

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In re Review of PURPA Standards in ) DOCKET U-090222  
 )  
 The Energy Independence and Security ) ORDER 01  
 Act of 2007. )  
 ) ORDER DETERMINING NOT TO  
 ) IMPLEMENT OR ADOPT  
 ) CERTAIN FEDERAL ELECTRIC  
 ) AND NATURAL GAS UTILITY  
 ) STANDARDS; TERMINATING  
 ) RULEMAKING AND CLOSING  
 ) DOCKET RELATING TO THOSE  
 ) STANDARDS; AND CONTINUING  
 ) RULEMAKING RELATED TO  
 ) FEDERAL ELECTRIC UTILITY  
 ) STANDARD FOR SMART GRID  
 ..... ) TECHNOLOGY

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under the Preproposal Statement of Inquiry, Notice WSR #09-07-096, filed with the State of Washington Office of the Code Reviser (Code Reviser) on March 18, 2009. The Commission brings this proceeding pursuant to RCW 80.01.040 and RCW 80.04.160.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **PREPROPOSAL STATEMENT OF INQUIRY:** On March 18, 2009, the Commission filed a Preproposal Statement of Inquiry (CR-101) Notice with the Code Reviser. The CR-101 informed the public that the federal Energy Independence and Security Act of 2007 (EISA), Public Law 110-140, H.R. 6, amended Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), 16 U.S.C. § 2621(d), and amended Section 303(b) of PURPA, 15 U.S.C. § 3203(b). The amendments require the Commission to consider and determine whether or not it is appropriate to

implement new PURPA electric utility Standards 16-19 in order to carry out the purposes of PURPA. Standards 16-19 address, respectively: 1) integrated resource planning; 2) rate design to promote energy efficiency investment; 3) consideration of smart grid investments; and 4) smart grid information.

4 For natural gas utilities, the amendments require the Commission to adopt PURPA Standards 5 and 6, if the Commission determines that adoption of either standard is appropriate to carry out the purposes of PURPA, is otherwise appropriate, and is consistent with state law. Standards 5 and 6 address, respectively: 1) rate design to promote energy efficiency investment; and 2) energy efficiency

5 **ADDITIONAL NOTICE AND ACTIVITY PURSUANT TO PREPROPOSAL STATEMENT OF INQUIRY:** On March 20, 2009, the Commission informed persons of its inquiry into this matter by providing notice of the subject to all persons on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3), the Commission's lists of all registered electric and gas companies, persons that received notices in the Commission's previous rulemakings in Dockets UE-060649 and UE-061895, persons interested in electric and gas issues, as well as attorneys representing these companies. The Commission posted the relevant rulemaking information on its Internet web site at <http://www.utc.wa.gov/090222>.

6 In its notice, the Commission posed questions regarding the electric and natural gas utility standards and invited interested persons to comment in writing by April 24, 2009.<sup>1</sup> Pursuant to the notice, the Commission received written comments from the following companies, organizations, and interested persons: Mr. Parker Holden (a resident of Olympia, Washington), MicroPlanet, Avista Corporation (Avista), Cascade Natural Gas Corporation (Cascade), PacifiCorp d/b/a Pacific Power & Light Company (PacifiCorp), the Public Counsel Section of the Washington State Attorney General's Office (Public Counsel), and Puget Sound Energy, Inc. (PSE).

7 **MEETINGS OR WORKSHOPS:** The Commission also convened a stakeholder workshop on May 21, 2009, at the Commission's office in Olympia, Washington. At the workshop, the Commission posed several additional questions to stakeholders

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<sup>1</sup>The questions posed in the Notice of Opportunity to File Written Comments by April 24, 2009, are included in Appendix A to this order.

regarding electric utility Standard 16 for integrated resource planning and Standard 18 for smart grid investment.<sup>2</sup>

8 During the workshop, several stakeholders requested that the Commission allow an additional opportunity for comment to address questions raised during the workshop that could not be readily answered at that time.<sup>3</sup> The Commission invited interested persons to comment on those subjects by June 1, 2009.

9 By the June 1, 2009 deadline, Avista, PSE, PacifiCorp, Public Counsel, the NW Energy Coalition (NVEC) and The Energy Project filed written comments. All of the written and oral comments the Commission received are included in the record in this proceeding and, with the additional comments presented at hearing as described below, form the administrative record.

10 **HEARING:** By notice issued July 23, 2009, the Commission convened a public hearing on August 13, 2009, to discuss further steps in this rulemaking including, but not limited to, termination of this rulemaking with regard to any of the new PURPA standards addressing electric and natural gas utility operations. At the hearing, the Commission's rulemaking team recommended that the Commission close the rulemaking for all standards except Standard 18(A) addressing smart grid technology.<sup>4</sup> With respect to Standard 18A, the rulemaking team recommended that the Commission develop a rule requiring electric utilities to report to the Commission the details of their evaluation and implementation of smart grid technologies.<sup>5</sup>

11 Public Counsel and NVEC were in attendance at the hearing. The Energy Project participated via the Commission's conference bridge line. Public Counsel agreed with the staff recommendation, but argued that the Commission should determine the definition of smart grid technologies, being mindful of any existing and forthcoming

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<sup>2</sup>The questions posed to the stakeholders at the May 21, 2009, workshop are included in Appendix A of this order.

