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

Dear Director Killip:

In accordance with the Washington Utilities and Transportation Commission's (Commission) Notice of Technical Workshop and Opportunity to File Written Comments (Notice)[1] issued in Docket U-210590 on July 3, 2025, regarding the development of a "policy statement addressing alternatives to traditional cost of service ratemaking," Avista Corporation, dba Avista Utilities (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 in response to questions #4-11 from the Notice. In addition, Avista, PSE, and PAC, together the Joint Electric Utilities, submit the comments below in response to questions #12-18 from the Notice.

PBR PRINCIPLES

In response to the May 5 Notice, commenters offered a variety of principles to consider when establishing PIMs. Several commenters echoed the seven principles for designing metrics from the Commission's Interim Policy Statement issued on April 12, 2024. These paraphrased comments included: alignment with policy (principle 1); outcome based (principle 3); transparent tracking and publicly available (principles 4 and 5); measurable and verifiable (principle 4); efficiency including non-duplicative, clearly defined, and using reasonable available data (principles 4 and 7); equity embedded in the design (principle 2); and measuring outcomes reasonably within the utility's control (principle 6).

Specifically with respect to equity, parties identified two ways in which equity could be advanced through metric design: 1) to prioritize benefits for low-income customers and 2) to make distributional impacts visible.

There were also areas of commonality among the commenters regarding PIM design. Two or more parties provided support for the following paraphrased recommendations:

- **Rate impact should be evaluated to ensure it is fair to ratepayers;**
- **Create PIMs on activities that stretch goals not already required by law;**

[1] *Washington Utilities and Transportation Commission (WUTC)*, Docket U-210590, Notice of Opportunity to Comment (July 3, 2025), available at: https://www.utc.wa.gov/casedocket/2021/210590/docsets.

- **PIMs should be structured to encourage utilities to succeed at long-term outcomes such as reducing long-term costs or meeting Clean Energy Transformation Act (CETA) mandates;**
- **Incentives should be proportionate to the amount of utility control;**
- **Incentives need to be calibrated and not reward a utility for an action it is already incented to take;**
- **Incentives should be flexible, adaptable, and evolve;**
- **Shared savings mechanisms are appropriate;**
- **PIMs should minimize or avoid unintended consequences, such as gaming, optimizing performance on one metric at the expense of others, regulatory burden, and uncertainty;**
- **PIMS should be customer-centric;**
- **PIMS require thoughtful integration with the existing regulatory framework (indicating the need for its review);**
- **Reward should be commensurate with risk;**
- **Utility-specific metrics may be needed, especially if a reward or penalty has a strong financial impact;**
- **PIMS should start conservatively and use an incremental approach;**
- **PIMS should incentivize innovative technology to decarbonize, integrate renewables and modernize the grid.**

As reflected above, there were various references for PIM design and the appropriateness of PIMs for activities already required, incentivized, or mandated by law. Additionally, a new term "core standards" was introduced. A definition for "core standards" was not explicitly provided, however, some comments referred to these standards as related to activities already required in law. However, we note that disagreement or lack of clarity of terms can be consequential for the development of PIMs. Parties advocated various ways that PIMs might interact with core standards or what is already mandated by law, such as that PIMs should:

- **Not be established at all;**
- **Have a penalty only for failing to meet a target;**
- **Be symmetrically structured; and**
- **Only provide rewards for going beyond the law.**

Parties also had differing perspectives as to which methodologies to use for balancing utilities financial reward and tangible customer benefits. The responses included:

- **Considering comments regarding risk-sharing mechanisms in Dockets U-230161 and UG-230968;**
- **Ensuring procurement neutrality;**
- **Utilizing Benefit-Cost Analyses (use frameworks such as the Utility Cost Test to ensure rewards are tied to programs delivering net benefits to customers).**

Disagreement about which methodologies to use could reflect, among other things, different

opinions about what drives utility financial reward vs customer benefit, as well as different views about what is the proper balance. Without further elaboration on rationale, it is difficult to evaluate how effectively each could contribute to the goal of balance or compare their impact.

The Commission requests a response to the following questions:

4. **Do any of the ideas regarding the design or methodologies for establishing PIMs raise objections or concerns? Why?**

Response: The Joint Utilities are generally supportive of the ideas regarding the design and methodologies for establishing PIMs.

