

COMMENTS OF UTILITY CONSERVATION SERVICES, LLC (UCONS)

November 1, 2016

Tom Eckhart, PE
CEO, UCONS, LLC
10612 NE 46th Street
Kirkland, WA 98033
425 576 5409 (office)
425 827 2489 (fax)
tom@UCONS.com
www.ucons.com

Rulemaking for Integrated Resource Planning WAC 480-100-238, WAC 480-90-238; WAC 480-107 UTC Dkt. No. UE-161024

INTRODUCTION

UCONS is a national leader in the development and implementation of residential conservation programs, headquartered in Kirkland, Washington. UCONS has done or is doing business in Washington, California, Oregon, Idaho, Texas, Utah, and New York. We provide services under contract to a large number of utilities, both investor-owned and publicly-owned, as well as to major property management firms. Since 1993, UCONS has delivered direct-install energy efficiency programs to over 320,000 multifamily tenants and 96,000 mobile home park utility customers. The aggregate energy savings from these efforts total nearly 500,000,000 kWh and 10,000,000 therms. In recent years, we have focused our work on hard-to-reach (HTR) markets, particularly in the manufactured homes (MH) sector.

ENERGY EFFICIENCY POTENTIAL IN THE MANUFACTURED HOMES SECTOR

The Northwest Power and Conservation Council (Council) identified 530 MW of cost-effective residential conservation potential in the region.¹ Data from Northwest Energy Efficiency Alliance, confirmed by audits of Washington manufactured homes, suggests that there is a realistic conservation potential of 10.6 aMW in this HTR sector.² The Council described the “special challenges” of realizing such a conservation potential in its recently adopted 7th Power Plan:

Manufactured Homes: The manufactured home segment may face special challenges related to income, ownership, building codes, and some difficult-to-implement conservation measures specific to manufactured housing and their heating systems. The assessment should determine whether the adoption of measures in the

¹ 7th Power Plan at G-25.

² We elaborated on this conservation potential in our White Paper entitled “Energy Efficiency in Manufactured Homes in Washington: The Path Forward (July 5, 2016), a copy of which is attached to these comments.

manufactured home segment is on pace to complete implementation of nearly all remaining cost-effective potential over the next 20 years. Where expected shortfalls appear, specific barriers to implementation should be identified and solutions targeted at those barriers. While this market segment has been successfully targeted with a limited set of conservation measures (e.g., duct sealing), a more comprehensive approach that identifies and implements an entire suite of cost-effective measures during a single visit may be more cost-efficient.³

Because of this potential to improve and because of the general desire and need for Washington utilities to follow the direction of the regional power and conservation plans, we have been advocating that the Commission work with utilities within its jurisdiction to update their conservation plans and integrated resource plans (IRPs) to pursue such potential savings from HTR customers.

COMMENTS IN RESPONSE TO NOTICE

Facilitating such acquisition of energy efficiency in the MH sector and other HTR markets can and should be done through Commission rules as well as in the context of specific matters involving conservation plans and integrated resource plans. In its Notice of Opportunity to File Written Comments (Notice), the Commission raised the issue of the interplay between the conservation rules in WAC 480-09 implementing the Energy Independence Act⁴ and those relating to IRPs codified in WAC 480-100-238 (electric) and WAC 480-90-238 (gas).⁵ In our view, the mandate to acquire all cost-effective conservation, including that available in the MH sector, should be included in the directives in both sets of rules. However, we focus on the IRP rules, and the rules relating to purchases of electrical savings from conservation suppliers in WAC 480-107, responding to some of the questions the Commission posed in its Notice.

A. General:

1. *The Commission has identified a broad scope of issues to evaluate in its inquiry. Are there other issues or topics that should be addressed? What type of schedule would best lend itself to a proceeding of this scope?*

Relationship Between IRP Process to I-937 Process

There is an overlap between the IRP process and the development of conservation plans under I-937. Within its IRP rule amendments, the Commission should reinforce I-937's requirement that

³ 7th Power Plan at 4012 (recommendation MCS-1).

⁴ RCW 19.285.

⁵ Notice of Opportunity to File Written Comments, ¶C.4. In its Preproposal Statement of Inquiry (CR-101), the Commission also referenced the "closely aligned" resource acquisition rules in WAC 480-107. As discussed in these comments, the Commission should consider amendments to those rules as well as the IRP rules in WAC 480-100-238 and WAC 480-90-238.

utilities acquire all cost-effective conservation, making such acquisition the cornerstone of the utility's IRP so that conservation is the utility's first resource, with priority over supply-side resources. Further, the IRP rules should state that the 10-year conservation potential and the conservation targets developed under I-937 should be viewed as a floor, not a ceiling, for the purposes of the IRP. If, in the development of the IRP, further energy efficiency opportunities become available beyond those in the relevant conservation plan, the IRP should include those as well and the utility should be committed to implement them.

