket Nos. UE-011570/UG-011571 (consolidated), Twelfth Supp. Order (June 20, 2002), [Settlement Stipulation Ex. F](#) Part F.

¹⁵ [RCW 80.04.210](#); see [WAC 480-07-875\(1\)](#).

superior court rules for civil proceedings as guidelines.¹⁶ Civil Rule 60(b)(6) provides that a court may amend a final judgment if “it is no longer equitable that the judgment should have prospective application.” That is the case here.

17 The enactment of RCW Chapter 19.285 has changed the legal landscape for PSE’s electric conservation programs. The statute has superseded some elements of the 2002 Conservation Stipulation, while other elements have become obsolete. It is no longer equitable or practical that superseded or obsolete elements of the 2002 Conservation Stipulation should remain in effect. The Settlement Agreement is consistent with RCW Chapter 19.285, WAC Chapter 480-109, and current practice. The 2002 Conservation Stipulation for electricity conservation in Docket UE-011570 should be vacated and replaced with the Settlement Agreement.

18 It is appropriate that the provisions that apply to PSE under Dockets UE-011570 and UE-100177 be consistent, so that all parties will understand what is expected of them. Accordingly, the 2002 Conservation Stipulation in Docket UE-011570 should be replaced with the Settlement Agreement, which has also been filed in Docket UE-100177.

IV. CONCLUSION

19 The Settlement Agreement is consistent with RCW Chapter 19.285 and the public interest. It is appropriate for adoption. The Commission should amend Paragraph 63 (Ordering Paragraph (2)) of the June 20, 2002 Twelfth Supplemental Order in this Docket

¹⁶ [WAC 480-07-375\(2\)](#).

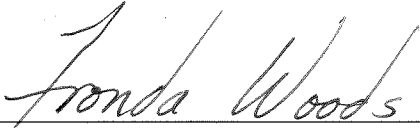
by vacating the 2002 Conservation Stipulation with respect to electric conservation and replacing it with the Settlement Agreement filed herewith.

DATED this 17th day of September 2010.

Respectfully submitted,

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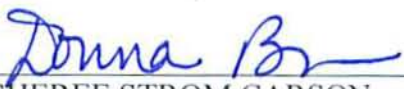
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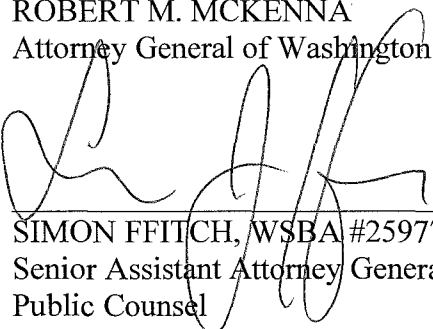
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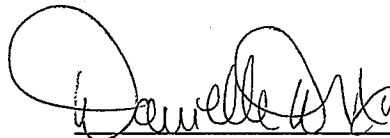
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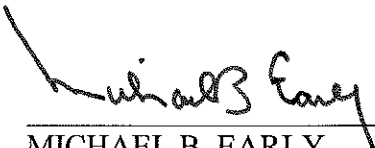
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**AGREED CONDITIONS FOR APPROVAL OF
PUGET SOUND ENERGY, INC.'S 2010-2011 BIENNIAL ELECTRIC
CONSERVATION TARGETS UNDER RCW 19.285
DOCKET NO. UE-100177**

**AND AGREED MODIFICATIONS TO ELECTRIC SETTLEMENT
TERMS FOR CONSERVATION IN DOCKET NO. UE-011570**

A. Executing Parties and Purpose

1. The following parties reached agreement on the terms for approval of Puget Sound Energy Inc's Ten-Year Achievable Conservation Potential and Biennial Conservation Target, which Puget Sound Energy filed in Docket UE-100177 on June 18, 2010: Puget Sound Energy, Inc. ("PSE" or the "Company"); the Staff of the Washington Utilities and Transportation Commission; the Public Counsel Section of the Attorney General's Office; Intervenor Industrial Customers of Northwest Utilities; and Intervenor NW Energy Coalition ("NWECC") (hereinafter referred to collectively as "Executing Parties"). This Settlement Agreement ("Agreement") is the agreement reached by the Executing Parties.