5. **How important is it to engage in a review of existing mechanisms and cost containment strategies before establishing targets or scorecards for metrics (critical, important, not important)? Please explain your response.**

Response: See the Joint Utilities' comments on cost containment strategies below. The Joint Utilities' understanding of scorecards is that they are a visual representation or summary of the metrics a utility is required to report on. Developing scorecards prior to establishing targets does not seem necessary but may be useful. In terms of reviewing existing mechanisms before establishing targets, this seems critical to ensure there is not overlap between the two, and that there is an understanding of the interaction between the two. Based on the suggested design principles, established targets should not be redundant.

6. **How do you define a core standard?**

Response: The Joint Utilities' understanding of the term core standard relates to actions that utilities must take that are required by law or rule. Examples of such requirements include acquiring all cost-effective energy conservation per the Energy Independence Act or electric utilities meeting clean energy targets per CETA.

7. **Do you think core standards should be treated differently? If so, how and why?**

Response: Core standards should be treated differently as they are already required, and utilities may be penalized for not meeting them. If a utility goes above and beyond a core standard, or achieves a core standard earlier than required, then a PIM may be appropriate for a core standard.

8. **Should PIMs addressing goals with standards already mandated by regulation, such as reliability or reduction of greenhouse gas emissions, be treated differently? If so, how and why?**

Response: Yes, see response to #7.

9. **What policy guidance should the Commission provide for the methodologies to balance the utility incentives and customer benefits? For example, should benefit-cost analysis always be required, should the appropriate methodology be decided by the underlying metric(s) (*e.g.,* risk sharing mechanism for a resiliency PIM), or on a case-by-case basis?**

Response: The Commission is encouraged to provide policy guidance clarifying the relative weighting of different evaluation criteria. For example, it would be helpful to know if certain goals are prioritized over others, or if specific customer benefits are regarded as more significant. Without a clear understanding of these priorities, it may be challenging for utilities and other interested parties to propose appropriate performance metrics.

UTILITY COST CONTAINMENT STRATEGIES

The revised workplan identified cost containment strategies for Phase 3. Commenters raised concerns about the unknown timing of this work. Additionally, parties raised concerns regarding the anticipated rate case workload for 2026. Unfortunately, given the current state and timing of 2026 cases, it is not possible for the Commission to issue formal guidance in advance of testimony in those cases. However, the Commission agrees this work should not be further delayed and proposes the following:

- **Issue a Notice for Comment specific to utility cost containment strategies in September 2025.**
- **Provide an educational presentation on cost containment during a future workshop (tentatively scheduled for December 2, 2025). The presentation would be provided by an outside entity.**
- **Require the UTC PBR Team (currently consists of policy, regulatory, and consumer protection staff) to complete research on the existing regulatory structure, mechanisms, perceived gaps, and opportunities to employ cost containment strategies, culminating in a report of findings and recommendations by April of 2026. This report would be issued concurrently with a Notice for Comment. Workshops and additional opportunities to comment would follow, avoiding testimony deadlines and hearings.**
- **Policy Statement guidance would be issued by January 31, 2027.**

10. **Given the information outlined above:**
    a. **Please provide any feedback or recommended alternatives to the proposal addressing cost containment.**
    b. **Are there specific cost containment strategies you recommend be addressed during the proposed December 2025 workshop?**

Response: The Joint Utilities are unclear what the purpose is of discussing cost containment strategies as part of the PBR policy docket. As such, it would be helpful to move up the educational presentation before issuing a Notice for Comment. Until further education is provided on the purpose of the cost containment discussion, the Joint Utilities do not have any specific strategies to recommend.

EARNING TEST INTERACTION

11. **How should PBR incentives or penalties interact with the earnings test under RCW 80.28.426(6)?**

Response: RCW 80.28.425(6) states "the company shall defer all revenues that are in excess of .5 percent higher than the rate of return authorized by the commission for refunds to customers **or another determination by the commission in a subsequent adjudicative proceeding**". (Emphasis added) The Joint Utilities do not believe that in circumstances where PBR incentives actually causes it to earn in excess of 0.5 percent that it would not be able to retain those incentives. Said differently, it could undermine the purpose of having the incentive to begin with. And, it is clear that the Commission could, in a subsequent proceeding, authorize a utility to retain those deferred incentives (i.e., over earnings do not necessarily have to go back to customers as refunds – the Commission can choose to do something different. Removing the ability to over-earn under the PIM disrupts the mechanism's symmetry, which the joint utilities are committed to preserving.

