

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

PACIFIC POWER & LIGHT COMPANY'S
REPORT CONCERNING ITS TEN-YEAR
CONSERVATION POTENTIAL AND ITS
BIENNIAL CONSERVATION TARGET

DOCKET NO. UE-100170

COMMENTS OF PUBLIC COUNSEL

March 5, 2010

I. INTRODUCTION

1. Pursuant to the Notice of Opportunity to Comment filed on February 2, 2010, (Notice) the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel) respectfully submits these comments in advance of the Commission's March 11, 2010 Open Meeting. These comments address PacifiCorp Power & Light Company's (hereafter "PacifiCorp") report concerning its ten-year conservation acquisition potential and its biennial conservation target filed with the Commission in compliance with RCW 19.285.040 and WAC 480-109-010 (hereafter "Compliance Report").
2. Public Counsel has supported utility conservation programs. These programs deliver an important least-cost resource, and consumers have come to expect that their utility will offer such programs. Public Counsel has been engaged in the review of DSM tariff rider filings and other related conservation filings in part because the cost of such programs is borne by ratepayers. In some cases the costs for these programs has increased substantially in recent years, and in addition, utilities have also sought special ratemaking mechanisms related to their

conservation efforts. In this context, it has become increasingly important for the Commission and stakeholders such as Public Counsel to have confidence that utility conservation programs are cost-effective and well-designed.

3. Given the length and scope of information included in PacifiCorp's Compliance Report and the important policy implications that may derive from these, Public Counsel does not attempt to address and provide comment on every aspect of this filing. Our comments, instead, serve to highlight what we identify as key concerns that deserve further review by the Commission, as well as to provide our assessment of the Company's compliance with regard to the public involvement process in developing the Company's ten-year achievable conservation potential and biennial conservation targets. We will also address issues related to what measures should be included and counted as part of the Company's acquisition or achievement in meeting the biennial target and ten-year potential.
4. As discussed below, Public Counsel does not recommend approval at this time but instead recommends that the Commission allow for additional process for further review of this filing, as contemplated by WAC 480-109-010 (4)(b).

II. TEN-YEAR AND BIENNIAL CONSERVATION TARGETS

A. Basis for Targets.

5. Consistent with the Energy Independence Act, the Commission rules state that in determining its ten-year conservation potential, a utility shall consider conservation resources that are "cost-effective, reliable and feasible."¹ With respect to the biennial conservation target,

¹ WAC 480-108-010 (1)(a).

the utility “must identify all achievable conservation opportunities,”² and the target “must be no lower than a pro-rata share of the utility’s cumulative ten-year achievable conservation potential.”³ In establishing electric energy efficiency acquisition targets, WAC 480-109-010(1) provides that a utility must derive these from either the utility’s most recent IRP or the utility’s proportionate share of the Northwest Power and Conservation Council’s (hereafter “Council”) current regional power plan targets for the state of Washington.

6. PacifiCorp elected to use their most recent IRP (2008) as the source for establishing the Company’s ten-year conservation potential and biennial conservation target. PacifiCorp states that they selected the IRP because it “replaces the regional averages and general avoided cost assumptions used in the development of the regional power plan with Company specific planning assumptions, commercially available resource options, service area specific conservation assessment data and resource costs all tailored to PacifiCorp’s resource position and customer energy requirements.”⁴ In short, the Company states that they believe the IRP is the logical choice for developing their targets, given their investment in a conservation potential assessment specific to their Washington service territory and the well-documented nature of their IRP.⁵

7. As provided by rule, if a Company elects to use their most recent IRP to develop its conservation targets, the methodologies employed must be “consistent with those used by the

² *Id.* at (2)(a).

³ *Id.* at (2)(b).

⁴ PacifiCorp’s Report on its Ten-Year Achievable Conservation Potential and its Biennial Conservation Target for 2010 and 2011, p. 6 hereafter “Compliance Report.”

⁵ Compliance Report, p. 6.

conservation council in its most recent regional power plan.”⁶ To address this, the Company conducted a comparison of the Council’s methodology and the methodology used in their 2008 IRP, which is outlined in Appendix 3 to the Company’s filing.

