

MEMORANDUM

July 30, 2009

TO: Jeffrey Goltz, Chairman
Patrick Oshie, Commissioner
Philip Jones, Commissioner

FROM: Staff Rulemaking Team for PURPA Standards in the Energy Independence and Security Act of 2007; Docket U-090222

SUBJECT: Staff Recommendation to Close Rulemaking for Electricity Standards 16(A) and (B), Standard 17, Standards 18(B) and (C), Standard 19, and Natural Gas Standard 5 and Standard 6.

BACKGROUND

On March 18, 2009, 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 six aspects of investor-owned electric and natural gas utility operations for which new federal standards are included in the Energy Independence and Security Act of 2007, Public Law 110-140 (EISA.) EISA sets these new standards by amendment of the Public Utility Regulatory Policies Act (PURPA) Sections 111(d) and 303(b). The Commission is required to consider after notice and hearing whether it is appropriate to implement any of these standards. The Commission's determination must be made in writing based upon findings and evidence presented at hearing.

On April 24, 2009, seven stakeholders filed written comments in response to the CR 101. The Commission conducted a workshop on May 21, 2009, to discuss these comments. Additional written comments were received on June 1, 2009.

After consideration of the written and workshop comments, and based on its own analysis, Commission Staff (Staff) concludes that current state law, and Commission practice and policy, already implement electricity Standard 16, Standard 17, Standards 18(B) and (C), Standard 19, and natural gas Standard 5 and Standard 6. Staff recommends that the Commission affirm Staff's conclusion in a written order that closes this rulemaking with respect to those standards.

With respect to Standard 18(A), Staff recommends that the Commission develop a rule for reporting requirements on smart grid technology. Staff intends to prepare a discussion draft of rule language for circulation to stakeholders before proposing rules for CR 102 publication.

The following discusses each standard and the reasons for Staff's recommendation.

ELECTRICITY STANDARDS

Standard 16: Integrated Resource Planning.

- (16) INTEGRATED RESOURCE PLANNING—Each electric utility shall—
- (A) integrate energy efficiency resources into utility, state and regional plans; and
 - (B) adopt policies establishing cost-effective energy efficiency as a priority resource.

Written and Workshop Comments

Standard 16(A)

The commenters note generally that energy efficiency is already incorporated into Integrated Resource Planning (IRP). Examination of utility IRPs, including the modeling processes utilized, confirm that point. Public Counsel, Puget Sound Energy (PSE), and PacifiCorp contend that the policy stated in Standard 16(A) is currently a policy and practice of the Commission.

Standard 16(B)

All stakeholders commented that conservation is generally favored in state policy. Public Counsel points out that both the IRP statute (RCW 19.260) and the Energy Independence Act (RCW 19.285) require that utilities pursue all cost-effective conservation. Public Counsel opposes any policy that would set a priority for conservation to encourage an uneconomic preference. PSE contends that “the combination of IRP rules and RCW 19.285 provide sufficient policy guidance to appropriately establish the priority of energy efficiency resource acquisition.”¹ PacifiCorp agrees.² MicroPlanet states that it generally supports the treatment of energy efficiency as a priority resource.³ Parker Holden, an individual from Olympia, Washington, offers detailed comments about technical aspects of conservation potential and the best ways to improve efficiency, but he does not argue that existing state law or regulations do not favor conservation.⁴

Avista Corporation (Avista) does not argue that current state policy fails to favor conservation, but does advocate adoption of Standard 16(B) as “an opportunity to (1) deem avoided cost adders to represent the value of difficult to quantify efficiency benefits and (2) modify industry-standard cost-effectiveness calculations in such a way as to lead to a stacking of resources that best fit current public policy objectives.”⁵ Avista contends that the “total resource cost” test (TRC) used by the Commission to assess the cost-effectiveness of

¹ Comments of PSE at 3 (April 24, 2009).

² Comments of PacifiCorp at 2 (April 24, 2009).

³ Comments of MicroPlanet at 1 (April 24, 2009).

