

**BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION,	)	
	)	DOCKET NO. UE-100177
Complainant,	)	
	)	
v.	)	RESPONSE OF THE INDUSTRIAL
	)	CUSTOMERS OF NORTHWEST
PUGET SOUND ENERGY, INC.,	)	UTILITIES
	)	
Respondent.	)	
_____	)	

**I. INTRODUCTION**

1           The Industrial Customers of Northwest Utilities (“ICNU”) submits this response to Puget Sound Energy’s (“PSE” or the “Company”) Motion for Summary Determination (“Motion”). ICNU agrees with PSE that the Washington renewable portfolio standard (“RPS”), and the Commission’s rules, allow the Company to project its conservation potential based on either its integrated resource plan (“IRP”) or its proportionate share of the Northwest Power and Conservation Council’s (“Council”) current power plan. PSE is also correct that it is not required to base its selection upon whether a particular source of information will result in higher or lower conservation amounts. ICNU, however, disagrees with PSE’s assertion that PSE’s decision regarding whether to use its IRP or the Council’s plan cannot be reviewed by the Commission or intervening parties. The Commission has the responsibility to review all aspects of PSE’s conservation plan, including whether the Council’s or PSE’s own IRP is a more accurate and cost effective estimate of the Company’s conservation potential.

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ICNU also agrees with PSE that the rules allow the Company to set its biennial conservation target as a range rather than a point target. The penalty provisions of the Washington RPS should only be triggered if PSE's conservation falls below the lower end of an approved biennial conservation target range.

## II. RESPONSE

### 1. The Commission Retains the Ability to Review PSE's Decision to Use its IRP or the Council's Conservation Targets

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PSE argues that the language of the Washington RPS and the Commission's rules permits an investor-owned utility to project its ten-year conservation potential based on its proportionate share of the Council's current plan or the utility's own IRP. Motion at 8-9. While PSE is correct that it has the ability to select one of these two options, PSE's decision is not exempt from Commission review and can be challenged as unreasonable by parties.

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The Commission's rules authorize a utility to derive its conservation potential based on "one of two sources." WAC § 480-109-010(1)(b). These sources include the "utility's most recent IRP" and the "utility's proportionate share, developed as a percentage of its retail sales, of the conservation council's current power plan targets for the state of Washington." Id. For the purposes of summary determination, the Commission should rule that the Washington RPS and the Commission's rules allow a utility to file its conservation plan based on either its IRP or the Council's current plan. In other words, PSE's plan should not be rejected simply because it is based on the Council's most recent power plan targets.

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PSE is incorrect, however, in asserting that "there are no additional steps required if a utility elects to use" the Council's plan or its own IRP. Motion at 10. The Washington RPS

requires the Commission to review a utility's plan to determine if it the utility is pursuing all available conservation that is cost-effective, reliable and feasible. RCW § 19.285.040(1). The Commission is allowed to use "its standard practice for review and approval" to evaluate PSE's conservation plan. RCW § 19.285-040(1)(e). The statute contemplates a review of all aspects of the utility's conservation plan to ensure that the plan meets the statutory requirements.

6           The Commission's rules also allow the parties and the Commission to review all aspects of the utility's conservation plan to ensure that it meets PSE's statutory obligations to pursue cost effective, reliable and feasible conservation. The rules state that if the Commission determines that it should review the plan, then the Commission will establish adjudicative proceedings or other processes "to fully consider appropriate revisions." WAC § 480-109-010(4)(b). At the conclusion of the review of the plan, the Commission has the authority to "approve, approve with conditions, or reject the utility's ten-year achievable conservation potential and biennial conservation target." WAC § 480-109-010(4)(c). Similar to the statute, the rules do not exempt any aspect of the utility's conservation plan from review.

7           The Commission should reject PSE's notion that its decision to rely upon its IRP or the Council's plan cannot be reviewed to ascertain whether it accurately or reasonably forecasts the appropriate amount of cost effective, reliable and feasible conservation that it should acquire. PSE is incorrect when it states that there is "no further derivation or identification of conservation savings required if the Conservation Council's plan is used." Motion at 10. The Commission and the parties should be allowed to review whether PSE's conservation plan inaccurately estimates the amount of cost-effective, reliable or feasible

conservation, even if the reason for the error is the because of the Company’s decision to use the Council’s plan or the Company’s own IRP.

8 PSE, however, is correct that the Company “is not required to choose the source that results in the higher conservation level.” Motion at 10. The Commission should review PSE’s plan to accurately estimate the correct amount of available, cost effective, reliable and feasible conservation regardless of whether that results in a higher or lower amount of conservation. The goal is develop the most reasonable and accurate plan, not the plan that has an arbitrarily high or low amount of conservation.

## 2. PSE Should Be Allowed to Set Its Biennial Conservation Target as a Range

9 PSE argues that it should be permitted to establish its biennial conservation target as range rather than a midpoint, and PSE should only be subject to penalties if its actual conservation falls below the lower end of an approved target range. Motion at 16-17. PSE’s current conservation plan is based on a target point, but PSE requests guidance from the Commission prior to a future filing. As PSE aptly explains, it “is reasonable for the Commission to provide clarity on the issue of administrative penalties prior to such filings so that PSE will have notice of the point at which it may be subject to penalties.” Id. at 17.

10 The rules allow PSE to file its biennial conservation target based on “a range rather than a point target.” WAC § 480-109-010(2)(c). Penalties can only be imposed upon utilities if it “fails to comply with the energy conservation or renewable energy targets established” as part of the Commission-approved conservation plan. RCW § 19.285.060(1). The plain meaning of the rules and statute mean that PSE should not be subject to penalties if it is meeting its approved conservation plan, including the lower end of a target range. ICNU also

agrees with PSE that it is reasonable for the Commission to provide the Company with guidance on this issue prior to PSE being potentially subject to administrative penalties. PSE should be provided with regulatory certainty so that it can meet its conservation targets in a responsible manner.

### **III. CONCLUSION**

PSE can file its conservation plan based on either the Council's plan or its own IRP. PSE's decision, however, can be reviewed by the parties and this Commission to determine, *inter alia*, whether it accurately and reasonably estimates the Company's available, cost effective, reliable and feasible conservation potential. PSE's plan can also include a range of conservation targets instead of simply a single target, and the Company should not be subject to administrative penalties as long as its actual conservation is within the lower part of its target range.

Dated in Portland, Oregon, this 19th day of April, 2010.

Respectfully submitted,

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