8. PacifiCorp also enlisted an outside evaluator, the Cadmus group, to assist in identifying the differences between the measures and conservation potential identified in PacifiCorp’s conservation potential assessment, and that identified for PacifiCorp through the regional allocation process from the Council’s regional power plan. The objective of this analysis was to identify the degree to which the Company’s conservation potential differed from the Council’s regional power plan, the reasons behind any large differences, and to determine whether any adjustments were needed to the IRP conservation forecast and subsequently the ten-year and biennial conservation targets, in light of these results.⁷ This was done by comparing the technical potential of the two plans. The results of this comparison appear to show significant differences between the Company’s ten-year technical potential identified for its Washington service territory and the potential identified using the Council’s power plan. These key differences were primarily found in the residential and industrial sector conservation potentials.⁸

9. Based on the results of this analysis, the Company considered adjusting various different measures and modeling differences in developing their ten-year conservation potential forecast and biennial targets. The measures considered for adjustment are presented in Table 8 in this report, and those adjustments that were ultimately made are found on Table 14 of this report. These include adjustments for consumer electronics, showerheads, Network PC power

⁶ WAC 480-109-010(1)(b)(i).

⁷ Compliance Report, p. 7.

⁸ Compliance Report, p. 7.

management, and distribution efficiency. Modeling differences adjusted for were the 10% adder for recognition of the Regional Credit Act and the Council's "market price adder."⁹ The Company further explains these adjustments, and why they believe the conservation potential identified for these by the Council and in the Company's conservation potential assessment differ so greatly.¹⁰ For example, PacifiCorp theorizes that these differences are due in part to regional versus PacifiCorp-specific opportunities and because PacifiCorp's service area may not represent the regional average for conservation potential.¹¹

10. Certainly, it is concerning to see such a large difference in the potential identified between the two analyses described above. We recognize that further examination of these analyses and their underlying assumptions may be necessary. The Company states they intend to refresh the conservation potential assessment in support of the 2010 IRP, and that those results will be used in the development of the Company's 2012-2013 conservation potential and 2012-2013 biennial target.¹² We see this as a valuable opportunity to further explore whether these differences will persist following an updated conservation potential assessment.

11. We also note that each of the adjustments made serve to increase the biennial and ten-year conservation potential targets. For example, in aggregate, the adjustments serve to increase PacifiCorp's biennial target by 1.9 aMW and the ten-year target by 14.5 aMW.¹³

12. In developing their biennial targets each utility must also fully document how it prorated its ten-year achievable conservation to determine the minimum level for its biennial conservation

⁹ Compliance Report, p. 14.

¹⁰ Compliance Report, p. 24.

¹¹ Compliance Report, p. 7.

¹² Compliance Report, p. 8.

¹³ Compliance Report, p. 24.

target.¹⁴ PacifiCorp describes this process stating that the target represents the achievable conservation potential for 2010 and 2011 and is 18% of PacifiCorp's ten-year conservation potential forecast for the planning years 2010-2019. Further discussion that elaborates on how the 18% was derived would provide additional support for this requirement of the Compliance Report.

B. Public Involvement.

13. WAC 480-109-010(3)(a) states that participation by Commission Staff and the public in the development of the ten-year conservation potential target is "essential" and that the report must outline the extent of public and commission staff participation in the development of the conservation metrics.¹⁵

14. PacifiCorp provided various opportunities for public involvement, beginning in October 2009, as described in the Compliance Report. The Company made an informal filing of their ten-year and biennial conservation targets on December 31, 2009 which was circulated to the DSM advisory group.

C. Comparison to Council Targets, Budgeted Conservation Targets, and Past Actual Conservation Achievements

15. This section addresses two topic areas. First, Pacificorp's proposed targets are compared to those included in the Council's Sixth Plan. Second, we attempt to compare Pacificorp's proposed biennial target to their recent performance, as a "reality check."