⁴ Comments of Parker Holden at 1-2 (April 24, 2009).

⁵ Comments of Avista at 3 (April 24, 2009).

conservation may not include adequate consideration of all potential benefits.⁶ Avista proposes defining a priority resource to include in the TRC certain values such as the cost of emission reduction or mitigation, the customer value of decreased portfolio volatility, and a valuation of reduced externality costs.⁷ Avista admits that quantifying these values is difficult and it might be necessary for the Commission to establish a proxy value for the value of reduced externality costs.⁸ Avista does not argue that current policy or practice would preclude including such values in the TRC evaluation.

The Northwest Energy Coalition (NVEC) and the Energy Project contend that establishing energy efficiency as a priority resource is consistent with and authorized by both state and federal law.⁹ NVEC and the Energy Project suggest that the Commission “can improve its existing mechanism, the TRC, to better incorporate the non-quantifiable benefits of energy efficiency . . . and explore additional incentives to motivate utilities to acquire more energy efficiency.” They contend that “both can be accomplished within the concept of ensuring the portfolio of conservation programs . . . is cost-effective.”¹⁰

Staff Analysis and Recommendation

Standard 16(A)

Washington statute (RCW 19.260) and the Commission’s regulations (WAC 480-100-238) require the integration of conservation resources in utility integrated resource plans. In addition, Washington participates in regional resource planning under the Pacific Northwest Electric Power Conservation and Planning Act, which requires integration of conservation in the regional power plan.¹¹ Consequently, Standard 16(A) has already been adopted in the Commission’s IRP policy and practices. Thus, no additional action is necessary and the rulemaking should be terminated with respect to that Standard 16(A).

Standard 16(B)

As previously stated, the IRP statute and Energy Independence Act require that cost-effective conservation be included in utility resource portfolios. Indeed, the Energy Independence Act requires that utilities identify and acquire all cost-effective conservation subject to penalties if they fail to do so. Notwithstanding the Energy Independence Act’s requirements for acquisition of renewable resources, utilities are not similarly *required* to acquire any other specific category of cost-effective resources. Consequently, existing policy and practice in

⁶ The TRC is the cost of acquiring energy efficiency that is compared to a utility’s Avoided Cost to determine if an energy efficiency measure (or group of measures) is cost-effective. If energy efficiency measures are deemed to have additional values, that monetized value would be added to the Avoided Cost making it higher relative to the TRC, causing more energy efficiency measures to be cost effective.

⁷ Comments of Avista at 1 (April 24, 2009).

⁸ Comments of Avista at 1 (April 24, 2009).

⁹ Comments of NW Energy Coalition and the Energy Project at 1 (June 1, 2009).

¹⁰ Comments of the NW Energy Coalition and the Energy Project at 9 (June 1, 2009).

¹¹ RCW 43.52A.

Washington State generally, and at the Commission specifically, already treat conservation as a priority resource. Standard 16(B) has therefore already been adopted. Thus, no additional action is necessary and the rulemaking should be terminated with respect to that Standard 16(B).

With regard to Avista's recommendation to modify or broaden the TRC by creating a proxy value or adder to represent non-quantified costs and benefits, Staff does not recommend adopting a new policy or rule. Avista's proposal focuses on the mechanics and application of the TRC. While refinement to the TRC may be warranted, such refinements are not directly relevant to the question under review here of whether conservation is a priority resource. Utilities and other stakeholders can examine refinement of the TRC in the context of IRP analyses and the determination of cost-effectiveness in company conservation tariffs and conservation targets under WAC 480-109-010.

Standard 17: Rate Design and Modification to Promote Energy Efficiency Investments

(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

(A) IN GENERAL.—The rates allowed to be charged by any electric utility shall—

- (i) align utility incentives with the delivery of cost-effective energy efficiency; and
- (ii) promote energy efficiency investments.

(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

- (i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;
- (ii) providing utility incentives for the successful management of energy efficiency programs;
- (iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;
- (iv) adopting rate designs that encourage energy efficiency for each customer class;
- (v) allowing timely recovery of energy efficiency- related costs; and
- (vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.”

