

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND  
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY, INC.,

Respondent.

Docket No. UE-090704

Docket No. UG-090705

REPLY BRIEF OF NW ENERGY COALITION

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## INTRODUCTION

1. The critical issue regarding the Conservation Phase-In Adjustment is whether it satisfies WAC 480-07-510(3)(e)(iii). The parties address this point in testimony and in their Initial Briefs. But Public Counsel and the industrial customers also claim<sup>1</sup> that the Adjustment represents a form of decoupling that is barred by the PSE acquisition order.<sup>2</sup>
2. Though the Coalition remains neutral on the accounting issue,<sup>3</sup> we take exception to this attempt to paint the Adjustment as a decoupling mechanism. We agree with Staff that the Adjustment does not break the link between revenues and sales – which is a necessary part of decoupling according to the Commission’s decisions. Because the Adjustment is not a decoupling mechanism, the acquisition order does not prevent PSE from making its proposal.<sup>4</sup>
3. Finally, we respond to – and express our support for – PSE’s proposal to increase bill assistance funding for its low-income electric and natural gas customers. The company’s proposal is consistent with state law and with the position the Commission has taken on low-income rate assistance.

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<sup>1</sup> Public Counsel Initial Brief at ¶¶ 138-141; NWIGU Initial Brief at ¶¶ 27-28; ICNU Initial Brief at ¶¶ 51-57.

<sup>2</sup> *In the Matter of the Joint Application of Puget Holdings LLC and Puget Sound Energy, Inc. For an Order Approving Proposed Transaction*, Docket U-072375, Order 08 (December 30, 2008).

<sup>3</sup> Coalition Initial Brief at ¶ 8.

<sup>4</sup> “Decoupling is a mechanism that breaks the link between revenues and retail sales. Because PSE’s proposal does not meet that standard, it does not violate 2008 Acquisition commitments.” Staff Initial Brief at ¶ 69 n. 104.

## THE CONSERVATION PHASE-IN ADJUSTMENT IS NOT DECOUPLING

4. The Commission has considered decoupling in several proceedings. In a PacifiCorp filing, the Commission stated that two core objectives are associated with decoupling:

“Decoupling is a way to break the link between a utility’s revenues and retail sales levels, and to reduce the utility’s risk associated with recovering its fixed costs when retail sales decrease due to customer conservation.”<sup>5</sup>

The Commission reiterated these objectives when it approved a gas decoupling mechanism for Cascade Natural Gas, and just recently when it authorized Avista to continue a pilot decoupling mechanism for residential gas service.<sup>6</sup>

5. The first objective is critical to understanding the meaning of, and the rationale for, decoupling. By breaking the link between a utility’s revenues and sales, decoupling mechanisms seek to blunt the impact of traditional regulatory measures that reward increased energy sales and, in the process, “create an environment in which utilities do not support conservation because it is inconsistent with their economic interests.”<sup>7</sup> This disincentive to utility conservation investment – also known as the throughput incentive – is a significant barrier that must be overcome in order to aggressively promote the acquisition

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<sup>5</sup> *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket No. UE-050684, Order 04 at ¶ 102 (April 17, 2006).

<sup>6</sup> *WUTC v. Cascade Natural Gas Corporation*, Docket No. UG-060256, Order 05 at ¶ 67 (January 12, 2007); *WUTC v. Avista Corporation, d/b/a Avista Utilities*, Docket Nos. UE-090134, UG-090135, and UG-060518, Order 10 at ¶ 242 (December 22, 2009) (“Avista Order”).

<sup>7</sup> Avista Order at ¶ 244; *In the Matter of the Petition of Avista Corporation, d/b/a Avista Utilities*, Docket No. UG-060518, Order 04 at ¶ 9 (February 1, 2007).

of all cost-effective energy efficiency.<sup>8</sup> Decoupling can be an important tool for this purpose.<sup>9</sup>

6. The Adjustment, however, does not deal at all with the throughput incentive. It does nothing to “promote incremental amounts of conservation” or to remove barriers to “aggressive pursuit of conservation.” These are the hallmarks of a decoupling mechanism according to the Commission.<sup>10</sup>

7. Public Counsel and the industrial customers ignore the fact that a decoupling mechanism must promote incremental conservation efforts. They instead claim that *any* attempt by PSE to recover lost margin due to conservation is equivalent to decoupling. For example, NWIGU states that “the Company’s proposal is an attempt to do what decoupling does – provide for the payment of fixed costs by recovering from all ratepayers the lost revenue from pursuing conservation.” ICNU is even more explicit: “Recover [sic] of lost margins that result from conservation programs is decoupling.”<sup>11</sup>

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<sup>8</sup> *In re Review of PURPA Standards in The Energy Independence and Security Act of 2007*, Docket No. U-090222, Order 01 at ¶ 25 (September 14, 2009) (throughput incentive is a “disincentive to energy efficiency”).