2. The Executing Parties intend that this Agreement shall supersede and replace the Settlement Terms for Conservation, Exhibit F to the Settlement Stipulation in Docket UE-011570 for electric conservation. This Agreement addresses conservation of electricity only. It does not address conservation of natural gas. The Northwest Industrial Gas Users and The Energy Project, signatories to the Settlement Terms for Conservation, Exhibit F to the Settlement Stipulation in Docket UG-011571 but not parties in Docket UE-100177, participated in discussions about the preparation of this Agreement. Nothing in this settlement shall affect the natural gas Settlement Terms for Conservation, Exhibit F to the Settlement Stipulation in Docket UG-011571 with respect to natural gas conservation, which remains in full force and effect with respect to natural gas conservation issues.

3. The approval of Initiative 937 in 2006, codified in Chapter 19.285 of the Revised Code of Washington as the Energy Independence Act, and PSE's subsequent filing in Docket UE-100177, resulted in the need to update and amend the electric conservation provisions of the Settlement Terms for Conservation, Exhibit F to the Settlement Stipulation in Docket UE-011570. Those changes are included in this Agreement. RCW 19.285.040(1) and WAC 480-109-010 require utilities to identify achievable cost-effective conservation potential using methodologies consistent with those used by the Northwest Power and Conservation Council ("Council").

B. Duration and Future Review

4. This Agreement establishes a conservation program with no sunset date. Any party may petition the Commission for modifications to the program, including in a general rate case proceeding. Nothing herein prevents any party from commenting on any filings under this or any other docket before the Commission.

a) Except where expressly stated, the conditions in Section K and all other provisions of this Agreement are intended to remain in effect notwithstanding the biennial review conducted under the Energy Independence Act. Any party may petition to, or the Commission may on its own motion and notice to parties, modify the conservation program if required by the results of the review.

b) In the event that PSE is not required to set or achieve specific conservation savings targets by the Energy Independence Act or other state law, PSE agrees to continue a conservation program that is consistent with the provisions of the 2002 Settlement, such that the programs funded through PSE's tariff rider will be designed to achieve all savings that are not independently captured by consumer acquisition, that are cost-effective to the Company, and economically feasible for consumers, taking into account incentives provided by PSE.

C. Target for Savings from Tariff Programs

5. PSE shall set the ten-year conservation potential and the biennial conservation targets as required by the Energy Independence Act (RCW 19.285) and WAC 480-109 and consistent with this Agreement.

6. In general each individual energy efficiency program shall be designed to be cost-effective.

D. Establishment of a Formal Advisory Committee:

7. PSE shall establish an external Advisory Committee. The Advisory Committee shall address, but not be limited to the issues identified in Section K.3 of this Agreement.

8. Advisory Committee membership shall be established as follows. The Company shall extend an invitation to serve as an Advisory Committee member to a representative from at least each of the following organizations: WUTC staff, Attorney General Office of Public Counsel, NW Energy Coalition, Energy Project, Natural Resources Defense Council, Pacific Northwest Electric Power and Conservation Council, Industrial Customers of Northwest Utilities, Northwest Industrial Gas Users, Washington State Department of Commerce, Northwest Energy Efficiency Council, and the Department Of Energy Weatherization Assistance Program provider network. Additionally, the Company shall seek customer representatives from the residential, commercial, industrial, and

institutional sectors to serve on the Advisory Committee. Other interested parties may attend Advisory Committee meetings as well, but will not be considered Advisory Committee members. This ongoing committee is now called the Conservation Resources Advisory Group (CRAG).