Written and Workshop Comments

Comments on Standard 17 came from Avista, PacifiCorp, PSE and Public Counsel. Public Counsel concluded that the Commission has already addressed both the general and specific policy options listed in parts A and B of Standard 17.

Avista, PacifiCorp, and PSE all agreed that larger fixed charges, or a mechanism to ensure recovery of fixed costs, reduce a utility's disincentive to promote conservation. Avista states that larger fixed charges may reduce customers' incentive to conserve, but only to the extent customers are knowledgeable about the rate structure.¹² PSE asserts that fixed charges might reduce the customer incentive to reduce consumption, but argues that this may not lead to a decrease in cost-effective conservation depending on the underlying costs.¹³ PacifiCorp states that larger fixed charges and variable charges would likely increase the customer's incentive to conserve if both charges are set to reflect the actual costs of service.¹⁴

Avista states that the avoidance of penalties under RCW 19.285 is an additional incentive for utilities to meet the requirements under that chapter.¹⁵ It notes, however, that the penalty is not an incentive to go beyond the cost-effective energy efficiency targets set out in RCW 19.285. PacifiCorp does not view the penalties in RCW 19.285 as an incentive because the penalty is not an off-ramp to compliance.¹⁶ PSE agrees that penalties under RCW 19.285 motivate a utility to meet energy efficiency goals.¹⁷ Public Counsel adds that, if the penalties are recoverable in rates, then the penalties are essentially meaningless in providing an incentive to the utility.¹⁸

All the utilities and Public Counsel comment that modification of rate design should be determined in a general rate proceeding where the specific facts and circumstance of the utility can inform the design of rates.

PSE proposes specific language for inclusion in a rule or Commission conclusion. One suggestion defines the importance of large fixed charges, while the other explicitly adopts Standard 17(A)(i).¹⁹

Analysis and Recommendation

The commenters correctly point out the hazards of specifying rate design by rule, especially in the absence of utility specific data. The effect of the size of fixed charges on conservation is already one of many policy considerations the Commission uses in setting rates.

The Commission is required to consider incentive policies to encourage utilities to have programs in energy efficiency.²⁰ The Commission has considered electric rate design modifications to promote energy efficiency investments by electric utilities in two recent proceedings. In Docket UE-060266, the Commission adopted an electric conservation

¹² Comments of Avista at 4 (April 24, 2009).

¹³ Comments of PSE at 6 (April 24, 2009).

¹⁴ Comments of PacifiCorp at 4 (April 24, 2009).

¹⁵ Comments of Avista at 4 (April 24, 2009).

¹⁶ Comments of PacifiCorp at 4 (April 24, 2009).

¹⁷ Comments of PSE at 7 (April 24, 2009).

¹⁸ Comments of Public Counsel at 7 (April 24, 2009).

¹⁹ Comments of PSE at 7 (April 24, 2009).

²⁰ RCW 80.28.260(2).

incentive program for PSE.²¹ In Docket UE-050684, the Commission provided guidance regarding the necessary elements of a proposal to decouple rates from volumetric charges.²²

Washington voters passed the Energy Independence Act, (Initiative 937) providing penalties for a utility's failure to achieve certain levels of conservation.²³ Initiative 937 also provides that the Commission, ". . . may consider providing positive incentives for an investor-owned utility to exceed the targets established in RCW 19.285.040."²⁴ The Commission completed a rulemaking to implement Initiative 937, but did not include in its rules a general policy of incentives for additional conservation above that required by Initiative 937.²⁵ The Commission has begun the implementation of the conservation requirements of Initiative 937. Thus, it is unnecessary for the Commission to adopt Standard 17. Staff concludes that Commission policy and practice already address the policy promoted in Standard 17 and no further action to adopt the standard is necessary.

