

[Service Date April 8, 2010]

April 8, 2010

**NOTICE OF OPPORTUNITY TO FILE STATEMENTS OF ISSUES
AND WRITTEN COMMENTS
(Statements of Issues by Friday, April 23, 2010)
(Comments by Friday, June 4, 2010)
And
NOTICE OF TWO WORK SESSIONS
(To be held Tuesday, May 4, 2010, at 9:30 a.m. and
Tuesday, June 29, 2010, at 9:30 a.m.)**

RE: Conservation incentive inquiry
Docket U-100522

TO INTERESTED PERSONS:

On April 6, 2010, the Washington Utilities and Transportation Commission (Commission) filed with the Code Reviser a Preproposal Statement of Inquiry (CR-101) to examine whether new regulations are needed to govern conservation incentive mechanisms or address declines in revenues due to company-sponsored conservation or other causes of conservation. The CR-101 is available for inspection on the Commission's web site at <www.utc.wa.gov/100522>. If you are unable to access the Commission's web page and would like a copy of the CR-101 mailed to you, please contact the Records Center at (360) 664-1234.

The Commission invites interested parties to participate in this proceeding according to the following schedule:

April 23, 2010	Deadline for "Statements of Issues" interested parties wish the Commission to consider in the process. These statements will be posted on the Commission's website and then discussed at the first public work session.
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May 4, 2010	First Work Session, beginning at 9:30 a.m., in the Commission's Hearing Room in Olympia.
May 12, 2010	Commission provides interested persons a consolidated "List of Issues" that will serve to structure written comments.
June 4, 2010	Comments in response to the Statement of Inquiry (CR-101), using the consolidated List of Issues, to include comments on the merits of conservation incentives.
June 18, 2010	Reply Comments due.
June 29, 2010	Second Work Session, beginning at 9:30 a.m., in the Commission's Hearing Room in Olympia.

At the conclusion of this process, the Commission will decide what further action to take, including whether to request further comments, schedule further work sessions, or take some action, by rule or otherwise, or to articulate policy on the subjects of this proceeding.

The "Statement of Issues" requested to be submitted by April 23, 2010, is intended to ensure that the Commission is aware of all issues that the parties wish to address. These issues will be discussed and refined during the work session on May 4, 2010. On May 12, 2010, the Commission will distribute a consolidated list of issues to interested persons for use in their comments on the merits of mechanisms to recover lost revenue due conservation and conservation incentives (to be submitted to the Commission by June 4, 2010) and in the second Work Session scheduled for June 29, 2010.

BACKGROUND

The Commission has reviewed mechanisms to address lost revenue due to conservation in previous dockets:

- UE-900385 – Rulemaking Docket "Examining Whether There Are Regulatory Barriers to Least Cost Planning for Electric Utilities".
- UE-901183/UE-901184– Approval of decoupling for Puget Sound Power & Light Company as part of a Periodic Rate Adjustment Mechanism (PRAM). The PRAM was terminated in 1995.

- UE-940932 – Rulemaking “Examining Regulation of Electric Utilities in the Face of Change in the Electric Industry.” Disposition: Interpretive and Policy Statement issued addressing transition to competition in electricity industry.
- UG-940778 – Rulemaking Inquiry “Examining Regulation of Local Distribution Companies in the Face of Change in the Natural Gas Industry.
- UG-050369 – Rulemaking Inquiry to examine decoupling programs for natural gas utilities. Disposition: policy to examine appropriate mechanisms on a case by case basis considering each utility’s specific circumstances.
- U-090222 – Rulemaking Inquiry to consider adoption of proposed PURPA standards including decoupling. Disposition: policy to examine appropriate mechanisms on a case by case basis considering each utility’s specific circumstances.

More recently, the Commission has examined decoupling and incentive mechanisms for individual utilities in the following dockets:

- UG-050684 – Established criteria to guide a decoupling mechanism for PacifiCorp, should it choose to propose one.
- UE-060266 – Approved an electric conservation incentive mechanism for Puget Sound Energy, Inc. (PSE).
- UG-060267 – Rejected a natural gas decoupling mechanism for PSE.
- UG-060518 – Approved a 3-year pilot natural gas decoupling mechanism for Avista.
- UG-060256 – Approved a 3- year pilot decoupling mechanism for Cascade Natural Gas Company (CNGC).
- UG-060518/090135/090134 – Approved a natural gas decoupling mechanism for Avista on a permanent basis.

These dockets have provided the Commission an opportunity to examine some of the hypothetical benefits of decoupling and incentive programs with various utilities. The inquiry in the instant proceeding will be informed by these dockets, as well as the information provided through comments and work sessions.

COMMISSION INQUIRY

The inquiry will focus on the need for rules, both substantive and procedural, addressing the issue of lost revenue due to conservation for both gas and electric utilities.