E. Avoided Cost Calculation

9. To determine which energy efficiency programs and measures are cost-effective, PSE shall rely on a calculation of avoided cost consistent with the Council methodology and with the Energy Independence Act.

10. PSE may modify, after consultation with the CRAG, the Company's calculation of avoided cost based upon the following: modification to one or more component values of the calculation, use of a forecasting tool or production cost model other than Aurora, establishment of load factors that are more specific to PSE's service territory, or other information relevant to the calculation of avoided cost.

F. Program Budget

11. Budget Development: The annual budget of the program will be built up from the bottom through the development of a mix of programs that deliver cost-effective savings in PSE's service territory. PSE's conservation targets developed under RCW 19.285.040(1) will direct development of the mix of cost effective programs that will establish the budgets for efficiency programs.

12. Schedule 449 customers are eligible for self-direction under existing Schedule 258 and participation in efficiency programs offered by PSE, except as stated in paragraph 13. Schedule 258 customers who are not on Schedule 449 will be eligible to participate in other programs offered directly by PSE. Non-449 Schedule 258 customers will share in paying NEEA/market transformation and administration costs consistent with all other non-449 customers.

13. Each Schedule 449 customer can self-direct and/or participate in programs offered directly by PSE up to a total dollar cap equal to the annual efficiency funding level for that 449 customer minus 17.5% of that amount. The 17.5% represents payments for market transformation (10%) and for administration (7.5%).

G. Low-Income Energy Efficiency

14. PSE will continue to honor Commitments 22 and 23 from U-072375 with regard to future funding levels for low-income energy conservation programs based on the 2010-2011 planning levels. PSE will continue to work with agencies to provide additional funding above that established by Commitment 22 if additional production through the existing or newly developed cost-effective programs warrants it. In addition, PSE will

continue to contribute a total of \$300,000 of shareholder funds annually for low-income weatherization regardless of fuel type.

H. Cost Recovery and Allocation

15. The Company shall retain the existing rider mechanism going forward, subject to the Commission's Order in Docket No. UE-970686.

16. The Company shall continue to use the peak credit method of assigning the costs of its electric conservation programs to each rate schedule with one exception, the Schedule 449 customers. (The CRAG will review cost allocation methodology per Section K, Paragraph (11)(c)). Schedule 449 customers currently pay 0.0944 cents per kWh toward the cost of the current Schedule 258 four-year conservation program (4/1/10 – 4/1/14). The current practice is to hold the payment amount constant over the Schedule 258 period. This amount is based on a \$164 million biennial electric conservation-only budget for 2010-11, and is scalable in the next Schedule 258 budget cycle depending on whether the overall conservation budget increases or decreases. In 2002, the Schedule 449 customers paid 0.045 cents per kWh toward the cost of the conservation program. This amount was based on a \$20 million annual budget.

I. Conservation Report Card and Penalty for Not Achieving Biennial Target

17. Achievement of the biennial targets for savings from cost-effective electricity conservation programs shall be subject to the penalty/incentive provisions of the Energy Independence Act. In the event that statutory penalties/incentives no longer apply under the Energy Independence Act or other state law or Commission order, PSE agrees to develop and propose a replacement penalty mechanism in consultation with the CRAG. At the same time, PSE may propose an incentive mechanism in consultation with the CRAG.

18. The Company shall provide biennial notification in a Conservation Report Card to its customers regarding the Company's performance related to its biennial savings targets under the Energy Independence Act. The report shall:

- a) Be distributed as a conspicuous stand-alone document accompanying a customer's bill or in a separate mailing and also posted to PSE's website.
- b) Be distributed to customers only after adequate consultation with Staff and the CRAG.
- c) Be distributed no later than 90 days after the Commission determination on the two-year report on conservation program achievement required by the Energy Independence Act and Commission rules.
- d) Contain the following information, at a minimum:

- 1) A brief description of the purpose of the report.
- 2) A brief description of the benchmarks and an indication of whether the Company met the benchmarks in each biennial period.
- 3) The total amount of penalties imposed (or incentive earned) for the current reporting period.