16. PacifiCorp's cumulative ten-year conservation potential is 49.2 aMW. This represents the Company's 2008 IRP results, adjusted to fully align for any differences between the process used

¹⁴ WAC 480-109-010(2)(b).

¹⁵ WAC 480-109-010(3)(a).

by the Company and that used by the Council in developing the regional power plan.

PacifiCorp's biennial conservation target is 8.8 aMW.¹⁶

17. The ten-year conservation potential identified by the Council in the Sixth Plan for PacifiCorp is 71.9 aMW. This reflects a difference of 22.7 aMW when compared to PacifiCorp's ten-year conservation potential assessment. The biennial conservation target identified by the Council in the Sixth Plan for PacifiCorp is 10.4 aMW. This reflects a difference of 1.6 aMW when compared to PacifiCorp's conservation potential assessment.¹⁷

18. PacifiCorp's conservation potential assessment, as identified in their 2008 IRP, is 68 % of ten-year conservation potential identified by the Council in the Sixth Plan. The Company's analysis and theory on why this is, along with their resulting adjustments to align the modeling and conservation potential differences identified between the two plans is discussed in the "Basis for Targets" section above. The end-result of the adjustments made by PacifiCorp represent an increase of 14.5 aMW, or 42%, to the Company's ten-year conservation potential identified in the 2008 IRP and documented in this report.¹⁸

19. It is also worthwhile to compare the level of conservation achieved by the Company in recent years to the biennial target identified in the Company's compliance report. In 2009 PacifiCorp achieved gross DSM savings (not including NEEA savings) of 41,997,602 kWhs or 4.79 aMW.¹⁹ The Company's biennial conservation target is 8.8 aMW, 4.5 aMW of which is

¹⁶ Compliance Report, p. 4

¹⁷ Sixth Plan Calculator, Option #3, available at:

<http://www.nwcouncil.org/energy/powerplan/6/supplycurves/I937/default.htm> Public Counsel utilized the Sixth Plan Calculator instead of the figures provided in PacifiCorp's Compliance Report due to inconsistencies between the data provided at Table 2 of the Compliance Report and those in Appendix 7 of the Compliance Report. We believe that the data provided in Appendix 7 may represent an earlier version of the Sixth Plan Calculator.

¹⁸ Compliance Report, p. 4.

¹⁹ Docket UE-001457, PacifiCorp Annual Report on Demand-Side Management Expenditures and

identified for acquisition in 2010, and 4.3 aMW of which is identified in 2011 for a total biennial target of 8.8 aMW.²⁰ This comparison illustrates that it appears PacifiCorp may be pursuing slightly less conservation in 2010, as provided for in their biennial target, than they achieved the in 2009.

20. In October of 2009, the Company received approval for a revision to their System Benefits Charge “SBC” Adjustment, which is administered through Schedule 91 and serves to fund all of the Company’s energy efficiency programs for all customer classes. This adjusted annual revenues collected from \$4.5 million annually to \$8.8 million annually which the Company has stated was “necessitated primarily by an increase in the rate of acquisition of energy efficiency resources by the Company in the state of Washington.”²¹

21. In future reports, it would be helpful if the Company provided a discussion of their past DSM achievement, how these compare to their biennial and ten-year conservation targets and what their observations are regarding the comparison.

III. QUALIFYING CONSERVATION MEASURES INCLUDED IN MEETING CONSERVATION TARGETS

22. Two years from now, Pacificorp and the other electric utilities will be filing reports regarding their compliance with their biennial targets, pursuant to WAC 480-109-050(4). At some point, no later than the review of compliance with the biennial targets, the Commission will have to determine which measures, and their associated savings, are properly included as qualifying toward the target.

Benefits Charge Collections on behalf of PacifiCorp, p 3.

²⁰ Compliance Report, p 4.

²¹ Docket UE-091516, Advice No. 09-05, Proposed Increase to Schedule 191-System Benefits Charge, p.1.