PSE proposes specific language for inclusion in rule or Commission policy statement. One suggestion defines the importance of larger fixed charges, stating:

Electric rate design with larger fixed charges, up to but not exceeding full recovery of fixed costs, helps align utility incentives with the delivery of cost-effective energy efficiency, makes rates more equitable for consumers and is encouraged.²⁶

There is insufficient evidence in this docket to reach a conclusion on the causal claims made in PSE's proposed policy statement. In the case of PSE's electric conservation incentive program, the term "utility incentive" has been used to mean additional monies recoverable from ratepayers for achieving certain levels of energy efficiency.²⁷ Removal of fixed costs from the throughput charge has generally been described as the elimination of a disincentive to pursue cost-effective energy efficiency rather than as an incentive.²⁸ Definitions aside, the claim that larger fixed charges make rates more equitable for consumers is best examined empirically in a general rate case along-side all other goals of rate design. Staff recommends not adopting in rule or as a policy statement PSE's proposed language.

²¹ *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267, Order 08 at ¶¶145-158 (January 5, 2007).

²² *WUTC v. PacifiCorp*, Docket UE-050684, Order 05 at ¶¶ 103-110 (June 28, 2006).

²³ RCW 19.285.060(1).

²⁴ RCW 19.285.060(4).

²⁵ *In the Matter of Adopting Rules to Implement the Energy Independence Act*, Docket UE-061895, General Order R-546 at ¶ 44 (November 30, 2007) ("PSE states the Act provides for possible incentives to exceed targets, but the rules are silent on this issue. We find there is no need to elaborate on this issue in rules. RCW 19.285.060(4) allows for Commission consideration of positive incentives that exceed targets. Any utility may propose incentives and the Commission will consider them on a case-by-case basis.")

²⁶ Comments of PSE at 7 (April 24, 2009).

²⁷ *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267, Order 08, ¶145 (January 5, 2007).

²⁸ *Id.* at ¶¶ 54-55.

PSE’s second suggestion adopts Standard 17(A)(i) verbatim that rates should “align utility incentives with the delivery of cost-effective energy efficiency.”²⁹ For the same reasons Staff stated previously that it is not necessary to adopt Standard 17(A), Staff does not find it necessary to adopt the language of Standard 17(A)(i) as a conclusion of this rulemaking.

Standard 18, Part A: State Consideration of Smart Grid

IN GENERAL – Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

- a. Total costs;
- b. Cost-effectiveness;
- c. Improved reliability;
- d. Security;
- e. System performance; and
- f. Societal benefit.

Written and Workshop Comments

The electric utilities state that some, but not necessarily all smart grid technologies, are considered as a part of their integrated resource planning.³⁰ Generally, smart grid technologies related to energy resources (generation and conservation/demand response) are considered in the IRP process. Smart grid technologies related to system operation (distribution and transmission) and customer service and billing are not generally included in the IRP process. At the workshop, the utilities contended that incorporating all of the various smart grid applications into the IRP process would be awkward and inefficient. Staff offered that a planning process and requirement for smart grid technologies that is separate, but similar to the IRP, might be appropriate and practical.

In written comments submitted subsequent to the workshop, the electric utilities and Public Counsel opposed the concept of a new and ongoing, IRP-like, planning requirement for smart grid technologies. Avista stated it considers “smart grid” to be a “system” rather than a specific “thing” and that it considers these technologies as strategies for achieving the resource objectives in the IRP.³¹ According to Avista, these strategies will be considered in future IRPs and “therefore, there is no need for additional, parallel process outside of the IRP process.”³² PacifiCorp stated that “smart grid technology is an emerging technology with unproven benefits” and that a planning standard around smart grid is premature. Public Counsel offered that “it is premature for the Commission to establish a new planning

²⁹ Comments of PSE at 7 (April 24, 2009).

³⁰ Comments of PSE at 9 (April 24th, 2009); Comments of Avista at 5 (April 24, 2009); Comments of PacifiCorp at 6 (April 24, 2009).

³¹ Comments of Avista at 2-3 (April 24, 2009).

