



U-210590

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Jeff Killip
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Square Loop SE
Lacey, WA 98503

RE: Joint Utility Comments on the Commission's Proceeding to Develop a Policy Statement Addressing Alternatives to Traditional Cost of Service Rate Making, Docket U-210590

Dear Director Killip:

In accordance with the Washington Utilities and Transportation Commission's (Commission) Notice of Workshop and Notice of Opportunity to File Written Comments (Notice)¹ issued in Docket U-210590 on May 5, 2025, regarding the development of a "policy statement addressing alternatives to traditional cost of service ratemaking," Avista Corporation (Avista), Puget Sound Energy, Inc. (PSE), PacifiCorp (PAC), Cascade Natural Gas Corporation (Cascade), and Northwest Natural Gas Company (NW Natural) – together, the Joint Utilities, submit the following comments.

General Comments

The transition to performance-based regulation (PBR) should be deliberate and measured, building on successful elements of traditional regulation while introducing new mechanisms that drive innovation and efficiency. Regulatory efficiency should be one of the primary objectives of alternative forms of regulation.

A PBR proceeding should consider shortcomings and incentive gaps of traditional rate regulation that make alternative forms of regulation appealing. These shortcomings can include elements such as uncompensated revenue growth, frequent rate cases and high regulatory cost. The incentive gaps can be related to driving policy goals that are not yet reflected or incentivized by traditional regulation. Performance Incentive Mechanisms (PIMs) specifically work best when there is a clear problem or objective not otherwise addressed by traditional regulation the PIMs would attempt to address. For example, that could be to create incentives for new clean energy technology adoption or enable recovery of prudent modernization investments. PIMs should not be used to replace or stand-in for a full prudence determination. The Joint Utilities urge maintaining this clear focus as the next phases of this docket proceed.

Questions Set 1:

As outlined in Appendix A, the Commission will continue developing this proceeding in multiple phases over several years. Phase 1 is complete, and the Commission anticipates Phase 2 concluding in early 2026.

¹ *Washington Utilities and Transportation Commission (WUTC)*, Docket U-210590, Notice of Workshop and Opportunity to Comment (May 5, 2025), available at: <https://www.utc.wa.gov/casedocket/2021/210590/docsets>.

- **Phase 3 will address cost containment strategies, leveraging lessons learned from existing PBR reporting mechanisms to identify adjustments and establish the extent to which utilities' revenues should be subject to PBR mechanisms.**
- **Phase 4 will focus on establishing missing metrics for Goal 4-Environmental Improvements and developing PIMs while considering the need for utility-specific metrics. Additionally, Phase 4 will offer an opportunity to revise existing metrics and reporting processes as necessary, considering the interplay between existing mechanisms and PIMs.**
- **Phase 5 will entail a program evaluation of PBR mechanisms and establish a continuous improvement process to pair PBR with traditional cost of service ratemaking in a hybrid mode.**

In addition to the general feedback interested persons wish to offer on the updated Work Plan, the Commission encourages participants to focus their input on the following questions:

- **Do you have thoughts, concerns, or suggestions on the proposed scope and order of Phases 3, 4, and 5?**
- **Are there any additional topics the Commission should consider addressing in Phases 3, 4, and 5?**
- **Are there any additional phases the Commission should consider?**

Response:

Proposed Timing of Phases 2 and 3: Regarding the overall timeline for the various phases, the Commission may want to consider that multiple general rate cases will likely be in progress in 2026, which may prevent the Commission from working on this docket. In addition to this general concern, we also have specific concerns with the timing of Phase 3, part A as proposed by Staff. Specifically, Phase 3, part A involves “[r]eexamin[ing] and identify[ing] structural adjustments to existing PBR reporting mechanisms based on lessons learned from filings.” However, 2025 PBR metrics will not be filed until May 30, 2026 for those utilities that must report them as part of a recent general rate case order. Also, NW Natural has not reported any metrics because it has not yet filed a multi-year rate plan. Therefore, the Joint Utilities are concerned that if Phase 2 ends in February 2026 and Phase 3, part A begins shortly thereafter, then there will not be adequate time to consider the 2025 PBR metrics that will be filed at the end of May. In addition, with only one year of reporting on many new metrics – and not all utilities reporting metrics – there may not be sufficient data or insight to make any changes or adjustments.