The report also may contain reference to PSE's ongoing energy efficiency programs, including encouragement for customers to participate in those programs.

J. Line Extension Policies that Promote Energy Efficiency and Fuel Efficiency

19. PSE may adopt line extension policies that are designed to encourage (and particularly not discourage) builders, developers, and end-use customers to select a heating fuel that is most resource efficient and adopt construction practices that exceed current energy codes.

K. Conditions

20. All conditions in Section K will be in effect until superseded

- (1) **Ten-Year Potential/Biennial Conservation Target –Approval and Conditions.** . The Executing Parties recommend that PSE's Ten-Year Achievable Conservation Potential and Biennial Conservation Target, as identified in the Company's *Report Identifying PSE's Ten-Year Achievable Conservation Potential and Biennial Conservation Target* (Revised Report) filed on June 18, 2010 and this Agreement be approved pursuant to RCW 19.285.040(1)(e) and WAC 480-109-010(4)(c).
- (2) **Company Retains Responsibility.** Nothing within this Agreement relieves PSE of the sole responsibility for complying with RCW 19.285 and WAC 480-109, which requires PSE to use methodologies consistent with those used by the Pacific Northwest Electric Power and Conservation Planning Council ("Council"). Specifically, the conditions regarding the need for a high degree of transparency, and communication and consultation with external stakeholders, diminish neither PSE's operational authority nor its ultimate responsibility for meeting the biennial conservation target approved herein.
- (3) **Advisory Group.**
 - (a) PSE must maintain and use an external conservation Advisory Group of stakeholders to advise the Company on the topics described in subparagraphs (i) through (ix) below. To meet this condition, PSE shall continue to use its

Conservation Resources Advisory Group (CRAG), initially created under Docket UE-011570 and UG-011571, and its Integrated Resource Planning Advisory Group created under WAC 480-100-238. The Advisory Groups shall address but are not limited to the following issues:

- (i) (1) Development of a written framework for evaluation, measurement, and verification (EM&V) as implemented by PSE which guides its approach to evaluation, measurement, and verification of energy savings. This framework must be reflected in the Biennial Conservation Plan for the next biennium, 2012-2013, and (2) Modification of existing or development of new EM&V conservation protocols based on PSE's current evaluation, measurement and verification approach.
 - (ii) Development of conservation potential assessments under RCW 19.285.040(1)(a) and WAC 480-109-010(1).
 - (iii) Guidance to PSE regarding methodology inputs and calculations for updating cost-effectiveness.
 - (iv) Review the market assessments and the data values used in updating PSE's supply curves.
 - (v) Review need for tariff modifications or mid-course program corrections.
 - (vi) Review appropriate level of and planning for:
 - (1) Marketing conservation programs.
 - (2) Incentives to customers for measures and services.
 - (vii) Consideration of issues related to conservation programs for customers with low-income.
 - (viii) Program achievement results with annual and biennial targets.
 - (ix) Review conservation program budgets; and review the actual expenditures compared to the program budgets. PSE shall inform the CRAG members when its projected expenditures indicate that the Company will spend more than 120% or less than 80% of its annual conservation budget.
- (b) The CRAG shall meet face-to-face at least semi-annually to hear updates, review program modifications, or consider need for revisions. In addition, the

CRAG shall meet at least two additional times per year through conference calls or face-to-face meetings. CRAG members may call meetings at any time with sufficient notice for meeting attendance. PSE shall make arrangements to hold a meeting within 2 weeks from the date of the request.

