

**Supplemental Comments of Renewable Northwest Project and the NW Energy Coalition  
Regarding Docket Nos. UE-120791 and UE-100176 (Avista), UE-120802 and UE-100177 (Puget  
Sound Energy), and UE-120813 and UE-100170 (PacifiCorp)**

In response to the Commission’s invitation at its July 27, 2012 Open Meeting, Renewable Northwest Project and the NW Energy Coalition provide these supplemental comments regarding Avista, Puget Sound Energy, and PacifiCorp’s June 1, 2012 reports submitted in accordance with the Energy Independence Act (see above Docket Nos). Following the Open Meeting on the 27<sup>th</sup>, Staff convened interested parties to develop a matrix of issues to be addressed in supplemental comments. We provide our completed matrix here.

Representatives from both organizations will participate (in person and by phone) in the August 9, 2012 Open Meeting.

**COMMENT MATRIX**

	<b>Comments</b>	<b>When and Process</b>
<b>Renewables</b>		
<b>Two-step compliance</b>	A 2-step compliance determination is necessary to integrate the requirement of compliance by January 1 with the three-year REC generation period. See attached Exhibit A for a more detailed explanation of our recommended two-step compliance process.	Initial compliance determination that utilities met January 1, 2012, target by Commission on August 9, 2012.  Future rulemaking to codify two-step compliance review. A Commission policy statement or specific language in the August 9 order could set expectations for two-step compliance review in advance of rulemaking.

	<b>Comments</b>	<b>When and Process</b>
<b>Reporting year information: current or preceding year</b>	<p>See Exhibit A. Each June 1 report should:</p> <p>(1) demonstrate how the utility met the immediately past January 1 requirement (i.e., for the same calendar year);</p> <p>(2) describe, generally, the utility's plans for meeting the forthcoming January 1 requirement (i.e., for the next calendar year); and</p> <p>(3) give final compliance details for any completed three-year REC generation period. (Note that this final compliance determination could occur in an earlier June report if the utility did not elect to use RECs produced during the year subsequent to the target year.</p> <p>There appears to be some confusion over the June 1, 2012 reports because there was no 2011 target. In order to meet the first target—January 1, 2012—utilities would have had to take steps toward acquiring renewable energy and/or RECs <i>before</i> 2012. Thus, the initial June 1, 2012 report should cover steps taken to meet the January 1, 2012 target by that date, as well as plans for meeting the 2013 target.</p>	<p>Initial compliance determination that utilities met January 1, 2012, target by Commission on August 9, 2012.</p> <p>Accompanying the initial compliance determination should be a requirement for utilities to file (e.g., within 30 days) plans for meeting the January 1, 2013 requirement.</p> <p>Future rulemaking to codify two-step compliance review. A Commission policy statement or specific language in the August 9 order could set expectations for two-step compliance review in advance of rulemaking.</p>
<b>January 1 required actions for compliance</b>	<p>By January 1, utilities must have had in place eligible renewable resources or contracts that gave the utility ownership of the rights to sufficient MWhs or RECs to satisfy the target year percentage.</p> <p>Final compliance demonstration at the end of the three-year generation period (or potentially earlier, as noted above) may come from different eligible resources if circumstances change, but utilities must show that they had specific resources or contracts in place to deliver on the target as of January 1.</p>	<p>Initial compliance determination that utilities met January 1, 2012, target by Commission on August 9, 2012.</p> <p>Future rulemaking or policy statement to explain how utilities may document that they had sufficient resources or contracts in place by January 1.</p>

	<b>Comments</b>	<b>When and Process</b>
<b>Resource eligibility determination*</b>	Eligibility is a fact-specific determination to be made by the Commissioners after reviewing the utilities' reports. If Washington assigns a WREGIS administrator in the future, the Commission will be able to look to that entity for eligibility determinations.	Eligibility determination for resources specified to meet the January 1, 2012, target will be part of initial compliance determination by Commission on August 9, 2012.
<b>Incremental hydro</b>	See Comments of Renewable Northwest Project and NW Energy Coalition, Docket Nos. UE-120802, UE-120791 and UE-120813 dated July 16, 2012 at pp. 9-10.	Accept reports for initial compliance determination, but defer any decision approving methodology for future reports until separate workshop(s) or rulemaking addresses methodology.
<ul style="list-style-type: none"> <li>• <b>Method review</b></li> </ul>		
<ul style="list-style-type: none"> <li>• <b>Method approval/selection</b></li> </ul>		
<ul style="list-style-type: none"> <li>• <b>Potential double counting of RECs in other states</b></li> </ul>		
<ul style="list-style-type: none"> <li>• <b>Using incremental hydro in the year it was generated</b></li> </ul>	Incremental hydro must be used in the year it was generated, because it does not produce a REC. Only RECs are eligible to be generated in the prior or subsequent year.	The law seems clear. ( <i>see</i> RCW 19.285.030(17) & 19.285.040(2)(e))
<b>Confidentiality</b>	See Comments of Renewable Northwest Project and NW Energy Coalition, Docket Nos. UE-120802, UE-120791 and UE-120813 dated July 16, 2012 at pp. 8-9.	Defer decision on procedures for sharing of confidential information in non-contested case setting until separate workshop(s) and subsequent Commission policy statement. This could also be addressed through rulemaking.