<u>End of Joint Utilities' Comments and Start of Joint Electric Utilities' Comments</u>

The Joint Electric Utilities offer the following comments on the topic of Return on PPAs.

RETURN ON PPAs
CETA authorizes the Commission to allow utilities to earn a rate of return on prudent costs incurred under PPAs.4 As part of the comments submitted ahead of the workshop on June 17, 2025, some parties recommended the Commission issue guidance for utilities seeking a return on PPAs, and design a PIM encouraging utilities to acquire cost-effective, carbon-free resources through PPAs in this docket. During the workshop, the Commission expressed concern that the issue may not squarely fit into this guidance docket and requested additional comment on the appropriate proceeding to address these issues.

The Commission requests additional comments regarding the appropriate proceeding and performance structure to address the rate of return on PPAs. The Commission encourages participants to focus their input on the following questions:

12. **What is the appropriate proceeding for addressing the return on PPAs? Please provide your rationale.**

Response: The Joint Electric Utilities recommend that the Commission establish a consistent method of addressing return on PPAs that provides a clear, established understanding of when and at what rate a utility is entitled to a rate of return (ROR) on a PPA. Because the incentive ROR on PPAs is supposed to be an ***<u>incentive</u>***, the conditions under which the ROR will be authorized must be known in advance in order to effectively incent the action. Deciding upon the matter of an individual PPA in the context of a rate case where the PPA is already signed does not provide a predictable basis upon which the utility can base acquisition decisions. The Joint Utilities are relatively indifferent on the issue of where this matter gets considered and discussed, rather emphasize the importance of doing so in a timely fashion. This PBR docket is one place where this decision could be made, but there may be other venues as well. Another potential venue could be the proceeding underway related to the appropriate interest rates to apply to deferral accounts (U-250264), where a record will be developed on a somewhat adjacent topic.

13. **CETA allows for a range of authorized returns. What factors or situations support specific rates of return (*i.e.,* weighted cost of debt up to the full weighted cost of capital)?**

Response: If the Commission wants to fully empower utilities to acquire PPAs, when in the best interest of customers, they should thereby grant the maximum ROR allowed under the law.

14. **While the Commission will analyze each request for a return on PPAs under the prudency standard, what additional standards or principles should inform this analysis?**

Response: The purpose of providing a ROR on PPAs is for utilities to have an incentive to pursue PPAs on equal footing to self-build capital projects. The statute includes authority for the Commission to approve a ROR on a broad array of PPAs. RCW 80.28.410 applies to major projects in a Clean Energy Action Plan or selected in a solicitation of bids for delivering electric capacity, energy, capacity and energy, or conservation. Any standards or principles should start with and be consistent with this statutory authority.

15. **What data, evidence, or policy arguments should be provided for the Commission to evaluate a request for and authorize a rate of return on PPAs?**

Response: As stated above, the legislature has already decided that utilities should receive a ROR on PPAs within the specified range. There should remain no question regarding whether a utility should be authorized a ROR. The only question is where in the range specified by the legislature should the ROR fall, which as previously stated, the Joint Electric Utilities supports the full weighted cost of capital.

16. **If a PIM is established related to earning a return on a PPA, what types of utility performance outcomes should be tied to such a PIM?**

Response: The Joint Electric Utilities do not support a PIM related to earning a ROR on PPAs. Earning a ROR on a PPA is allowed for within the RCW, the rationale of which was debated in the legislature in an effort to drive utilities away from a potentially more expensive self-build option. The Commission should uphold the law and not otherwise add a qualification that was not included in the law to being with. Furthermore, allowing utilities to earn a ROR on a PPA was meant to be an incentive in and of itself. It is not necessary or desirable to create complexity with additional mechanisms that seek to cover the same ground.

17. **How does authorizing a return on PPAs balance encouraging utility performance outcomes while protecting customers from undue costs or risks?**

Response: The Commission must weigh where authorizing a full ROR would further help to drive cost-effective resource acquisition for Washington customers and remove any potential bias for all Washington utilities to seek self-build options. A full ROR quite simply would help overcome biases built into traditional regulatory approaches.

18. **Are there existing models or practices adopted in other states that the Commission should consider when considering the appropriate rate of return? If so, please provide examples and describe any lessons learned**.

Response: The Joint Electric Utilities does not have any relevant insight from other states to provide.

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

Sincerely,

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