³² Comments of Avista at 3 (June 1, 2009).

requirement.”³³ Public Counsel contends that until there is a state or federal definition of what constitutes smart grid “technology and opportunities” in a smart grid system, it is not practical to institute a new planning requirement.³⁴ Finally, while opposing the idea of a new planning requirement, PSE suggests the possibility of a onetime reporting requirement, if additional time and opportunity to comment on that concept could be provided.³⁵

Analysis and Recommendation

Staff interprets Standard 18(A) to promote a policy of open and transparent utility decision-making regarding smart grid technologies. The utilities and Public Counsel make persuasive arguments that a complex new planning requirement analogous to an IRP solely to address smart grid technologies is neither practical nor necessary. Nonetheless, Staff concludes that the Commission, stakeholders, and policy-makers would benefit from utility reports documenting their assessment of smart grid technologies considering the factors listed in Standard 18(A), as well as any business plans to implement any such technologies. Consequently, Staff recommends further work to consider a rule requiring electric utilities to report on their activity and evaluations regarding smart grid technology.

Standard 18, Part B: State Consideration of Smart Grid

RATE RECOVERY.—Each State shall consider authorizing each electric utility of the State to recover from ratepayers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

Written and Workshop Comments

Avista did not provide comments on this section of Standard 18. PacifiCorp reiterates its belief that fixed charges are best at allowing for the recovery of smart grid investment (though PacifiCorp does not distinguish how fixed rates apply specifically to smart grid investment).³⁶ PSE interpreted the prepositional phrase “for the deployment of the qualified smart grid” to mean pre-approval.³⁷

PSE also suggested that consideration of smart grid recovery be afforded a *separate* proceeding and it be allowed a *separate* rate of return.³⁸ PSE does not indicate if the rate of return should be higher or lower than the authorized rate of return on other investments the utility makes.

³³ Comments of Public Counsel at 1 (June 1, 2009).

³⁴ *Id.* at 3-4

³⁵ Comments of PSE at 4 (June 1, 2009).

³⁶ Comments of PacifiCorp at 7 (April 24, 2009).

³⁷ Comments of PSE at 11 (April 24, 2009).

³⁸ *Id.* at 11.

Analysis and Recommendation

State law,³⁹ and Commission policies and practices, already authorize recovery of prudently incurred utility costs and investments, including an opportunity to earn a reasonable rate of return. Standard 18(B) states a policy that utilities are allowed to include prudently incurred costs in rates. Thus, the Commission has already adopted Standard 18(B) and no further action is necessary. If Standard 18(B) is taken to mean that utilities are entitled to recover from ratepayers the costs of smart grid deployment regardless of whether such expenditures are prudent and cost-effective, the Commission should reject Standard 18(B).

PSE's interpretation that Standard 18(B) allows for preapproval should be rejected. The language cited by PSE does not require recovery of deployment costs *before* deployment. The public interest is best served by a thorough analysis of all expenses, which is most accurately assessed after deployment.

PSE's suggestion for a separate proceeding and separate rate of return should also be rejected. Standard 18(B) does not require or necessarily imply rate determinations for smart grid technology separate and apart from the rest of a company's investments. Presumably, any investments in smart grid technology will be supported by a company's overall capital structure and costs. If such is not the case, perhaps because of grants or other unusual financing opportunities, the specific financing costs can be considered in the context of a general rate proceeding.

The Commission should conclude that it has already adopted Standard 18(B) through its practice of reviewing the prudence of utility investments and the reasonableness of rates of return in general rate proceedings. Thus, Staff recommends that the rulemaking should be closed regarding Standard 18(B).

Standard 18, Part C: State Consideration of Smart Grid

OBSOLETE EQUIPMENT.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

Written and Workshop Comments

The commenters note that obsolescence may occur in two ways: technologically or economically. Avista and Public Counsel provide similar descriptions of technological obsolescence. Avista suggests that equipment is obsolete when it is unable to perform at safe and reliable levels.⁴⁰ Public Counsel posits that obsolescence occurs when equipment is no

³⁹ RCW 80.28.010(1) and 80.28.020.

