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December 19, 2017

SENT VIA WEB PORTAL ONLY

Steven V. King
Executive Director and Secretary
Washington Utilities and Transportation Commission
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COMMISSION

Re: Dockets UE-171091, UE-171087, and UE-171092 (2018-2019 Biennial Conservation Plans), Public Counsel’s Response to Staff’s Comments Regarding Electric Utility Conservation Plans Under the Energy Independence Act, RCW 19.285 and WAC 480-109

Dear Mr. King:

The Public Counsel Unit of the Washington State Attorney General’s Office (Public Counsel) respectfully submits this letter in docket numbers UE-171091 (Avista Corporation), UE-171087 (Puget Sound Energy), and UE-171092 (Pacific Power and Light) responding to Commission Staff Comments Regarding Electric Utility Conservation Plans Under the Energy Independence Act, RCW 19.285 and WAC 480-109 (Staff Comments). Public Counsel’s comments specifically respond to Staff’s recommendation regarding the inclusion of the savings from the Northwest Energy Efficiency Alliance (NEEA) regional market transformation programs (NEEA savings) in the Energy Independence Act (EIA) target.

I. STAFF’S RECOMMENDATION REGARDING NEEA SAVINGS

Staff Comments state, “Staff recommends that for the 2018-2019 biennium, NEEA savings be included in the EIA target and any excess be treated the same as other excess savings. In each company-specific section below, Staff will provide a recommended target that included NEEA savings.”¹ Staff provides four primary reasons for the inclusion of the NEEA savings in the penalizable target:

1. The risk of missing a target has been all but eliminated;

¹ Dockets UE-171087, UE-171091, and UE-171092, Staff Comments on 2018-2019 Biennial Conservation Plans at 6.



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2. Consistency with public utilities;
3. Shortchanging ratepayers in carbon regulation;
4. Support for NEEA.²

Public Counsel disagrees with Staff's recommendation and analysis of the issue. First, Staff presented the recommendation without first providing an opportunity for the Advisory Groups to address the issue. Because the Advisory Groups function is to advise the utilities on conservation issues, they should have an opportunity to fully serve that function. They have not had that opportunity with respect to the issue of including NEEA savings in the EIA target for the upcoming biennium. Second, we disagree with Staff's arguments for the inclusion of NEEA savings in the EIA target. We will discuss this below.

II. STAFF BYPASSED THE COMPANIES' ADVISORY GROUPS

The Companies filed their biennial conservation plans (BCPs) on November 1, 2017, in Dockets UE-171091, UE-171087, and UE-171092 after many months of planning, which included in-person and webinar meetings. The meetings included discussions, not only on the individual demand-side management (DSM) programs, but also on the calculation and setting of the BCP targets. Staff revealed on October 23, 2017, through an email to all electric investor-owned utilities, that they believe the NEEA savings should be included in the EIA target, in addition to four other requests.³ In fact, some of the Advisory Group members were not informed of Staff's intentions regarding some of the items delineated in the email until the day before the Companies filed their respective BCPs.⁴ It is customary that the issues, such as those mentioned in Staff's October 23rd email, would be discussed during the Companies' BCP process, so the Advisory Group could provide full analysis and debate of the issues.

Public Counsel believes that all of the issues presented in Staff's email should have been discussed with the Advisory Group pursuant to WAC 480-109-110(1). Staff's Comments reflect that the Advisory Group had such discussions regarding inclusion of NEEA savings in the EIA target during the 2014-2015 Biennial Conservation Report (BCR).⁵

² Dockets UE-171087, UE-171091, and UE-171092, Staff Comments on 2018-2019 Biennial Conservation Plans at 5.

³ This email required electric IOUs to incorporate the following five points into their 2018-2019 BCP filing: EM&V 2.0, on-bill repayment, termination of the Fuel Conversion Program, implementation of the National Standard Practice Manual, and inclusion of the NEEA savings in the penalizable EIA target. During the months dedicated to planning the BCP, some of these points were discussed, including EM&V 2.0 and on-bill repayment. The other topics were not discussed until raised by Staff in their October 23, 2017, email.

⁴ Puget Sound Energy (PSE) emailed the Conservation Resource Advisory Group (CRAG) on Monday, October 30, 2017; Avista informed the Advisory Group on Thursday, October 26, 2017. PacifiCorp informed their Advisory Group member on November 2, 2017.

⁵ Dockets UE-171087, UE-171091, and UE-171092, Staff Comments on 2018-2019 Biennial Conservation Plans at 5.

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III. RESPONSE TO STAFF'S RATIONALE TO INCLUDE NEEA SAVINGS

Public Counsel disagrees with Staff's rationale for including NEEA savings in the EIA target. The first reason Staff offers is that the risk of missing a target has all but been eliminated. Staff states that each Company can use savings that are banked as excess conservation savings toward the potential underperformance of NEEA programs.⁶ This logic is flawed on two accounts:

- 1) Excess conservation savings are not guaranteed for the utilities every biennium and the amount of any conservation savings can vary greatly. Additionally, these banked excess conservation savings should be used toward underperformance of a utility's DSM programs, not for compensating risk factors associated with NEEA's under achievement.
- 2) NEEA savings are achieved outside of the utilities' directed programs and are not used in setting the BCP targets. As a result, Staff's current proposal will result in less overall conservation savings, which is contrary to state policy.