- (c) Except as provided in Paragraph (8) below, the Company will provide the CRAG an electronic copy of all tariff filings related to programs funded by the Electric Conservation Service Rider that the Company plans to submit to the Commission at least two months before any proposed effective date. When extraordinary circumstances dictate, the Company may provide the CRAG with a copy of a filing concurrent with the Commission filing. This condition does not apply to a general rate case filing.
- (d) The Company will notify the CRAG of public meetings scheduled to address the Company's integrated resource plan. The Company will also provide the CRAG with the assumptions and relevant information utilized in the development of PSE's integrated resource plan as they apply to development and/or modification of the ten-year conservation potential as requested through the integrated resource plan public process. This will include updated information such as conservation supply curves and avoided cost analysis.

(4) **Annual Budgets and Energy Savings.**

- (a) PSE must submit annual budgets to the Commission each year. The submissions must include program-level detail that shows planned expenses and the resulting projected energy savings. In odd-numbered years, the annual budget may be submitted as part of the Biennial Conservation Plan required under Paragraph 8(f) below. In even-numbered years, the annual budget may be submitted as part of the Annual Conservation Plan required under Paragraph 8(b) below. The Annual Conservation Plan will include program descriptions and annual budget details as contained in Attachment B to the Revised Report.
- (b) PSE must provide its proposed budget in a detailed format with a summary page indicating the proposed budget and savings levels for each electric conservation program, and subsequent supporting spreadsheets providing further detail for each program and line item shown in the summary sheet.

- (5) **Program Details.** PSE must maintain its conservation tariffs, with program descriptions, on file with the Commission. Program details about specific measures, incentives, and eligibility requirements must be filed as tariff attachments as shown in Attachment B of the Revised Report. PSE may propose other methods for managing

its program details in the Biennial Conservation Plan required under Paragraph 8(f) below, after consultation with the CRAG as provided in Paragraph 9(b) below.

(6) Approved Strategies for Selecting and Evaluating Energy Conservation Savings.

- (a) PSE has identified a number of potential conservation measures described in Attachment B of its Revised Report filed on June 18, 2010, in this Docket. The Commission is not obligated to accept savings identified in the Revised Report for purposes of compliance with RCW 19.285. PSE must demonstrate the prudence and cost-effectiveness of its conservation programs to the Commission after the savings are achieved. *See* RCW 19.285.040(1)(d).
- (b) Except as provided in Paragraph (6)(c) below, PSE must use the Council's Regional Technical Forum's ("RTF's") "deemed" savings for electricity measures. As of the date of this Agreement, the RTF maintains a Web site at <http://www.nwcouncil.org/energy/rtf/>.
- (c) If PSE uses savings estimates that differ from those established by the RTF, such estimates must be based on generally accepted impact evaluation data and/or other reliable and relevant source data that has verified savings levels, and be presented to the CRAG for comment.
- (d) When PSE proposes a new program tariff schedule, it must present it to the CRAG for comment with program details fully defined. After consultation with the CRAG in accordance with Paragraph (3) above, PSE must file a revision to its Annual Conservation Plan in this Docket. The revision may be acknowledged by placement on the Commission's No Action Open Meeting agenda.
- (e) PSE must provide opportunities for the CRAG to review and advise on the development of evaluation, measurement and verification protocols for conservation programs. *See* Paragraph 3(a)(i) above.
- (f) PSE must perform EM&V annually on a multi-year schedule of selected programs such that, over the EM&V cycle, all major programs are covered. The EM&V function includes impact, process, market and cost test analyses. The results must verify the level at which claimed energy savings have occurred, evaluate the existing internal review processes, and suggest improvements to the program and ongoing EM&V processes. Evaluation reports involving analysis of both program impacts and process impacts of the programs evaluated in the prior year must be part of the Annual Report on Conservation Acquisition described in Paragraphs 8(c) and (g) below.

