February 26, 2009

The Honorable Christine Gregoire

Washington State Governor

Legislative Building

Post Office Box 40002

Olympia, Washington 98504-0002

**Re: American Recovery and Reinvestment Act of 2009**

Dear Governor Gregoire:

The American Recovery and Reinvestment Act of 2009 (H.R. 1) (ARRA), requires that for a state to be eligible to receive State Energy Program (SEP) funding, the Governor must obtain from the “applicable State regulatory authority” certain “assurances” regarding state policies designed to encourage conservation. Specifically, section 410(1) of the ARRA requires that you obtain assurances that:

The applicable State regulatory authority will seek to implement, in appropriate proceedings for each electric and gas utility, with respect to which the State regulatory authority has ratemaking authority, a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently and that provide timely cost recovery and a timely earnings opportunity for utilities associated with cost-effective measurable and verifiable efficiency savings, in a way that sustains or enhances utility customers’ incentives to use energy more efficiently.

By this letter, the Washington Utilities and Transportation Commission (Commission or UTC), as the “applicable State regulatory authority,” hereby provides the assurances required by section 410(1) of the ARRA for both electric and gas utilities under its jurisdiction. The policies implemented by the UTC, as well as those currently under consideration, will continue to sustain and enhance the programs of UTC-regulated electric and natural gas utilities that encourage customers to use energy efficiently.

Electric Utilities

The three investor-owned electric utilities regulated by the UTC (Puget Sound Energy, Avista, and PacifiCorp) operate conservation programs that meet or significantly exceed the utility specific conservation targets recommended by the Northwest Power and Conservation Council. The implementation of State law and UTC policy will ensure that this level of performance is maintained and enhanced.

* Initiative 937 (codified as RCW 19.285.040, and implemented by the UTC at WAC 480-109-010) requires electric utilities to achieve all cost-effective conservation beginning in 2010. Implementation of this law ensures that an electric utility’s financial incentives are aligned with helping its customers use energy efficiently.
* All three electric utilities regulated by the UTC recover the cost of their customer conservation programs on a timely, pay-as-you-go, basis. Such cost-recovery ensures that the direct cost of conservation programs imposes neither a cash-flow, nor an earnings disincentive for the utilities.
* The UTC has initiated a rulemaking proceeding to determine whether customers would benefit from the commission adopting the Public Utility Regulatory Policy Act (PURPA) standards promoting electric energy efficiency, rate decoupling, and smart grid technology that are included in the federal Energy Independence and Security Act of 2007 (EISA).
* Under the authority granted the UTC in RCW 80.280.260(2)-(3), the UTC approved a three-year conservation performance incentive program proposed by Puget Sound Energy (PSE). This three-year program provides a direct incentive for superior conservation performance and a direct penalty for failure to perform. Under the program, PSE has increased its conservation performance substantially. The UTC will consider whether other such programs proposed by utilities would provide an incremental benefit in the context of the new conservation mandates beginning 2010 under RCW 19.285.040 and our mandate to regulate in the public interest.

Natural Gas Utilities

All four natural gas utilities regulated by the UTC (Avista, Cascade, Northwest Natural and Puget Sound Energy) offer customer conservation programs. In contrast to electric utilities, there are no regional targets against which to compare conservation performance for the natural gas utilities. The UTC’s policies and actions to promote cost-effective, measurable and verifiable conservation include the following.

* WAC 480-90-238 (Integrated Resource Planning) requires natural gas utilities to complete resource plans every two years that must include an assessment of cost-effective conservation and a short-term strategy to implement its lowest reasonable cost resource plan – including cost-effective customer conservation programs.
* All four natural gas utilities regulated by the UTC recover the cost of their customer conservation programs on a timely, pay-as-you-go, basis. Such cost-recovery ensures that the direct cost of conservation programs imposes neither a cash-flow, nor an earnings disincentive for the utilities.
* Under the authority granted the UTC in RCW 80.280.260(2)-(3), the UTC approved so-called decoupling pilot programs for Avista and Cascade Natural Gas in 2006. These programs are designed to measure whether this ratemaking tool will improve conservation performance. Evaluations of the programs will be completed this calendar year and will provide the information necessary for the UTC to determine whether such programs are beneficial to customers and achieve their goal of enhancing cost-effective, measurable and verifiable efficiency savings.
* The UTC has initiated a rulemaking proceeding to determine whether customers would benefit from the commission adopting the Public Utility Regulatory Policy Act (PURPA) standards promoting natural gas energy efficiency and rate decoupling that are included in the federal Energy Independence and Security Act of 2007 (EISA).

As a matter of policy, the UTC is committed to promoting cost-effective conservation as a priority resource, consistent with state and federal statute. Our efforts have focused on regulatory tools that yield practical, measurable and cost-effective results for customers and, in our view, are adequate to meet the conditions described in section 410(1) of the ARRA.

If you have any questions or need further information, please contact me at (360) 664-1208 or Dick Byers, Senior Policy Advisor, at (360) 664-1209.

Sincerely,

David W. Danner

Executive Director