

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

Conservation Incentive Inquiry

DOCKET NO. U-100522

INITIAL STATEMENT OF ISSUES OF PUBLIC COUNSEL

April 23, 2010

I. INTRODUCTION

Pursuant to the Commission’s Notice of April 8, 2010,¹ Public Counsel files this initial Statement of Issues. The list is not exclusive. Other parties may also suggest important issues and Public Counsel reserves the right to suggest additional issues itself as a result of discussions at the May 4, 2010, work session.

II. INITIAL STATEMENT OF ISSUES

As the review of past proceedings in the Commission’s Notice reflects, the general question of whether and to what extent utilities require removal of disincentives or the implementation of financial incentives in order to pursue energy efficiency or other “least cost” resources has been examined in depth by the Commission in a number of contexts for at least twenty years. Through a variety of proceedings, including both rulemakings and adjudications, the Commission has developed valuable factual data and policy experience which should help in this docket. As a result, the Commission does not need to “reinvent the wheel.” As the history of this issue shows, this is not a simple topic with easy solutions as some companies and policy advocates present it. The adoption of incentive or lost margin mechanisms poses real risks of

imposing additional multi-million dollar rate burdens on customers, without creating verifiable conservation results or benefits.

The list of topics contained in the Commission Notice is a good one. Public Counsel recommends that the following issues be adopted for the consolidated “list of issues” to be provided May 12, 2010, as a basis for written comments.

Need for Incentives

1. Are additional incentive or decoupling/lost margin mechanisms necessary, given that:
 - Regulated utilities are required by law to acquire “least cost” resources and to pursue all achievable cost-effective conservation or be subject to financial penalties?
 - Acquisition of “least cost” resources is by definition economically advantageous and prudent for a regulated utility.
 - Washington regulated utilities have established and pursued successful conservation programs without the existence of incentive programs or decoupling.
 - Although per-customer usage has seen some declines due to conservation, the economy, and other factors, total company sales and revenues are not declining and are flat or increasing due to load growth.

Mechanism Characteristics

2. What are the distinctions between incentive mechanisms and anti-disincentive mechanisms (lost margin/decoupling)?

3. In the event such mechanisms are approved for use, should a utility be permitted to recover additional revenues under both an incentive mechanism and a lost margin/decoupling mechanism simultaneously?
4. Are disincentives to pursue conservation created for customers by the adoption of utility incentive programs or lost margin/decoupling mechanisms?
5. What is the precise magnitude of the lost margin problem being experienced by regulated utilities as a result of their own conservation programs?
6. If lost margin can be accurately calculated, should any revenue recovery allowed under an incentive or lost margin/recovery mechanism be limited to the amount of actual lost margins due to the utility's own programs? (i.e. exclude recovery for general economic factors, exogenous effects not caused by utility programs).
7. Should incentive or lost margin/decoupling mechanisms include an "earnings test" to prevent recovery of excessive amounts from customers with resulting overearning by the utility?
8. Should adoption of an incentive or lost margin/decoupling mechanism require a downward adjustment in the utility company's return on equity to reflect the reduced risk to the company?
9. How should DSM targets be defined for purposes of an incentive mechanism?
10. Should DSM targets be specifically tied to approved I-937 targets or to some other goal?
11. Should a lost margin/decoupling mechanism include a "DSM test" to be met as a prerequisite to a utility receiving funds from ratepayers under the mechanism?

12. In an incentive mechanism, should a utility receive payments only for exceeding an established target or should incentives be paid where the utility only meets the pre-set target?
13. Should payment responsibility for incentives or lost margin/decoupling mechanisms be spread over all customer classes?
14. Should payments for incentives or lost margin/decoupling be listed separately on customer bills as surcharge with accompanying explanatory notice?

Evaluation of Savings Claims

15. How should savings claims made by utilities in connection with incentive or lost margin/decoupling payments be evaluated, measured, and verified?
16. Should establishment of an approved EM&V program be a prerequisite to approval of an incentive or lost margin/decoupling mechanism for a utility?
17. Should Washington state establish (via UTC rule or legislation) an independent third party entity with oversight of EM&V, with authority to (1) establish EM&V protocols and requirements and (2) conduct actual EM&V of utility savings claims (either directly, or using technical consultants under contract, for example)

Alternatives to Incentive and Lost Margin/Decoupling Mechanisms

18. Should Washington establish an Energy Trust of Oregon (ETO) type of entity to deliver energy efficiency programs in the state?