Concerns with Order and Scope of the Phases: Generally speaking, the Joint Utilities strongly caution against using a “one-size-fits-all” approach to this proceeding. For example, electric utilities and natural gas utilities have different reliability, resiliency, and affordability concerns. Designing PBR without acknowledging and incorporating these differences will lead to poor results, such as metrics that have unintended consequences, metrics that are meaningless, or metrics that do not provide enough benefit to customers to justify their cost. Similarly, the Joint Utilities also believe that PBR must recognize the differences among Washington utilities. The reasonableness of PBR implementation and reporting costs

may vary considerably based on the number of Washington customers a utility has, as well as the socioeconomic characteristics of its service territory. Therefore, this proceeding should recognize that PBR metrics and/or PIMS should be tailored to the individual utility based on the type of service it provides, its size in Washington, and the customer base it serves.

Applying these general principles to the proposed phases would mean recognizing that, for example, the cost containment strategies in Phase 3 may be quite different for electric versus natural gas utilities. Also, establishing the extent to which utilities' revenues should be subject to PBR will require extensive knowledge of each utility's revenue requirement and how much control that utility has of the different items within those revenue requirements. Due to these differences, the Commission should consider different workstreams for electric and natural gas utilities, as well as recognizing individual differences among utilities. We believe that these changes can help mitigate our concerns regarding the unintended consequences of PBR that we noted above. Aside from these general principles, we also request that the Commission clarify how financial incentives from PBR interact with the earnings test required under RCW 80.28.425(6) in Phase 4.

Finally, for Phase 2, part A, the Joint Utilities suggests spending some time to ensure that the definitions and expected calculations for the metrics identified in the Policy Statement Addressing Initial Reported Performance Metrics are clear and understood. A workshop or portion of a workshop for such a discussion would be useful.

Phase Schedule: The Joint Utilities believe that the Commission may be able to combine Phase 3 & 4 and move some items to Phase 4 that fit under the scope of program evaluation. For consideration, the Joint Utilities propose the following changes to the Phases and Scope for discussion at the June 17th workshop.

Phase 2 - Principles and Expectations for Performance Incentive Mechanisms (PIMs)

- A. PBR docket review
- B. Identify best practices and establish the basis for designing PIMs

Phase 3 – Cost containment strategies ~~and PIMs~~

~~A. Reexamine and identify structural adjustments to existing PBR reporting mechanisms based on lessons learned from filings~~

~~B. Identify cost containment strategies~~

~~C. Establish the extent to which utilities revenues should be subject to PBR (base rates vs. regulatory mechanisms and PIMs)~~

- A. Identify cost containment strategies
- B. Establish the extent to which utilities revenues should be subject to PBR (base rates vs. regulatory mechanisms and PIMs)
- C. Establish metrics for Outcomes and Goals with no current metrics (potentially reexamining those Outcomes and Goals for revision)
- D. Identify performance baselines, performance targets, and PIMs if or where appropriate
- E. Examine the interplay between existing mechanisms, MYRPs, metrics, and PIMs

Phase 4 – ~~Performance Incentive Mechanisms (PIMs)~~ Program Evaluation & Refinement

~~A. Establish metrics for Outcomes and Goals with no current metrics (potentially reexamining those Outcomes and Goals for revision)~~

~~B. Analyze the need for utility specific metrics~~

~~C. Revise the existing metrics and reporting process as necessary~~

~~D. Identify performance baselines, performance targets, and PIMs if or where appropriate~~

~~E. Examine the interplay between existing mechanisms, MYRPs, metrics, and PIMs~~

A. Reexamine and identify structural adjustments to existing PBR reporting mechanisms based on lessons learned from filings

B. Evaluate PBR tools and process (including objectives, goals, metrics, targets, and PIMs)

C. Analyze the need for utility-specific metrics

D. Evaluate and revise the existing metrics and reporting process as necessary

E. Establish a continuous process for evaluation and improvement and close the PBR docket. Going forward, the PBR process, paired with traditional cost-of-service regulation, will be a hybrid model.

Phase 5—Program Evaluation

~~A. Evaluate PBR tools and process (including objectives, goals, metrics, targets, and PIMs)~~

~~B. Establish a continuous process for evaluation and improvement and close the PBR docket. Going forward, the PBR process, paired with traditional cost of service regulation, will be a hybrid model~~

Question Set 2:

As stated in the “Interim Policy Statement Addressing Performance Measures and Goals, Targets, Performance Incentives, and Penalty Mechanisms” issued on April 12, 2024 (Interim PBR Policy Statement), PIMs tie utility performance to a portion of revenue. Additionally, the Commission believes that PIMs that offer monetary rewards should recognize exemplary performance or incentivize innovative solutions toward the state's energy sector goals.