- i. **Evaluation** - PSE must spend between one (1) and three (3) percent of its electric conservation program budget on electric evaluation activities, as defined in the Company's Biennial Conservation Plan, including a reasonable proportion on independent, third-party evaluation reports. For this calculation, the electric conservation program budget consists of non-NEEA conservation programs that have or may have electric energy savings. PSE may ask the Commission to modify this spending band following full CRAG consultation.
 - ii. **Measurement & Verification** - In accordance with Paragraph 3(a)(i)(1) above, PSE shall provide detailed descriptions of its measurement and verification (M&V) policies, protocols, guidelines and processes to the CRAG for review and advice. Additionally, PSE shall provide to the CRAG an estimate of the costs associated with the detailed M&V plan and PSE will maintain M&V activities at levels that are at least commensurate with regional peers.
- (g) A one-time only, independent third-party evaluation of portfolio-level electric energy savings reported by PSE for the 2010–2011 biennial period, from existing conservation programs operated during that period, shall be conducted to verify those savings. The independent third-party evaluator shall be selected through an RFP process. The review will be funded by the PSE Electric Conservation Service Rider. The review will be managed by UTC and PSE staff with input on the scope, cost, RFP development, evaluator selection and ongoing oversight by the CRAG. The scope shall:
- i. focus on portfolio level EM&V of the existing 2010-2011 PSE conservation portfolio regarding impact, process, market, and cost-effectiveness analysis,
 - ii. examine selected existing 2010-2011 programs or measures in more depth than others, as called for in the RFP, and
 - iii. provide for some additional but limited detailed independent EM&V study at the program or measure level to be selected by the independent third-party evaluator from the Company's existing 2010-2011 programs.

This evaluation shall include a review of the Company's reported electric savings on a semi-annual basis, with results provided to Commission staff and PSE and then discussed with the CRAG. A final report for the entire 2010-2011 biennium shall be submitted as part of the Company's two-year report on conservation program achievement, required by Paragraph (8)(h) below. This condition terminates after the final report is submitted. The report shall be finalized and made available no later than June 2012 and may be implemented in phases and delivered as a final product at an earlier date, as needed by PSE.

Funds spent in meeting this condition shall count toward PSE's expenditures required under Paragraph (6)(f)(i) above.

(7) Program Design Principles

- (a) All Sectors Included — PSE must offer a mix of tariff-based programs that ensure it is serving each customer sector, including programs targeted to the low-income subset of residential customers. Modifications to the programs must be filed with the Commission as revisions to tariffs or as revisions to PSE's Annual Conservation Plan, as appropriate.
- (b) Outreach on Programs — PSE must establish a strategy and proposed implementation budget for informing participants about program opportunities in the relevant market channels for each of its energy efficiency programs. PSE must share these strategies and budgets with the CRAG for review and comments, and provide updates at CRAG meetings.
- (c) Incentives and Conservation Program Implementation — PSE must offer a cost-effective portfolio of programs in order to achieve all available conservation that is cost-effective, reliable, and feasible. Programs, program services, and incentives may be directed to consumers, retailers, manufacturers, trade allies or other relevant market actors as appropriate for measures or activities that lead to electric energy savings. Incentive levels and other methods of encouraging energy conservation need to be periodically examined to ensure that they are neither too high nor too low. Incentive levels and implementation methods should not unnecessarily limit the acquisition of all available conservation that is cost-effective, reliable, and feasible. PSE shall work with the CRAG to establish appropriate penetration levels consistent with Council methodology and the Energy Independence Act.
- (d) Conservation Efforts without Approved EM&V Protocol — PSE may spend up to ten (10) percent of its conservation budget on programs whose savings impact has not yet been measured, as long as the overall portfolio of conservation passes the Total Resource Cost (TRC) test as modified by the Council. These programs may include information-only, behavior change, and pilot projects.
 - (i) Information-only services refers to those information services that are not associated with an active incentive program or that include no on-site technical assistance or on-site delivery of school education programs. Information-only services and behavior change services shall be assigned no quantifiable energy savings value without full support of the CRAG.
 - (ii) If quantifiable energy savings have been identified and Commission-approved for any aspect of such programs, the budget associated with that

aspect of the program will no longer be subject to this ten percent spending restriction.