⁴⁰ Comments of Avista at 6 (April 24, 2009).

longer capable of performing at its planned or prior capabilities.⁴¹ PSE comments that obsolete equipment is not necessarily unable to perform its function, but has been superseded by more advanced technology.⁴² PacifiCorp uses a stricter accounting test that any removed equipment that does not have a secondary market that allows for recovery of the remaining book value of the asset should be considered obsolete.⁴³

Currently, obsolescence of utility property is handled on a case-by-case basis. PSE and PacifiCorp support the current practice for recovery of obsolete equipment.⁴⁴ Avista argues that smart grid investment should not be encumbered by the potential for disallowance if the applications are justified in some form of policy.⁴⁵

Analysis and Recommendation

Recovery of obsolete plant may be incorporated into regularly filed depreciation studies via reducing the life of given plant and equipment, by adjusting the depreciation reserve, or by establishing an asset retirement obligation. A utility may directly request recovery of obsolete plant in a general rate case. Also, the utility may petition the Commission for the deferral of expenses and plant for later recovery. In any of these circumstances, the utility bears the burden of proving it acted in a prudent manner and that the recovery of the plant is in the public interest.

Staff does not recall any case directly involving obsolete electrical equipment, but an analogous situation may be found in the relicensing of hydroelectric generating plants. For examples, see PSE's request for the recovery of the investment and costs related to the White River Hydroelectric Project in Docket UE-032043, and PacifiCorp's petition for the deferral of plant and expenses at the Powerdale Hydroelectric Plant in Docket UE-070624.

The utilities have various options to request the recovery of plant rendered obsolete by the forces of nature or economics. The recovery of any equipment replaced by new smart grid infrastructure may be handled within the existing regulatory structure. Current Commission practice creates no barrier to the recovery of prudent investments, and the potential for disallowing imprudent investment remains an essential tool in regulation. The Commission should not adopt rules that alter this balancing of interests. Staff concludes that Commission current policy and practice regarding recovery of costs for obsolete equipment already address the subject of Standard 18(C) and no further action is necessary.

Standard 19: Smart Grid Information

(19) SMART GRID INFORMATION.—

⁴¹ Comments of Public Counsel at 10 (April 24, 2009).

⁴² Comments of PSE at 13 (April 24, 2009).

⁴³ Comments of PacifiCorp at 9 (April 24, 2009).

⁴⁴ Comments of PSE at 13 (April 24, 2009); Comments of PacifiCorp at 9 (April 24, 2009).

⁴⁵ Comments of Avista at 7 (April 24, 2009).

(A) STANDARD.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) INFORMATION.—Information provided under this section, to the extent practicable, shall include:

(i) PRICES.—Purchasers and other interested persons shall be provided with information on—

(I) time-based electricity prices in the wholesale electricity market; and

(II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) USAGE.—Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) INTERVALS AND PROJECTIONS.—Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) SOURCES.—Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) ACCESS.—Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility

Written and Workshop Comments

All commenters on Standard 19 stated that no additional rules on smart grid information are necessary or that current Commission practice already incorporates the standard.

Analysis and Recommendation

The Commission's regulations address many of the requirements of Standard 19. For example, the Commission currently requires customer bills to show, among other things, the kilowatt hours (kWh) purchased for a billing period, the rates for each block of kWh, and the basic charge depending on the rate schedule of the customer.⁴⁶ These requirements provide ratepayers with the usage, pricing, and interval information that is practical and relevant to utility service in Washington.

There are no time-based retail prices or rates available to ratepayers, so providing the information described in Standard 19(B)(i) is neither practical nor relevant. The intra-day and wholesale market prices addressed in Standards 19(B)(i) and 19(B)(iii) are not practically available in Washington. The intra-day or hourly wholesale market is very

⁴⁶ WAC 480-100-178.

shallow and almost exclusively bi-lateral, and parties to the bi-lateral transactions have no real-time, central reporting requirement. Indeed, no centralized market with a single hourly or daily clearing price for wholesale power exists in the Pacific Northwest.