<sup>9</sup> The Commission has stated that the absence of a decoupling mechanism can itself “prove a disincentive to a company promoting conservation.” *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-060266 and UG-060267, Order 08 at ¶ 62 (January 5, 2007).

<sup>10</sup> *Id.* at ¶¶ 55, 68; *WUTC v. Cascade Natural Gas Corporation*, Docket No. UG-060256, Order 05 at ¶ 85 (January 12, 2007) and Order 06 at ¶ 17 (August 16, 2007); *Avista Order 10* at ¶ 243. Public Counsel concedes in its Initial Brief (at ¶ 140) that the Adjustment does not contain any measures that promote incremental conservation.

<sup>11</sup> NWIGU Initial Brief at ¶ 27; ICNU Initial Brief at ¶ 51.

8. NWIGU and ICNU are wrong. In the recent Avista proceeding, the Commission rejected the argument that cost recovery alone equates to decoupling. The company had argued that its decoupling mechanism was necessary to provide recovery of fixed costs that the Commission had previously approved. But the Commission stated:

“We disagree that decoupling’s purpose is so broad. The regulatory construct for decoupling in Washington has centered on the utility’s performance relative to conservation.”<sup>12</sup>

9. The construct that applies here, then, is whether the Adjustment affects PSE’s “appetite for offering additional conservation programs.”<sup>13</sup> But the Adjustment does not have this purpose. Thus, it is not a decoupling mechanism according to the Avista Order – so the PSE acquisition order does not prevent the company from proposing the Adjustment.<sup>14</sup>

### **THE COALITION SUPPORTS PSE’S PROPOSAL TO INCREASE LOW-INCOME BILL ASSISTANCE FUNDING**

10. PSE proposes to increase the level of low-income electric and natural gas bill assistance funding by the corresponding increases to the residential class approved by the

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<sup>12</sup> Avista Order at ¶ 291.

<sup>13</sup> *Id.* This is why a decoupling mechanism must include performance measures -- to assess whether the mechanism actually promotes incremental conservation. *WUTC v. Puget Sound Energy, Inc.*, Docket Nos. UE-060266 and UG-060267, Order 08 at ¶ 68 (January 5, 2007); *see also* Public Counsel Initial Brief at ¶ 140. The Adjustment does not contain any such measures.

<sup>14</sup> The two-year bar in Commitments 62 and 63 to the Multiparty Settlement Stipulation (in the PSE acquisition case) applies only to decoupling proposals for *industrial* service. PSE may propose decoupling for *other* service regardless of how the Commission rules on the Adjustment. *See* Coalition Initial Brief at ¶ 20 n. 16.



Commission.<sup>15</sup> The Coalition supports this proposal. As we stated in our Initial Brief, the Coalition advocates for regulatory measures that promote cost-effective energy efficiency and other clean and affordable energy services.<sup>16</sup> In these difficult economic times, it is important for a utility to provide effective funding and services for low-income customers.

11. State law permits the Commission to approve such funding and services, and PSE's proposal is consistent with this legislative direction.<sup>17</sup> The Commission recently approved a similar increase to Avista's low-income rate assistance program, stating:

“We agree with Public Counsel and The Energy Project that establishing an increase for LIRAP funding guaranteed to keep pace with or possibly exceed any approved rate increase is in the public interest. The current economic recession has placed increased pressure on low income households and resulted in the creation of more low income households. Though even this increased level of LIRAP funding may not be adequate to meet all the needs of low income households, the proposed approach to LIRAP funding is consistent with RCW 80.28.068 and will have minimal impact on the bulk of other ratepayers.”<sup>18</sup>

Dated this 2<sup>nd</sup> day of March, 2010.

NW ENERGY COALITION

By: \_\_\_\_\_

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<sup>15</sup> PSE Initial Brief at ¶ 146.

<sup>16</sup> Coalition Initial Brief at ¶ 8.

<sup>17</sup> RCW 80.28.068.

<sup>18</sup> Avista Order at ¶ 37.