While the Commission will not establish specific PIMs in Phase 2 of this proceeding, we seek to identify general guidelines and establish the foundational principles for designing PIMs. As described in the briefing paper developed in collaboration with the Regulatory Assistance Project (RAP),² the Commission intends to use such guidelines and principles to align the stakeholders’ expectations on shared objectives and inform the design of PIMs in Phase 4.

a. What design principles or general guidelines should inform PIM development?

Response: The Joint Utilities recommend the following design principles and general guidelines to inform PIM development:

- **Alignment with Policy Goals:** PIMs should directly support state or regional policy objectives, such as reducing greenhouse gas emissions, enhancing energy efficiency,

² Elaine Prause & Jessica Shipley, *Performance-Based Regulation: Considerations for the Washington Utilities and Transportation Commission*, Regulatory Assistance Project (2022), ¶16, available at <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=35&year=2021&docketNumber=210590>.

improving grid reliability, or promoting equity – that are not already addressed or sufficiently incentivized by existing mechanisms. PIMs must be tied to clear, measurable outcomes that reflect these priorities and be within the utility’s control.

- **Clarity and Simplicity:** PIMs should be straightforward to understand and implement. Complex mechanisms can lead to administrative burdens, disputes over measurement and verification, and difficulties in comparisons over time and between reporting entities. Implementation should begin small and simple and be reassessed on a regular basis.
- **Measurability and Verifiability:** Metrics should be quantifiable and based on available and reliable data. Robust evaluation, measurement, and verification (EM&V) processes are critical to ensure that performance is accurately assessed.
- **Balance of Risk and Reward:** PIMs should provide sufficient financial incentives to motivate utilities without exposing them to excessive risk. Mechanisms should balance upside potential (rewards) with downside risks (penalties) to encourage innovative solutions. Further, the Commission should also consider the cumulative additional risks for the utilities introduced by the whole set of PIMs, and whether such higher risks are sufficiently reflected by the PIM design, as well as the need to reflect higher risk in the utility rates of return in order to maintain the utility’s financial health, considering for cost of capital impacts.
- **Customer and Outcome-Based Focus:** PIMs should prioritize tangible, meaningful benefits to customers, such as reduced energy burden through bill assistance programs, improved service reliability, or access to clean energy. The benefits should be specific and measure outcomes, rather than activities, within utility’s control, accounting for external factors and market conditions. Utilities would need to be able to influence PIMs timely and actionably, therefore proper target setting is critical.
- **Achievability:** PIMs should be fully within the utility’s control to achieve.
- **Flexibility and Adaptability:** PIMs should allow for adjustments as technologies, markets, and policy priorities evolve, as well as for differences between electric versus natural gas utilities and geographic/demographic differences amongst the utilities. There should be periodic reviews to refine metrics and targets based on real-world performance and changing conditions. PIMs should be tailored to local market conditions and utility capabilities.
- **Consider utility-specific needs:** The circumstances of Washington utilities vary in many ways and one size will typically not fit all. The goal of the PIM policy statement should be to establish a framework that provides general guidance on PIMs which can then be used by the Commission and each utility to determine the details within each GRC.
- **Efficiency:** Efficiency matters when choosing metrics used in utility regulation. The creation and routine monitoring and review of metrics is costly. PIMs should avoid overlap with legal or regulatory requirements that are already sufficiently reported and incentivized. The number of metrics that are routinely monitored should be limited to ensure efficient use of dollars and time. Minimize adding administrative burdens to reporting entities, as well as to reviewing entities, and engaged interested parties.

- b. **What strategies, principles, or design elements should the Commission consider to ensure PIMs effectively support the PBR goals and outcomes established in this proceeding?**

Response: The strategies, principles and design elements should emphasize that PIMs align with the specific PBR outcomes, such as reliability, affordability, clean energy targets, etc. that the Commission is attempting to achieve. The strategies, principles and design elements should also ensure that PIMs are adding substantively to an essential outcome that is not already adequately addressed by existing regulatory processes.