	<b>Comments</b>	<b>When and Process</b>
<b>Incremental cost</b>	See Comments of Renewable Northwest Project and NW Energy Coalition, Docket Nos. UE-120802, UE-120791 and UE-120813 dated July 16, 2012 at pp. 6-8.	In the Commission Order on the June 1 Compliance Reports, find that each of the utilities complied with the requirement that they calculate and report on the incremental cost of meeting the RPS targets.  However, the Commission should defer any decision approving or rejecting the underlying methodologies for calculating the incremental cost of RPS compliance until after a separate workshop(s) and/or rulemaking.
<b>2016 Biomass &amp; rulemaking</b>		Incorporate biomass amendments to statute (ESB 5575) in future rulemaking.
<b>WREGIS</b>	We agree with Staff that it is in the public interest for the Department of Commerce to develop its capability to serve as WREGIS Administrator as soon as possible. However, the EIA does not require there to be a WREGIS Administrator in place before the Commission can make a final decision on the utilities' compliance with RPS targets and reporting requirements.	A Washington Administrator should be put in place as soon as possible. However, the Commission may make compliance determinations before a WREGIS Administrator is in place.
<b>Conservation</b>		
<ul style="list-style-type: none"> <li><b>NEEA savings</b></li> </ul>	Specify a consistent methodology for calculating and claiming NEEA savings.	Accept reports for initial compliance determination, but defer any decision approving methodology for future reports until separate workshop(s), policy statement or rulemaking addresses methodology.

	<b>Comments</b>	<b>When and Process</b>
<ul style="list-style-type: none"> <li>• <b>Adjustments to reported savings</b></li> </ul>	<p>See comments of NW Energy Coalition in Docket No. UE-100177 (at pp. 1-3) regarding proposed adjustment to PSE’s final MWh savings achievement, in line with the recommendation of the independent third party evaluator.</p> <p>The Coalition did not specify adjustments for Avista or PacifiCorp, but strongly recommended the Commission approve a specific amount of savings achievement for each utility rather than simply saying that the utility met/exceeded its biennial target.</p>	<p>In the compliance order, approve a specific final achieved conservation savings number for each utility.</p> <p>-- Approve PSE’s final achieved savings at 636,485 MWh in line with the independent 3<sup>rd</sup> party evaluator recommendation (see Table 2 at p. 9 of PSE’s Biennial Achievement Report)</p>
<ul style="list-style-type: none"> <li>• <b>Prudence</b></li> </ul>	<p>A clear process for determining prudence of conservation investments would help all parties.</p>	<p>Include clear expectations and guidelines for future prudence determinations in a policy statement.</p>
<ul style="list-style-type: none"> <li>• <b>Baseline/adaptive management</b></li> </ul>	<p>The biennial target approved by the Commission should not be modified during or after the biennium.</p> <p>Utilities should adaptively manage their programs throughout the biennium to ensure cost-effectiveness and customer participation.</p> <p>Parties hold different views about how final energy savings should be calculated when a utility used prescriptive unit energy savings in assessing its 10-year potential and biennial target. (<i>See e.g.</i>, comments of NW Energy Coalition in Docket Nos. UE-100170 (at pp. 2-3) and UE-100176 (at pp. 3-4)) Consistently applied guidelines would provide clarity for all parties.</p>	<p>A commission policy statement or rulemaking could address these issues.</p>

	<b>Comments</b>	<b>When and Process</b>
<ul style="list-style-type: none"> <li>• <b>Confidentiality</b></li> </ul>	<p>While the need for protective orders is more apparent in the renewable energy dockets, we foresee this becoming an issue within the conservation dockets as well (e.g., on 5/23/2011, PacifiCorp asked for a protective order related to its 10-year conservation potential filing and biennial target; Staff raised examination of utility RFP responses as an indicator for pursuit of “all” conservation).</p>	<p>Defer decision on procedures for sharing of confidential information in non-contested case setting until separate workshop(s) and subsequent Commission policy statement. This could also be addressed through rulemaking.</p>
<ul style="list-style-type: none"> <li>• <b>Consistency of EM&amp;V Frameworks</b></li> </ul>	<p>We agree with Public Counsel that the key issue here is consistency among the independent third party reviews of utility conservation programs and achievements.</p>	<p>The Commission can address EM&amp;V consistency in third party reviews through a policy statement or rulemaking proceeding.</p>
<ul style="list-style-type: none"> <li>• <b>Reporting Documentation requirements</b></li> </ul>		<p>Approve the reports provided in Dockets UE-100170, UE-100176 and UE-100177 as meeting the reporting requirements in the law and rules. In accordance with WAC 480-109-040(4) &amp; (5), include in each Order the specific date by which customers will be notified of final savings achievements and by what means. (We recommend using a bill insert. PSE’s 2002 settlement agreement encapsulated in its conditions list requires a report card be sent to customers.)</p>