The Commission will examine, with the participation and assistance of the utilities, representatives of ratepayers, and other stakeholders, the following topics, among others:

- The various mechanisms available for addressing declines in revenues due to conservation and the pros and cons of each;
- The various mechanisms for providing an incentive for utility-sponsored conservation programs and the pros and cons of each;
- How such mechanisms may affect the conservation achieved by the various utility programs;
- How the conservation achieved can best be evaluated, measured, and verified;
- The impact of lost revenue recovery mechanisms and conservation incentives on utility rates; and
- The need for rules or other statements of policy given existing requirements in law, rule, and Commission practice for utilities to achieve conservation.

COMMISSION AUTHORITY

The Commission will conduct this broad inquiry to consider all the approaches to conservation achievement and its relationship to lost revenue due to conservation under its authority provided in RCW 80.01.040(3) and RCW 80.01.040(4).

State law places a high priority on cost-effective conservation and energy efficiency the both for utilities and regulators. The Energy Independence Act (I-937) requires that qualifying utilities “pursue all available conservation that is cost-effective, reliable, and feasible.” RCW 19.285.040(1). The Legislature has provided the Commission with some tools to help this effort. These include the authority to “provid[e] positive incentives for an investor-owned utility to exceed the targets established in RCW 19.285.040.” RCW 19.285.060(4). RCW 80.28.260 also provides broad authority:

(1) The commission shall adopt a policy allowing an incentive rate of return on investment . . . (b) for programs that improve the efficiency of energy end use if priority is given to senior citizens and low-income citizens in the course of carrying out such programs. The incentive rate of return on investments set forth in this subsection is established by adding an increment of two percent to the rate of return on common equity permitted on the company's other investments.

(2) The commission shall consider and may adopt a policy allowing an incentive rate of return on investment in additional programs to improve the efficiency of energy end use or other incentive policies to encourage utility investment in such programs.

(3) The commission shall consider and may adopt other policies to protect a company from a reduction of short-term earnings that may be a direct result of utility programs to increase the efficiency of energy use. These policies may include allowing a periodic rate adjustment for investments in end use efficiency or allowing changes in price structure designed to produce additional new revenue.

Just recently, the Legislature in section 403 of ESSHB 2658, signed into law on April 1, 2010, stated that the State's energy strategy must be guided by the principle to "[p]ursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law."¹

WRITTEN COMMENTS AND WORK SESSIONS

The schedule for this inquiry is set forth above. The Commission requests that any Statement of Issues and Initial and Reply comments be provided in electronic format to enhance public access, for ease of providing responses, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted via the Commission's Web portal (www.utc.wa.gov/e-filing) or by electronic mail to the Commission's Records Center at records@utc.wa.gov. Please include:

¹ The Legislature has reiterated this approach in numerous legislative "findings" over the years. *E.g.*, Laws of 2009, ch. 423, § 1 ("The legislature finds that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy."); Laws of 2009, ch 379, § 1 ("The legislature finds that improving energy efficiency in structures is one of the most cost-effective means to meet energy requirements, and that while there have been significant efficiency savings achieved in the state over the past quarter century, there remains enormous potential to achieve ever greater savings."); Laws of 2008, ch. 284, § 1("The legislature finds that improving energy efficiency is key to achieving the state's goals to reduce greenhouse gas emissions to 1990 levels by 2020."); Laws of 1991, ch. 122, § 1("The legislature further finds that energy efficiency improvement is the single most effective near term measure to lessen the risk of energy shortage"); Laws of 1990, ch. 2. § 1("using energy efficiently in housing is one of the lowest cost ways to meet consumer demand for energy . . . [and] helps protect the citizens of the state from negative impacts due to changes in energy supply and cost"); RCW 43.21F.015 ("It is the policy of the state of Washington that: . . . (4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged").

- The docket number of this proceeding: U-100522
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments is to mail/deliver an electronic copy to the Commission's Records Center on a 3 ½ inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later format. Include all of the information requested above. The Commission will post on its web site all comments that are provided in electronic format. The web site is located at <<http://www.utc.wa.gov/100522>>.

If you are unable to file your comments electronically or to submit them on a disk, the Commission will always accept a paper document. Questions may be addressed to Steve Johnson at (360) 664-1346 or e-mail at <sjohnson@utc.wa.gov>.

Your participation is welcomed via written comments and participation in any stakeholder work sessions. Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rulemaking, including comments, will be posted on the Commission's web site as it becomes available. If you wish to receive further information on this rulemaking you may:

- Call the Commission's Records Center at (360) 664-1234.
- E-mail the Commission at records@utc.wa.gov.
- Mail written comments to the address below.

When contacting the Commission, please refer to Docket U-100522 to ensure that you are placed on the appropriate service list. The Commission's mailing address is:

Executive Director and Secretary
Washington Utilities and Transportation Commission
1300 South Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, Washington 98504-7250

NOTICE

If you do not want to comment now, but do want to receive future information about this rulemaking, please notify the Executive Director and Secretary in a manner described above and ask to be included on the mailing list for Docket U-100522. If you do not do this, you might not receive further information about this rulemaking.

Sincerely,

DAVID W. DANNER
Executive Director and Secretary