The Company may ask the Commission to modify this spending limit following full CRAG consultation. As of the date of this Agreement, an outline of the major elements of the Council's methodology for determining achievable conservation potential, including the Total Resource Cost test, is available on the Council's Web site at http://www.nwcouncil.org/energy/powerplan/6/supplycurves/I937/CouncilMethodology_outline%20_2_.pdf.

(8) Required Reports and Filings

PSE must file the following:

- (a) Semi-annual Conservation Acquisition Report, comparing budgeted to actual kWh's and expenditures, by August 15, 2010 as required in UE-970686.
- (b) By December 1, 2010, the 2011 Annual Conservation Plan, containing any changes to program details and an annual budget with a requested acknowledgement date of January 1, 2011. The Annual Conservation Plan may be acknowledged by placement on the Commission's No Action Open Meeting agenda. A draft will be provided to the CRAG by November 1, 2010.
- (c) 2010 Annual Report on Conservation Acquisition, including an evaluation of cost-effectiveness and comparing budgets to actual, by February 15, 2011.
- (d) Revisions to cost recovery tariff by March 1, 2011, with requested effective date of May 1, 2011.
- (e) Semi-annual Conservation Acquisition Report, comparing budget to actual kWh's and dollar activity, by August 15, 2011 as specified in UE-970686.
- (f) A report identifying its ten-year achievable potential and its biennial conservation target (Biennial Conservation Plan), including revised program details and program tariffs by November 1, 2011, requesting an effective date of January 1, 2012. In addition to the usual customer-based measures, the plan will also include both distribution and generation energy efficiency program plans as required by RCW 19.285. Prior to filing the Biennial Conservation Plan, PSE shall provide the following information to the CRAG: ten-year conservation potential and two-year target by August 1, 2011; draft program details, including budgets, by September 1, 2011; and draft program tariffs by October 1, 2011.

- (g) 2011 Annual Report on Conservation Acquisition, including an evaluation of cost-effectiveness, by Feb. 15th, 2012.
 - (h) Two-year report on conservation program achievement by June 1, 2012. This filing is the one required in WAC 480-109-040(1) and RCW 19.285.070, which require that the report also be filed with the Washington Department of Commerce.
- (9) **Required Public Involvement in Preparation for the 2012-2013 Biennium**
- (a) PSE must consult with the Advisory Groups to facilitate completion of a 10-year conservation potential analysis by November 1, 2011. *See* RCW 19.285.040(1)(a); WAC 480-109-010(1). This must be based on a current conservation potential assessment study of PSE's service area within Washington State. This may be conducted within the context of PSE's integrated resource plan. If PSE chooses to use the supply curves that make up the conservation potential in the Council's Northwest Power Plan, the supply curves must be updated for new assumptions and measures.
 - (b) PSE must consult with the Advisory Groups between April 1, 2011, and October 31, 2011, to identify achievable conservation potential for 2012-2021 and set annual and biennial targets for the 2012-2013 biennium, including necessary revisions to program details. *See* RCW 19.285.040(1)(b); WAC 480-109-010(2) and (3).
 - (c) Fuel switching program will continue to use current practice of upgrading only to high-efficiency gas measures.
- (10) **Cost-Effectiveness Test is the Total Resource Cost (TRC) Test**
- (a) The Commission uses the TRC, as modified by the Council, as its primary cost-effectiveness test. PSE's portfolio must pass the TRC test. In general, each program shall be designed to be cost-effective as measured by this test. PSE must demonstrate that the cost-effectiveness tests presented in support of its programs and portfolio are in compliance with the cost-effectiveness definition (RCW 80.52.030(7)) and system cost definition (RCW 80.52.030(8)) and incorporate, quantifiable non-energy benefits, the 10 percent conservation benefit and a risk adder consistent with the Council's approach. An outline of the major elements of the Council's methodology for determining achievable conservation potential, including the Total Resource Cost test, is available on the Council's website at http://www.nwcouncil.org/energy/powerplan/6/supplycurves/I937/CouncilMethodology_outline%20_2_.pdf.
 - (b) In addition to the Council-modified TRC, PSE must provide portfolio calculations of the Program Administrator Cost test (also called the Utility Cost test), Ratepayer Impact Measure test, and Participant Cost test described