A. Qualifying Measures

23. PacifiCorp states that savings included in the ten-year and biennial conservation targets include, but are not limited to, the following resources:

- Customer participation in Company programs approved by the Commission
- Utility system initiatives such as distribution efficiency improvements
- Savings acquisition from regional efforts such as Northwest Energy Efficiency Alliance activities
- Savings from energy code and standards changes not already captured in one of the above types of resources
- Savings occurring from naturally occurring conservation not already captured in one of the above type of resources

The Company further states that savings from these sources are subject to reasonability and acceptable methods for measurement and quantification.²²

24. To the extent possible, there should be congruence between the measures used to generate and develop the biennial target, and the measures considered as qualifying toward performance in meeting the target. That is, the measures and associated savings that are included and counted as part of the company's savings acquisition or performance (i.e. the numerator, in evaluating performance in comparison to the target), should also be included in the establishment of the target and potential (i.e. the denominator).

B. Savings Estimates.

²² Compliance Report, p. 27.

25. Historically, the Commission has not explicitly approved the savings estimates employed by the electric or natural gas utilities to document and measure conservation performance. These savings estimates form the building blocks of the utility's calculation of its conservation achievement over a given period, and are therefore a critical piece of the puzzle in determining the performance of the utility in its conservation achievement. Public Counsel's understanding, however, is that these savings estimates are not reported to the Commission. While the utilities have non-binding advisory groups regarding conservation – such as PacifiCorp's DSM Advisory Group – Public Counsel's experience is that in general there has been little time devoted to discussion of these savings estimates at the utility conservation advisory group meetings.

26. Consequently, the Commission, Staff, Public Counsel, and other stakeholders have not had the opportunity to develop a clear understanding of the basis and underlying assumptions of the specific savings estimates employed by the utilities. While the Council's Regional Technical Forum (RTF) provides guidance to utilities on such matters, the investor owned utilities are not required to comply with the RTF's guidance. Neither Avista, PSE, nor PacifiCorp have demonstrated or addressed whether they employ electric DSM savings estimates that are consistent with the guidance and recommendations of the RTF. In addition, in the event a utility makes changes to its savings estimates, there does not appear to be any requirement that the utility inform the Commission and/or its conservation advisory group of any such changes.

IV. OTHER RECOMMENDATIONS AND CONCERNS

A. Overall Public Counsel Recommendation.

27. At this time, Public Counsel believes it is premature to take a position regarding approval of PacifiCorp's proposed ten-year conservation potential and biennial target, due to the

outstanding questions and issues addressed in these comments. We recommend that at a minimum, the Commission should reserve its decision until after an additional round of written and oral comments. This is appropriate for several reasons. First, this would allow all parties sufficient time to review all written comments, as well as any oral comments on March 11, 2010, and to prepare a response and final recommendation. Second, since this represents the Company's initial compliance filing pursuant to RCW 19.285.040, we believe the Commission and interested parties will benefit from additional review and further opportunities for comment on this new and significant area. After this further round of comment and recommendations, the Commission can then determine whether to approve a filing, or whether review is needed for individual companies.

28. If the Commission determines that additional process is necessary, for Pacificorp or any of the electric utilities, Public Counsel recommends the Commission invoke the discovery rule, in order to facilitate information exchange among interested parties.

B. Effect of Commission Approval of Conservation Targets

29. Public Counsel recommends that the Commission provide clear guidance in this docket regarding the specific scope of the Commission's "approval" of a utility's conservation targets. It would be helpful to parties to have understand the scope as they prepare further comments and recommendations. For example, in the event the Commission approves a utility's ten-year conservation potential and biennial target, either with or without conditions, does that approval apply to:

- a. The specific megawatt hours identified as the biennial target and ten-year potential;

- b. The 20-page Compliance Report filed January 29, 2010, and all statements made therein; or,
- c. The Compliance Report filed January 29, 2010 and all attachments to the filing, including all statements made therein.