By opening up WAC 480-107 in this proceeding, the Commission has the opportunity to calibrate the solicitation process in WAC 480-107-015 with both the IRP process and the conservation planning and acquisition process in WAC 480-109. This could be done without making amendments to WAC 480-109. The Commission should consider requiring in WAC 480-107 and in the IRP rules a utility demand side management (DSM) business plan and request for proposals (RFP). This would emphasize the continued primacy in importance of demand side resources. Timing of this could be synchronized with the deadlines of the biennial conservation plans in WAC 480-109-120. In the event that a DSM business plan is broader in scope than the biennial conservation plans, the Commission could waive the requirement of the latter. Eventually, of course, it may be good to synchronize all of these rules, perhaps into one chapter that incorporates conservation planning, integrated resource planning, and competitive solicitation.

Evaluation of Conservation Measures.

Currently, the IRP rules impose only a modest, general requirement regarding evaluation of conservation measures and programs, requiring that the IRP contain “[a]n assessment of commercially available conservation”.⁶ The Commission should elaborate on that requirement to ensure that the utilities are in fact acquiring all cost-effective conservation.

As part of the required “assessment” of conservation programs, the Commission should ensure both independence and transparency. The Commission should require independent third party evaluation of current measures and any proposed new measures, and such evaluations should be made publicly available. Further, the data and methodology used to evaluate conservation measures and programs should be granular enough to allow the Commission Staff and stakeholders to confirm the independent evaluator's cost-effectiveness analysis. The value and impact of the IRP's required conservation assessment will only be enhanced by such independence and transparency requirements, and will likely result in more robust programs that achieve the conservation objectives spelled out in the Northwest Power Act, the 7th Power Plan, and I-937.

⁶ WAC 480-100-238(3)(b); WAC 480-90-238(3)(b).

Schedule

The Notice requests comments on the schedule. The Commission has received many comments on issues relating to the utilities' energy efficiency programs in the context of various proceedings, including rule making under I-937 and the setting and review of conservation targets. The Commission can and should take notice of those comments in this rulemaking proceeding, rather than encourage the refiling of previously submitted comments. After reviewing comments submitted in response to the Notice, the Commission could request suggestions for specific language from stakeholders which in turn Commission Staff could use to draft proposed rule amendments. That draft could be shared with stakeholders for informal comment before the draft is made formal in a Notice of Proposed Rulemaking (CR-102) pursuant to RCW 34.05.320.

C. Requests for proposals

2. *Utilities state that the RFP process is time-consuming and complex, and does not lend itself to a biennial cycle. Are there alternative means of meeting the rule's requirement? Would narrowly crafted solicitations that are tailored to the specific resource needs identified in the IRP be an effective way of reducing administrative burden and costs, while still encouraging bidders to provide the utility with a range of resource options?*

It may be that the IRP process is time-consuming and complex. But that is the nature of this work. It is important that the planning process be continuous as new data are developed that can influence the cost-effectiveness of various measures. The rule should allow for frequent, even continuous, "bids" from third parties for implementation of energy efficiency measures in order to maximize conservation activity and, in accordance with law, to ensure that the utility is acquiring all cost-effective conservation. See also comments in response to paragraph C.4 of the Notice.

4. *Conservation is currently included in WAC 480-107-015. Should the commission require utilities to issue RFPs for conservation measures and programs on a regular basis? If so, should RFPs be issued in conjunction with the IRP cycle or the biennial conservation planning cycle described in WAC 480-109-120?*

The Commission absolutely should require frequent, even continuous, solicitations of proposals for conservation measures and programs. Such solicitations for demand side resources should not be limited if the utility's IRP shows no demand for new resources for three years.⁷ Such RFPs should be required on a regular basis, and proposals should be allowed between formal solicitations.

Though there may be a tidiness in structuring the RFPs for such programs and measures in either the IRP cycle or the I-937 cycle, there is no reason to artificially limit such solicitations by

⁷ Accordingly, among other amendments, WAC 480-107-015(3)(a) should be revised.

forcing them into just one of these processes.⁸ The legal and policy mandate that utilities acquire “all” cost-effective conservation is not just periodically in force every two years. It is, and should be, continuously in effect and should be enforced year-round. This is consistent with, if not mandated by, the requirement in WAC 480-109-100(1)(a)(iv) that the utility must “adaptively manage” the conservation resources. The utility must

[c]continuously review and update as appropriate the conservation portfolio to adapt to changing market conditions and developing technologies. A utility must research emerging conservation technologies, and assess the potential of such technologies for implementation in its service territory.

Because the duty to research and “adapt” is “continuous,” the utility should be required to be receptive to new submittals on an ongoing basis. Therefore, the rules should require that the utility be required to accept at any time a third-party’s conservation proposal if it is “cost-effective, reliable, [and] feasible” under the terms of I-937. The rules also should provide for expedited review of utility decisions on such proposals, initially by Commission staff, but ultimately by the Commission, in order to ensure that the utilities are acquiring all the conservation potential suggested by such third-party proposals that is reasonably achievable.

There are two additional related reasons why this approach makes sense. First, it creates an incentive for third party providers to be creative in developing and proposing energy efficiency programs. Second, this approach removes some control of energy efficiency programs from the utilities which, despite the adoption for some utilities of revenue decoupling, may not have the appropriate incentive to pursue all energy efficiency options.