in the National Action Plan for Energy Efficiency's study "Understanding Cost-effectiveness of Energy Efficiency Programs." The study is available on the Web site of the United States Environmental Protection Agency at <http://www.epa.gov/cleanenergy/documents/suca/cost-effectiveness.pdf>.

- (c) Overall conservation cost-effectiveness must be evaluated at the portfolio level. Costs included in the portfolio level analysis include conservation-related administrative costs. For the additional cost-effectiveness tests identified in 10b -PSE must consult with the CRAG to determine when it is appropriate to evaluate measure and program level cost-effectiveness. All cost-effectiveness calculations will assume a Net-to-Gross ratio of 1.0, consistent with the Council's methodology.

(11) **Recovery Through an Electric Conservation Service Rider**

- (a) Annual Filing — PSE's annual Electric Conservation Service Rider filing, required under Paragraph (8)(d) above, will recover the future year's budgeted expenses and any significant variances between budgeted and actual income and expenditures during the previous period.
- (b) Scope of Expenditures — Funds collected through the Electric Conservation Service Rider must be used on approved conservation programs and their administrative costs. Additionally, Rider funds may be used as approved by the Commission; e.g., for net metering administration costs, small-scale renewable programs and demand response pilots.
- (c) Recovery for Each Customer Class — The Company shall retain existing Rider mechanisms, subject to the Commission's Order in Docket UE-970686. Prior to PSE's electric Schedule 120 filing in 2011, the CRAG will review the cost allocation methodology included in the 2002 Settlement Agreement and in Docket No. UE-970686.

L. Miscellaneous Provisions

22. **Binding on Parties:** The Executing Parties agree to support the terms and conditions of this Agreement, as described above. The Executing Parties understand that this Agreement is subject to Commission approval.

23. **Integrated Terms of Agreement:** The Executing Parties have negotiated this Agreement as an integrated document. Accordingly, the Executing Parties agree to recommend that the Commission adopt this Agreement in its entirety.

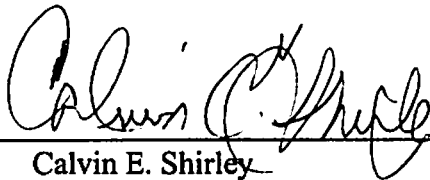
24. **Negotiated Agreement:** This Agreement represents a fully negotiated agreement. Each Executing Party has been afforded the opportunity, which it has exercised,

to review the terms of the Agreement. Each Party has been afforded the opportunity, which it has exercised, to consult with legal counsel of its choice concerning such terms and their implications. The Agreement shall not be construed for or against any Executing Party based on the principle that ambiguities are construed against the drafter.

25. **Execution:** This Agreement may be executed by the Executing Parties in several counterparts, through original and/or facsimile signature, and as executed shall constitute one agreement.

DATED this ___ day of September 2010.

PUGET SOUND ENERGY, INC.

By 

Calvin E. Shirley
Vice President, Energy Efficiency
Services

**WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION
STAFF**

By _____
Frona Woods
Assistant Attorneys General

**PUBLIC COUNSEL SECTION, OFFICE
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Simon ffitch
Senior Assistant Attorney General
Public Counsel Section Chief

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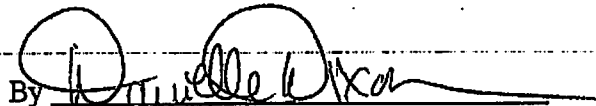
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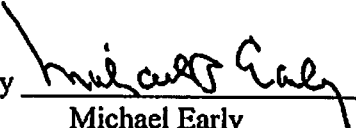
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