	<b>Comments</b>	<b>When and Process</b>
<ul style="list-style-type: none"> <li>• <b>“Pursue all” conservation resources</b></li> </ul>	<p>We appreciate Staff’s effort to ensure that the law’s requirement to “pursue all available conservation that is cost-effective, reliable, and feasible” is met. The checklist of items suggested by Staff seem appropriate within the context of ensuring utilities are adaptively managing their programs, in part by staying informed about emerging technologies and new practices. (see Staff comments in Dockets UE-100170, 100176, 100177, dated July 16, 2012, at pp. 23-24) All three IOUs not only met but exceeded their biennial targets, even after proposed adjustments are taken into account. Ultimately, meeting the biennial target is the fundamental conservation requirement in the law.</p>	<p>For the purposes of the June 2012 reports, find the utilities in compliance with the statutory requirement to pursue “all” cost-effective conservation that is reliable and feasible.</p> <p>Provide guidance in a policy statement or rulemaking with regard to adaptive management strategies such as those discussed by Staff.</p>
<ul style="list-style-type: none"> <li>• <b>CWG working Group</b></li> </ul>		<p>A Commission policy statement or rulemaking on the issues raised in this matrix can obviate the need for continuation of the CWG.</p>
<ul style="list-style-type: none"> <li>• <b>Advisory Group Role in prudence review</b></li> </ul>		<p>Include clear expectations and guidelines for advisory group role in prudence review in a policy statement.</p>
<ul style="list-style-type: none"> <li>• <b>Demand Side Resources RFP review</b></li> </ul>		<p>This could be addressed in a policy statement.</p>

\*This issue was raised by Chairman Goltz during the July 27 Open Meeting.

## Exhibit A: Explanation of the Two-Step Compliance Process

	Report Date						
	6/1/2012	6/1/2013	6/1/2014	6/1/2015	6/1/2016	6/1/2017	6/1/2018
<b>1 - Initial Compliance Report</b>	2012	2013	2014	2015	2016	2017	2018
<b>2 – Plans for Forthcoming Target</b>	2013	2014	2015	2016	2017	2018	2019
<b>3 – Final Compliance Report</b>		2012 (opt'l)	2012 (final) 2013 (opt'l)	2013 (final) 2014 (opt'l)	2014 (final) 2015 (opt'l)	2015 (final) 2016 (opt'l)	2016 (final) 2017 (opt'l)

*Table showing when and how specific target years are addressed by specific reports.*

**1—Initial Compliance Report:** On June 1 of the target year, utilities demonstrate that they had complied with *that* target year’s “by January 1” requirement. The Commission finds compliance if a utility shows that it had acquired rights to eligible renewable resources or contracts, by January 1 of the target year, that were likely to produce the required output (in MWhs, RECs, and/or multiplier credits) within the three-year generation period. Alternatively, the utility must elect and demonstrate entitlement to alternative compliance at this time (with the exception of acts of force majeure). The Commission finds annual reporting requirements met for the target year if the utility describes specific eligible renewable resources and expected generation to which it had rights as of January 1. (The Commission recognizes that utilities may designate RECs from different resources for retirement in the Final Compliance Report.)

*Sources: RCW 19.285.040(2)(a); RCW 19.285.070(1); WAC 480-109-040(1)(a)-(c); 480-109-040(2)(c).*

**2—Plans for Forthcoming Target:** The report must summarize the utility’s plans for meeting the forthcoming January 1 target. The utility may simply refer to integrated resource plans that address I-937 compliance planning.

*Source: WAC 480-480-109-040(1)(d).*

**3—Final Compliance Report:** At the utility’s option, final compliance information may be presented in the report dated June 1 of the year following the target year, but must be presented no later than the report dated June 1 of the subsequent year (i.e., for the January 1, 2012 target, the Final Compliance Report must be submitted by June 1, 2014). Compliance information details final MWhs of production, multiplier credits earned, and specific RECs proposed to be retired, as well as any reduction in final MWhs delivered as a result of acts of force majeure. After the Commission reviews and confirms the Compliance Report, it issues a confirmation/directive to retire RECs.

*Source: Neither the law nor the rules specifically addresses two-step compliance review. Parties have generally agreed that a final compliance report following the three-year generation period is needed. I-937 empowers the Commission to “adopt rules to ensure the proper implementation and enforcement of this chapter as it applies to investor-owned utilities.”*