30. Public Counsel recommends that any approval be limited narrowly to item (a) only, that is, to the numerical MWh target. The Commission should not prejudge the prudence of any of the underlying energy efficiency activities at this time. That issue should be reserved for proceedings where prudence issues for DSM programs are currently determined. The Energy Independence Act also specifically provides that the Commission may examine the cost-effectiveness of utility conservation programs.²³ The approval of these targets should not preclude the Commission from reviewing that issue at a later time. Public Counsel further notes that the WAC provisions implementing the Energy Independence Act permit prudence to be raised in the event a utility seeks to recover in rates penalty amounts incurred for failure to meet the target.²⁴

C. Need for Generic Proceeding Regarding Utility Conservation Programs and I-937 Requirements.

31. Public Counsel recommends the Commission consider a rulemaking proceeding, or other appropriate process, to address at least two topics: the savings estimates used to calculate conservation acquisition, and the development of consistent DSM reporting requirements for all utilities.

32. As discussed above, Public Counsel believes it is important for the Commission to have a clear understanding of the savings estimates used by the electric utilities in measuring their

conservation achievement. The Commission and stakeholders should have confidence that the savings estimates used by the utilities contribute to an accurate and reliable calculation of conservation savings acquisition. Therefore, we recommend these issues also be considered as part of a rulemaking or other process to allow for a thorough review of the savings estimates used by the electric utilities to comply with the requirements of RCW 19.285 and WAC 480-109, and to consider what if any procedures or requirements should be put in place regarding the basis and development of those savings estimates, consideration of any changes to those estimates, and related issues.

33. In addition, consistent reporting requirements would greatly assist the Commission and interested stakeholders in reviewing utility projections, performance levels, expenditures, and cost-effectiveness results. Such a process could address reporting of the following information, for example:

- Projected budget, participation, and savings levels by program;
- Actual expenditures, participation, and savings levels by program;
- Cost-effectiveness methodology and analysis;
- Total savings achieved compared with targets;
- Incentives provided, by program and/or measure;
- Savings estimates, by program and/or measure;
- Narrative explanation of savings estimates, and workpapers;
- Evaluation, Measurement, and Verification (EM&V) of Savings;
- NEEA expenditures and savings calculations

34. The frequency of utility reporting on these matters should also be addressed. It may be most helpful for utilities to report on some or all of these issues every six months. Currently, for

²³ RCW 19.285.040(1)(d).

²⁴ WAC 480-109-105(4).

example, both PSE and Pacificorp file semi-annual and annual reports regarding their DSM programs.²⁵

If the Commission agrees that such a rulemaking or other proceeding is warranted to address these and possibly other related matters, it should consider employing the assistance of a Facilitator, an individual with expertise on this technical subject matter who would help facilitate the proceeding.²⁶ This individual might also develop preliminary recommendation to the Commission. Commission Staff and interested parties would be provided an opportunity to provide written comments regarding the recommendations of the Facilitator. The importance and the complexity of the issues surrounding I-937 implementation warrant consideration of devoting resources to a special approach of this type.

D. Evaluation, Measurement and Verification

Commission Staff provided valuable guidance to all the electric utilities during the public input process regarding additional information that should be included in the conservation compliance reports filed on January 31. One of these, which is of particular importance to Public Counsel, is the inclusion of an Evaluation, Measurement and Verification Plan (EM&V). PacifiCorp states that they currently provide evaluation plans for all Washington DSM programs which have been approved by the Commission.²⁷ PacifiCorp provides docket number references

²⁵ For example, PSE's semi-annual and annual Energy Efficiency Services reports are filed in Docket. No. UE-970686.

²⁶ In conjunction with other Qwest state commissions, the Commission utilized a Facilitator in the review of Qwest's proposed multi-state Qwest Performance Assurance Plan (QPAP) as part of Qwest's 271 proceeding. The Facilitator provided a recommended QPAP to the participating state commissions, and the WUTC provided an opportunity for interested stakeholders to submit comments regarding the Special Master's recommendations, and the Commission ultimately modified certain components of the QPAP. UT-003022 & UT-003040, Thirtieth Supplemental Order Addressing Qwest's Performance Assurance Plan. In the one of the telecommunications Generic Cost and Pricing dockets, the Commission retained a special advisor to assist the Commission.