The second reason Staff provides for including NEEA savings in the EIA target is "consistency with public utilities." Public Counsel understands that IOUs are consistently reporting EIA savings similar to other public utilities under the EIA, pursuant to Dockets UE-132043, UE-132045, and UE-132047. If publicly-owned utilities are including NEEA savings in their penalizable EIA targets, this topic should be raised and discussed with the Advisory Groups.

The third reason Staff provides for including NEEA savings in the EIA target is that there is "a high likelihood that carbon regulation in Washington will interact with EIA targets and achievement."⁷ While Public Counsel shares the belief that there may be some form of carbon regulation in the foreseeable future for Washington State, Public Counsel does not share Staff's belief that including NEEA savings in the EIA target is appropriate. At this time, including NEEA savings would be contradictory to current state policies on conservation because to do so would decrease the overall conservation that would be achieved. Moreover, carbon regulation would presumably result in more conservation, not less.

The fourth reason Staff provides is that they fear utilities will diminish in their support of NEEA, stating, "utilities would waver in their commitments to and funding of NEEA."⁸ However, Public Counsel has seen no evidence that this is the case. First, the Companies have a statutory obligation to fund NEEA under their obligation in RCW 19.285.040(1) to "pursue all available conservation that is cost-effective, reliable, and feasible." Second, the Companies have an

⁶ Dockets UE-171087, UE-171091, and UE-171092, Staff Comments on 2018-2019 Biennial Conservation Plans at 5.

⁷ Dockets UE-171087, UE-171091, and UE-171092, Staff Comments on 2018-2019 Biennial Conservation Plans at 5.

⁸ Dockets UE-171087, UE-171091, and UE-171092, Staff Comments on 2018-2019 Biennial Conservation Plans at 6.

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incentive to invest in NEEA for assistance in market transformation and decreasing risk in areas such as, emerging technologies, research and data, infrastructure, and enhancing market relationships.

IV. PUBLIC COUNSEL RECOMMENDATION

Because Public Counsel does not believe the discussions will be lengthy, Public Counsel recommends that the Commission allow the Advisory Groups and all interested parties to discuss and address Staff's NEEA recommendation before the Commission renders a decision on the Companies' BCPs. In the alternative, if the Commission wishes not to postpone decision on the BCP filings, we believe the Commission should not reject the Companies' BCPs solely on the exclusion of the NEEA savings in the EIA target. We believe instead that the Commission should order a condition for the Advisory Groups (and any other interested stakeholders) to discuss this issue for the next BCP cycle and accept the Companies' exclusion of the NEEA savings for this BCP cycle.

However, if the Commission decides the issue on the merits in the current dockets, Public Counsel firmly believes that the NEEA savings should not be included in the EIA target. As we have stated in the past:

Public Counsel supports the agreement reached by the three utilities to remove NEEA savings from the biennial conservation plan target, and believes that parties *should continue efforts* to resolve any remaining differences in methodology for the 2016-2017 biennium. Public Counsel continues to support market transformation efforts and the electric utilities involvement in and funding of NEEA.⁹

Furthermore, Public Counsel has consistently argued that the savings attributable to the EIA target be savings achieved through the DSM programs offered by the electric investor-owned utilities and not include those from a regional savings program.¹⁰ Public Counsel believes the addition of the NEEA savings into the EIA target will degrade the BCP targets and result in lower overall conservation savings, if the EIA target is to include NEEA savings.

⁹ Docket UE-132043, Public Counsel Comments ¶ 8 (Dec. 3, 2013) (emphasis added).

¹⁰ Docket UE-132045, Public Counsel Comments at 8-10. Public Counsel specifically gives the example:

As mentioned earlier, Avista's CPA identified a biennial conservation potential of 67,137 MWh for Washington, consistent with the Council's methodology. NEEA's initial projected savings for Avista's Washington service territory was 45,000 MWh for the biennium. If that amount of projected savings were to be subtracted from the CPA developed target, the resulting biennial target for electric end-use efficiency would have been only 22,137 MWh. That level of conservation acquisition is far below Avista's historical *annual* acquisition from its local utility programs.

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V. CONCLUSION

Public Counsel appreciates the opportunity to respond to Staff's Comments on inclusion of NEEA savings in the EIA target. We anticipate further discussion on these issues with the Companies and other interested stakeholders, as well as addressing these issues at the Commission's December 20, 2015, Open Meeting. If you have questions about these comments, or those filed previously, please contact Carla Colamonici at (206) 389-3040 or at CarlaC@ATG.WA.GOV.

Sincerely,



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CAC:cm