With regard to Standard 19(B)(iv), state law requires that electric utilities provide customers annually with information regarding the utility’s fuel mix by generation category.⁴⁷ Consequently, the Legislature has already enacted the policy stated in Standard 19(B)(iv) and electric utilities fulfill this policy through annual reports supplied to ratepayers.

Standard 19(C) would require utilities to make available to customers access to their own information at any time through the internet or other means. All Commission-regulated electric utilities currently provide customers with such account access on their websites. Consequently, current utility practice fulfills the policy of Standard 19(C).

In addition and in general, the ability, cost, and value of providing information to customers are unique to each utility. Staff recommends the decision of what information should be provided should be made in the context of a particular utility’s operation and for a particular and well specified goal or benefit that outweighs the cost.

Staff concludes that Commission-regulated electric utilities currently supply ratepayers with all information addressed in Standard 19(B) to the extent “practicable” and “available” and that ratepayers have access to such information as required under Standard 19(C). Commission policy and practice is consistent with Standard 19 and no further action is necessary.

NATURAL GAS STANDARDS

Standard 5: Energy Efficiency

- (5) ENERGY EFFICIENCY.—Each natural gas utility shall—
- (A) integrate energy efficiency resources into the plans and planning processes of the natural gas utility; and
 - (B) adopt policies that establish energy efficiency as a priority resource in the plans and planning processes of the natural gas utility.

Written and Workshop Comments

Standard 5(A)

All commenting parties note that the Commission’s IRP rule (WAC 480-90-238) requires the integration of energy efficiency into the plans and planning processes of natural gas utilities.

⁴⁷ RCW 19.29A.050.

Public Counsel states that the Commission has already adopted Standard 5 through rule and practice.⁴⁸ Cascade comments that utilities already pursue cost-effective energy efficiency through the IRP rule.⁴⁹

Standard 5(B)

Public Counsel reiterates its comments regarding treatment of electric conservation as a priority resource. Public Counsel states that the Commission’s IRP rule and practice already require that utilities pursue cost-effective conservation, and that Public Counsel would oppose any policy that encourages acquisition of uneconomic resources.⁵⁰ PSE contends that “the IRP rule, in conjunction with the Commission’s prudence standards, is sufficient to encourage utilities to acquire all cost-effective energy efficiency.”⁵¹ Cascade also points to the Commission’s IRP rule as the policy to ensure that cost-effective conservation is pursued.⁵²

Paralleling its recommendation regarding electricity Standard 16(B), Avista advocates that the Commission adopt Standard 5(B) as an opportunity to define a priority resource as one that “receives preferences above and beyond its reduction in commodity and related avoided costs [to reflect] well-defined measure benefits . . . difficult to quantify and therefore often omitted from the cost-effectiveness calculations.”⁵³ Avista asserts that some such benefits can be quantified and included in the TRC evaluation, but others should be represented by a proxy such as a 10 percent adder.⁵⁴ Avista does not argue that any Commission policy or practice precludes including any such well-defined benefits in the TRC evaluation.

The NWEAC and the Energy Project contend that establishing energy efficiency as a priority resource is consistent with and authorized by both state and federal law. NWEAC and the Energy Project offer that the Commission “can improve its existing mechanism, the TRC, to better incorporate the non-quantifiable benefits of energy efficiency . . . and explore additional incentives to motivate utilities to acquire more energy efficiency.”⁵⁵ They contend that “both can be accomplished within the concept of ensuring the portfolio of conservation programs . . . is cost-effective.”⁵⁶

Analysis and Recommendation

As PSE points out, the Commission’s IRP requirements and prudence review of natural gas resource acquisitions serve to make clear that energy efficiency is a priority resource.

⁴⁸ Comments of Public Counsel at 14 (April 24, 2009).

⁴⁹ Comments of Cascade at 1 (April 24, 2009).

⁵⁰ Comments of Public Counsel at 4 (April 24, 2009).

⁵¹ Comments of PSE at 2 (April 24, 2009).

⁵² Comments of Cascade at 1 (April 24, 2009).

⁵³ Comments of Avista at 2 (April 24, 2009).

⁵⁴ *Id.* at 2.