²⁷ Compliance Report, p. 28.

for each of the filings they state contain evaluation plans for approved PacifiCorp DSM programs.²⁸ The evaluation plans were not included in the Company's compliance report, nor did they appear to be accessible on the Commission's website as indicated by the Company in the compliance report. Public Counsel was forwarded the evaluations plans electronically by the Company upon request. Table 17 in the Compliance report provides the programs which the Company has filed evaluation plans for—these include the Home Energy Savings program, the Residential Refrigerator Recycling program, the FinAnswer Express Program and the Energy FinAnswer program. It is not clear from what the Company has included in their compliance report what the status of these evaluation plans are, who the third party evaluator is, or the general process and timing for undertaking the evaluations.

The Company's 2009 DSM business plan, which also does not appear to be included in the compliance report, states the following, "In October, 2009 the Company initiated process and impact evaluations for Home Energy Savings, See Ya Later Refrigerator, Energy FinAnswer and FinAnswer Express programs in Washington for program years 2005-2008. The draft results of these evaluations are expected to be available in the second quarter of 2010."²⁹ This supporting information would have been helpful for the company to include in their compliance report. We also note that the programs which were filed with evaluation plans were approved during a time period ranging from 2001-2006. Given the many developments that have occurred in recent years with regard to EM&V practices, it is possible some of these evaluation plans may need to be updated and modified.

²⁸ Compliance Report, Table 17, p. 31.

²⁹ Docket UE-001457, PacifiCorp Annual Report on Demand-Side Management Expenditures and Benefits Charge Collections on behalf of PacifiCorp, p. 10.

35. PacifiCorp also notes that many of the resources identified for their ten-year and biennial conservation targets go beyond those included in Company-sponsored DSM programs. These resources therefore, do not currently have evaluation plans in place. They include:

- Utility system initiatives, such as distribution efficiency improvements
- Savings from other regional activities and initiatives
- Savings from energy code and standard changes not already accounted for in the ten-year potential
- Naturally occurring conservation³⁰

The Company has indicated how they intend to evaluate these sources going forward in Table 16 which provides information on reporting and evaluation by resource. For many of these resources the Company states that evaluation will be based either on a proportionate share of savings identified via a regional evaluation or based on an evaluation specific to PacifiCorp's Washington service area, whichever case was used in the identification of the conservation forecast and target.³¹ For many of the resources beyond Company-sponsored DSM programs there is the question of whether savings may be quantifiable. This is a challenge the Company will need to manage before it will know whether evaluation is possible.

E. Budget.

36. Commission Staff also stated that each utility should include their annual DSM budget with their Compliance Report. The DSM budget provides the dollars allocated to achieve the annual DSM savings targets identified by the Company. PacifiCorp acknowledges that their

³⁰ Compliance Report, p. 27.

³¹ Compliance Report, p. 30.

proposed biennial target reflect more than the Company's currently approved demand-side management programs are designed to acquire.³² This means that the biennial target would likely reflect more conservation than the DSM programs are budgeted to acquire as well. The Company did not include a DSM budget in their Compliance report which makes it difficult to identify how this compares to the savings acquisition provided for in the Company's biennial target.

The Company currently provides the Commission with system benefits charge collections and demand-side management expenditures on a semi-annual basis in compliance with the Accounting Order in Docket No. UE-001457. PacifiCorp also states that they report savings acquisitions by program on an annual basis for DSM programs approved by the Commission.³³ Going forward, it would be beneficial for the Company to also provide their annual DSM budget to the Commission and Washington DSM advisory group.

V. CONCLUSION

37. Public Counsel appreciates the opportunity to comment on PacifiCorp's Compliance Report. We recognize that this first compliance period and filing which establishes PacifiCorp's ten-year conservation potential and biennial target for the 2010-2011 period is a learning process for all parties. We look forward to working with the Company, the Commission and stakeholders, in future proceedings and compliance periods to address these issues.

³² Compliance Report, p. 28.

³³ Compliance Report, p. 28.