- **Relevant:** PIMs should be relevant and clearly linked to the goals of regulation and not duplicative or in conflict with other regulatory elements or requirements.
- **Outcome-Oriented Metrics:** PIMs should focus on outcomes (e.g., energy savings, peak demand reduction, carbon reductions) rather than inputs (e.g., program spending or activities).
- **Controllable:** PIMs should be well within the control of the utility, accounting for existing or expected impacts and changes of external factors and market conditions.
- **Targeted:** PIMs should address areas where utility performance is a concern. For example, a metric may appropriately focus on areas that lack strong incentives to drive policy goals or on a new performance issue where expectations are unclear.
- **Multi-Factor Incentives:** PIMs should address multiple PBR goals simultaneously, such as energy efficiency, demand response, and equity. States like Massachusetts and Rhode Island use multifactor PIMs to reward utilities for meeting diverse policy objectives, including savings for low-income customers and peak demand reduction.
- **Incentive Calibration:** Rewards should be sized to motivate utilities without unduly burdening customers. Incentives could be capped to balance financial upside with customer affordability. Likewise, penalties should not be unduly burdensome to shareholders.
- **Integration with PBR Framework:** PIMs should complement other PBR elements, such as revenue decoupling or cost recovery mechanisms, to remove disincentives for efficiency or distributed energy resources (DER) investments.
- **Innovation Incentives:** PIMs should encourage utilities to adopt emerging technologies, such as cloud computing or DERs.
- **Long-Term Focus:** PIMs should incentivize sustained performance rather than short-term gains. Utilities like those in Illinois, with PIMs tied to multi-year efficiency targets, argue for metrics that prioritize lifecycle savings over first-year results.
- **Efficient:** Efficiency matters when choosing metrics used in utility regulation. The creation and routine monitoring and review of metrics is costly. The number of metrics that are selected as PIMs should be limited to ensure efficient use of dollars and time, and to be effective.
- **Prioritized:** PIMs, like goals and reported metrics, require some prioritization in order to be relevant, targeted, and efficient.
- **Comparable:** A PIM is comparable if it is easy to compare its values between utilities and/or, for the same utility, over time.
- **Clear and straightforward:** Metrics should have clear definitions. The required data and any formulas required for their calculation should be clearly identified and easily understood.

- **Quantifiable:** Data should be readily available or easy to collect and understand.
- **Verifiable:** PIMs should be amenable to independent audit.
- **Adaptive:** PIMs should be revisited regularly (e.g., every 4-5 years) to ensure effectiveness and continued usefulness.

c. **What criteria or methodologies should the Commission consider to promote a fair balance between utilities' financial rewards and tangible customer benefits?**

Response: In reviewing other proceedings, a common criteria is related to shared savings to drive a fair balance.

- **Benefit-Cost Analysis:** Use frameworks like the Utility Cost Test (UCT) to ensure that PIM rewards are tied to programs delivering net benefits to customers.
- **Transparent Metrics:** Establish clear, publicly reported metrics to demonstrate customer benefits, such as energy bill savings, reduced outages, or avoided infrastructure costs.
- **Shared Savings Mechanisms:** Allocate a portion of program savings to customers while allowing utilities to earn a return. This includes avoiding asymmetrical mechanisms that are simply punitive towards the utility.
- **Equity Considerations:** Prioritize benefits for underserved or low-income customers to address social equity.
- **Rate Impact Assessment:** Evaluate the impact of PIMs, including any impacts of the associated risks on utility costs, on customer rates to ensure affordability.

d. **What design approaches or mechanisms should the Commission consider when developing PIMs? For example, should tools such as savings sharing mechanisms, equity adders, fixed rewards or penalties, or structural variations (e.g., symmetrical vs. asymmetrical, upside-only vs. downside-only) be prioritized, and why?**

Response:

Response: In reviewing the information provided by RAP in this Docket, their common principles are generally supportable by the Joint Utilities. We look forward to hearing from others what principles may be considered. It will be important not to lose sight of the incentive portion of this work. Traditional regulation has primarily relied on sticks – penalties on Service Quality Measures, customer complaints, energy efficiency/decoupling targets, etc., but part of the appeal of performance-based regulation is the emphasis on incentives, especially for areas that are not currently addressed by traditional regulation.

It may also be worth considering that as the use of PIMs and other methodologies grow, we should structure the implementation to review legacy sharing- and PBR-like mechanisms, such as decoupling or deadbands and sharing bands in existing true-up mechanisms that may no longer be appropriate.

- e. **Which goals and metrics established in the Policy Statement Addressing Initial Reported Performance Metrics issued on August 2, 2024, should be prioritized when developing PIMs?**

Response: Further discussion is warranted on this question before discussing prioritization, given that many parties will argue about prioritizing what matters most to them. More discussion is needed also on the question of whether there are existing regulatory requirements or structures that are sufficiently addressing the stated goal, or whether a PIM is warranted to due to a shortfall or gap. The process should focus on narrowing and carefully scoping the need for PIMs to develop a distinct set of final goals and outcomes for the creation of meaningful and well-rounded PIMs.

Please contact any of the Joint Utilities signatories below with any questions or for additional information about these comments.

Sincerely,

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