Our west coast neighbors have recognized the need for more third party control and influence in this area. The Energy Trust of Oregon⁹ operates energy efficiency programs for Oregon utilities. The California Public Utilities Commission takes an active role in establishing energy efficiency goals¹⁰ for utilities and requires utilities to solicit proposals from third party providers. The CPUC has stated:

⁸ At some future date, the Commission should consider integrating these various code chapters to meld the conservation planning process, the IRP process, and the solicitation process. To the extent that amendments to the rules under consideration in this proceeding (WAC 480-100-238, WAC 480-90-238, and WAC 480-107) create inconsistencies or redundancies with the requirements in WAC 480-109, the Commission could consider administratively waiving one or more requirements contained WAC 480-109 provided that the substance of those requirements are otherwise met.

⁹ See <https://energytrust.org>.

¹⁰ California Public Utilities Commission, *Regulating Energy Efficiency: A Primer on the CPUC’s Energy Efficiency Programs 3* (February 2016) (http://www.cpuc.ca.gov/uploadedFiles/CPUC_Public_Website/Content/News_Room/Fact_Sheets/English/Regulating%20Energy%20Efficiency%200216.pdf).

Competitive solicitations can help to identify innovative approaches or technologies for meeting savings goals with improved performance that might not otherwise be identified during the program planning process, and can take advantage of the unique strengths that third parties bring to the table. For each program planning cycle, the IOUs shall propose a portfolio of programs that reflects the continuation of successful IOU and non-IOU implemented programs. As part of the that process, the IOUs will identify a minimum of 20% of funding for the entire portfolio of programs that will be put out to competitive bid to third parties for the purpose of soliciting innovative ideas and proposals for improved portfolio performance.¹¹

In its IRP rule amendments, the Commission should include, both in the IRP rules (in WAC 480-100-238 and 480-90-238) and in the competitive solicitation rules (in WAC 480-107), specific direction to utilities to solicit and accept proposals from third party providers for demand-side resources.

D. Avoided costs

- 1. Avoided costs are used by utilities in multiple applications. They are used for determining rates for qualifying facilities in compliance with the Public Utility Regulatory Policy Act (PURPA), they are used for identifying cost-effective conservation measures, and they are used in determining the incremental cost of resources used for complying with the state's renewable portfolio standard. Despite their ubiquitous use, however, avoided costs can be difficult, if not impossible, to identify in current utility planning. Would it be feasible and beneficial for the utilities to transparently report their avoided costs in the IRP document? What obstacles exist that would complicate such a report? Would it be possible to create a generic avoided cost calculator that could be used to generate avoided costs for various applications? Should the included elements of avoided costs be different for different applications? Is the avoided cost methodology different for natural gas distribution utilities?*

It would be beneficial for the utility to report its avoided costs both in the IRP document and, between IRPs. For IRP purposes, the 7th Power Plan forecast of cost-effective new conservation resources (table G9, Appendix G) over the next five years was based on a long term levelized avoided cost varying from 5 to 6 cents/kWh. In the absence of utilities filing avoided costs, the Commission should establish a floor of 5 cents/kWh for the acquisition of cost effective conservation resources under I-937. Having the Commission require a transparent avoided cost filing (or setting a floor based upon the 7th Power Plan) will ensure goals of I-937 (achieving all cost effective conservation) can be achieved. It will further enable third party providers of conservation measures to better develop and submit proposals to utilities that can better serve their customers.

¹¹ California Public Utilities Commission, *Energy Efficiency Policy Manual, Version 5*, at 6 (July 2013).

G. Procedural improvements

- 2. Should the commission outline more specific requirements for public involvement, like identification of meeting time and location on the work plan, and the identification of the date a draft will be available for public review?*

UCONS supports greater opportunities for public involvement. Given that various advisory groups are generally closed to market participants, it makes sense that there be other opportunities for such market participants to be involved so as to better ensure cost-effective conservation options for the utilities and their customers. Of course, one way to involve market participants would be to allow proposals for demand-side resources as described above. Another option would be to open up advisory group meetings, at least periodically, to a broader audience. Though amendments to rules can help the process, there may be issues of administration that come up, both on the part of utilities and the Commission, that may warrant discussion from time to time with a broader audience.

- 4. Are there any improvements that could be made in the IRP reporting or review process? Staff will ensure rule language is simplified and written in terminology that promotes clarity and understanding for all stakeholders. Rules that are written in Plain Talk are easier to understand and implement consistently.*

IRPs, like conservation plans under I-937, play a vital role in ensuring that state energy policy is implemented. That policy makes conservation the utility resource of first choice and requires the Commission to ensure the compliance of utilities under its jurisdiction. The current IRP process is driven substantially by the individual utility with participation by an advisory group and, ultimately, review by the Commission. In our view, the Commission should be very proactive in guiding the utility through the process. This can be done through directives to Staff in the IRP development process with instructions that Staff bring issues to the Commission if they deem that some guidance from the Commission is necessary. The Commission also amend the IRP rule in WAC 480-100-238 and WAC 480-90-238, as well as in the competitive bid rule in WAC 480-107, to articulate that enhanced Commission role.