

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

**In the Matter of Puget Sound Energy's
2018-2019 Biennial Conservation Plan**

DOCKET UE-171087

**In the Matter of Avista Corporation's
2018-2019 Biennial Conservation Plan**

DOCKET UE-171091

**In the Matter of Pacific Power and Light
Company's 2018-2019 Biennial
Conservation Plan**

DOCKET UE-171092

**COMMISSION STAFF COMMENTS RESPONDING TO
STAKEHOLDER COMMENTS REGARDING NEEA
SAVINGS IN DOCKETS UE-171087, UE-171091, and UE-
171092
(2018-2019 BIENNIAL CONSERVATION PLANS)**

December 27, 2017

Avista Corporation, Puget Sound Energy, and Pacific Power and Light Company filed a joint response to staff's comments on December 18, 2017. They state 1) utility support for NEEA is unwavering; 2) including NEEA in the target shifts risk to utilities; 3) utilities' reports to Commerce are consistent with the reports of public utilities; 4) advisory group meetings held in the last several months supported the goals as filed; and 5) advisory group members believe utilities should not unduly benefit if NEEA exceeds its targets.

The Public Counsel Unit of the Washington State Attorney General's Office filed a response to staff's comments on December 19. They state 1) staff bypassed the advisory groups; 2) staff's email *required* the inclusion of five specific points in the plans; 3) that staff's references to the review of the 2014-2015 biennial conservation reports do not seem to apply to setting the 2018-2019 targets; 3) excess conservation savings are not guaranteed; 4) inclusion of NEEA in the target will result in less conservation; 5) staff's concern about consistency with public utilities has already been addressed through revised reports to Commerce; 6) including NEEA savings in the target is contradictory to state policies on conservation; and 7) public counsel has seen no evidence of utilities wavering in their support of NEEA.

Reply comments were also filed by UCONS, in docket UE-171087, that summarize previous recommendations. As these comments do not address the treatment of NEEA savings, they are not further addressed in this document.

Clarification of staff's recommendation

After reviewing comments of other parties, staff realized that its recommendation may have been unclear regarding the inclusion of NEEA savings in the target. Staff's recommendation more precisely refers to NEEA savings from *program measures*. These "program measure" savings, as opposed to the two other categories for NEEA, "codes and standards measures" and "trackable measures," represent savings that are normally identified in each company's conservation potential assessment. In the utilities' biennial conservation plans, the program measure savings are the NEEA savings proposed to be subtracted from the IRP guidance targets. Staff prefers a method that includes the entire cost-effective conservation potential in the target subject to penalty.

Only NEEA program measure savings are included in staff's recommended target. Including all three types of NEEA savings in the target is an option for the commission to consider, but is not staff's current recommendation. As always, there should be symmetry between savings included in the target and savings that count toward achieving the target. This is a founding principle of staff's recommendation.

Unwavering support for NEEA

It appears that staff's recommendation caused confusion around whether utilities must participate in NEEA programs. If NEEA's programs are cheaper than utility programs, it would be difficult to argue that utilities could opt out and still "pursue all cost-effective conservation." Staff expects that the companies will support NEEA's efforts toward market transformation, as long as those efforts deliver cost-effective conservation.

Including NEEA in the target appropriately places risk on utilities

Staff agrees with the responses that leaving NEEA out of the target removed that risk from the utility, and further believes it effectively resulted in pre-approval of the NEEA acquisition. Staff simply believes the risk of failure to acquire all identified cost-effective conservation appropriately rests wholly on the company, including adequate monitoring of NEEA programs.

Consistency with public utilities

The responses discuss reporting to Commerce. Staff agrees that reporting to Commerce has become consistent. Staff is primarily concerned that ratepayers are paying for the NEEA resource, and not receiving the full benefit of the purchase. The public utilities are able to carry-forward any over-achievement, including any related to NEEA. However, the commission's practice of excluding NEEA has the unintended consequence of reducing the bank of megawatt-hours on which the company, and thus the ratepayers, could rely. The magnitude of this effect was unknown until the first approval of the companies' achievement in 2016.

Advisory group discussions

The responses refer to the last several months of advisory group discussions. Staff provides supporting documents as an attachment to these responsive comments. The attachment includes examples of meeting minutes from the companies that do in fact mention specific issues from staff's email of October 23, 2017. The attendance record at the beginning of each meeting shows that staff participated in all of the meetings, unlike public counsel. Regardless, staff's comments from July 21, 2016, while they refer to savings in the previous biennium, were made within the current biennium, and led to a lengthy discussion concerning treatment of NEEA savings at the time.¹ Consensus concerning including or excluding NEEA savings does not exist within any of the utility advisory groups and staff believes the issue is significant enough to warrant a commission opinion.

¹ Dockets UE-132043, UE-132045, and UE-132047, Commission Staff Comments Regarding Electric Utility Conservation Achievements Under the Energy Independence Act, RCW 19.285 and WAC 280-109 (2014-2015 Biennial Conservation Reports) (July 21, 2016). *See* Attachment.

Staff includes its email from October 23, 2017, in the attachment as well, to illustrate that the email, rather than *requiring* anything, provided nearly 6 weeks of notice that staff would be addressing these items in its formal comments on December 1. This email was forwarded to stakeholders by staff on October 24, 2017. It is unfortunate that the companies delayed sharing staff's email with the advisory groups for 10 days, but that is not something over which staff retains control. Finally, as the commission stated in its order adopting WAC 480-109,

Should a stakeholder believe a utility is deficient in meeting the requirements of WAC 480-109-100(1), it is appropriate for that stakeholder to raise the issue with the advisory group. Failing resolution through the advisory group process, a *stakeholder may raise the issue with the Commission during our review of the plans or reports* in WAC 480-109-120.²

Utilities will not unduly benefit if NEEA exceeds its target

The legislature has determined that the right mechanism for limiting risk is to allow utilities to carry-forward excess conservation savings to future biennia.³ Thus, the utilities will not *unduly* benefit if NEEA exceeds its target. In fact, the legislature has made no provision for the exclusion of any type of savings from the requirement to pursue all conservation, nor does the commission's rule.

Excess conservation savings are not guaranteed

Staff agrees that excess conservation savings are not guaranteed. However, as always, the company must aim for a slightly higher number to ensure that they meet the target. In the past, this has ensured some excess conservation. The companies' programs are based on the premise that they can drive both higher and lower levels of conservation through the design of their programs. Based on historical performance, Staff is confident in the companies' abilities to adjust programs to increase achievement, and the commission has provided mechanisms to ensure their ability to do so.

² *In the Matter of Amending, Adopting, and Repealing Rules in WAC 480-109 Relating to the Energy Independence Act*, Docket UE-131723, General Order R-578 at 11, ¶ 32 (Mar. 13, 2015) (emphasis added).

³ State of Washington, 63rd Legislature, Engrossed Substitute House Bill 1643 (June 12, 2014), available at <http://lawfilesexternal.wa.gov/biennium/2013-14/Pdf/Bills/Session%20Laws/House/1643-S.SL.pdf?cite=2014%20c%2026%20C%27%201>.