⁵⁵ Comments of NW Energy Coalition and the Energy Project at 9 (June 1, 2009).

⁵⁶ Comments of the NW Energy Coalition and the Energy Project at 9 (June 1, 2009).

Avista, the NWECA and the Energy Project point out correctly that refinement may be possible to the TRC evaluation to better measure the value of energy efficiency. These refinements are appropriate to consider within the IRPs and in the review of individual utility conservation tariffs and program evaluations. Existing state policy also favors regulatory actions to promote utility actions to pursue all cost-effective conservation. In furtherance of this policy, the Commission has authorized and will soon be evaluating two natural gas utility decoupling programs.

Thus, the Commission's existing policy and practice already require that energy efficiency be incorporated in natural gas planning. Thus, no further action is necessary and the rulemaking should be closed with respect to Standard 5.

Standard 6: Rate Design Modifications to Promote Energy Efficiency Investments

(6) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

(A) IN GENERAL.—The rates allowed to be charged by a natural gas utility shall align utility incentives with the deployment of cost-effective energy efficiency.

(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

(i) separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer;

(ii) providing to utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs;

(iii) promoting the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; and

(iv) adopting rate designs that encourage energy efficiency for each customer class.

Written and Workshop Comments

PSE and Avista submitted the same comments on Standard 6 as each did for the comparable electric Standard 17. Cascade did not think it was necessary for the Commission to adopt either of the gas standards, restating its support of decoupling as a means of aligning utility incentives with conservation investment.⁵⁷ NW Natural did not submit comments. When asked at the workshop if there is anything about the provision of gas service that is different than electric service with regard to Standards 6 and 5, workshop participants offered only one point: PSE pointed out that fixed charges for gas service are easier to determine.

Analysis and Recommendation

In Docket UG-050369, the Commission considered policies to remove the recovery of fixed costs from customers' volumetric charges. The Commission closed the rulemaking without adopting new rules, concluding instead:

⁵⁷Comments of Cascade at 1 (April 24, 2009).

The Commission believes that the wide variety of alternative approaches to decoupling utility proposals make it more efficient to address these issues in the context of specific rulemaking.⁵⁸ included in general rate case filings rather than through a generic rulemaking.⁵⁸

Since the close of that prior rulemaking, the Commission has ruled on natural gas decoupling proposals in three proceedings. In Docket UG-060267, the Commission rejected PSE's request for a natural gas decoupling mechanism.⁵⁹ In Docket UG-060518, the Commission adopted, with modification, Avista's request for a decoupling pilot program.⁶⁰ In Docket UG-060256, the Commission adopted, with modification, Cascade's decoupling pilot program.⁶¹ Thus, as it said it would, the Commission has addressed decoupling on a case by case basis. The Commission should, therefore, close the rulemaking for Standard 6.

CONCLUSION

The federal Energy Independence and Security Act of 2007 requires that the Commission consider implementing various new standards regarding the operations of electricity and natural gas companies subject to its jurisdiction. The Commission initiated this rulemaking to comply with that federal mandate.

Based on the comments of all stakeholders and its own analysis, Staff concludes that all but one of the new standards have already been adopted in state law and/or current Commission practice and policy. Staff recommends that the Commission affirm that fact and that it close the rulemaking because no further action is required.

The one exception involves Standard 18(A) regarding smart grid technology. Staff anticipates developing draft language for a smart grid technology reporting rule. We will circulate that language to all stakeholders for comment before bringing proposed CR 102 language to the Commission for publication.

⁵⁸*Rulemaking to Review Natural Gas Decoupling*, Docket UG-050369, Notice of Withdrawal of Rulemaking (October 17, 2005).

⁵⁹*WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267, Order 08, ¶¶ 59-63 (January 5, 2007).

⁶⁰*WUTC v. Avista Utilities*, Docket UG-060518, Order 04, ¶¶ 1-49 (February 1, 2007).

⁶¹*WUTC v. Cascade Natural Gas Corporation*, Docket UG-060256, Order 06, ¶¶ 67-85 (January 12, 2007).