<sup>3</sup>These questions are included in Appendix A of this order.

<sup>4</sup> Staff Recommendation Memorandum to Commissioners regarding PURPA Standards in the Energy Independence and Security Act of 2007, Docket U-090222, at 8 (July 30, 2009).

<sup>5</sup> *Id.*

federal guidance. Public Counsel also pointed out that the scope and content of any utility reporting requirements on smart grid technologies should be consistent among the utilities. Public Counsel asked the Commission to clarify that any utility reporting requirement would be for information gathering purposes only and not a means for pre-approval of smart grid investments. NWECC suggested that energy efficiency should be specifically noted as a priority resource in the Commission's rules and that Standard 16(B) would benefit from a rulemaking to include such a statement. The Energy Project agreed with many of Public Counsel's comments and expressed some concern regarding the cost and actual benefits of smart grid technologies. No other stakeholder or commenter contested staff's recommendation nor appeared at the hearing.

12 **COMMISSION DISCUSSION AND RESPONSE TO COMMENTS -**

**ELECTRIC:** EISA requires the Commission to consider and determine whether or not it is appropriate to implement any of the four electric utility standards, Standards 16, 17, 18, and 19, in order to carry out the purposes of PURPA. The purposes of PURPA are to encourage: 1) conservation of energy supplied by electric utilities; 2) the optimization of the efficiency of the use of facilities and resources by electric utilities; and 3) equitable rates to electric consumers.<sup>6</sup> *16 U.S.C. § 2611.*

**A. Standard 16 (16 U.S.C. §2621(d)(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.

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

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<sup>6</sup> A similar statement of PURPA purposes applies to natural gas regulation. 15 U.S.C. § 3201.

- 14 All stakeholders assert that conservation is generally favored in state policy. Public Counsel points out that both the IRP statute, RCW 19.260, and Washington’s Energy Independence Act (EIA), RCW 19.285, require that utilities pursue all cost-effective conservation, and Public Counsel opposes any policy that would set a priority for conservation without regard to cost-effectiveness. 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.”<sup>7</sup> PacifiCorp agrees with PSE’s argument.<sup>8</sup> MicroPlanet states that it generally supports the treatment of energy efficiency as a priority resource.<sup>9</sup> Parker Holden 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.<sup>10</sup>
- 15 Avista advocates 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.”<sup>11</sup> Avista contends that the total resource cost test (TRC) used by the Commission to assess the cost-effectiveness of conservation may not include adequate consideration of all potential benefits.<sup>12</sup> 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

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<sup>7</sup> Comments of PSE at 3 (April 24, 2009).

<sup>8</sup> Comments of PacifiCorp at 2 (April 24, 2009).

<sup>9</sup> Comments of MicroPlanet at 1 (April 24, 2009).

<sup>10</sup> Comments of Parker Holden at 1-2 (April 24, 2009).

<sup>11</sup> Comments of Avista at 3 (April 24, 2009).

<sup>12</sup> 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.

decreased portfolio volatility, and a valuation of reduced externality costs.<sup>13</sup> 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.<sup>14</sup> Avista does not argue that current policy or practice would preclude including such values in the TRC evaluation.

16 NWEC and the Energy Project contend that establishing energy efficiency as a priority resource is consistent with and authorized by both state and federal law.<sup>15</sup> NWEC 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.”<sup>16</sup> They contend that “both can be accomplished within the concept of ensuring the portfolio of conservation programs . . . is cost-effective.”<sup>17</sup>

17 Commission discussion and decision. With regard to Standard 16(A), Washington law<sup>18</sup> and the Commission’s regulations<sup>19</sup> require the integration of conservation

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<sup>13</sup> Comments of Avista at 1 (April 24, 2009).

<sup>14</sup> *Id.*

<sup>15</sup> Comments of NWEC and the Energy Project at 1 (June 1, 2009).

<sup>16</sup> *Id.* at 9.

<sup>17</sup> *Id.*

<sup>18</sup> RCW 19.280.030(1) states:

The integrated resource plan, at a minimum, must include:

(b) An assessment of commercially available conservation and efficiency resources. Such assessment may include, as appropriate, high efficiency cogeneration, demand response and load management programs, and currently employed and new policies and programs needed to obtain the conservation and efficiency resources;

<sup>19</sup> WAC 480-100-238(2)(a) provides that integrated resource plans must “[describe] the mix of energy supply resources and conservation that will meet current and future needs at the lowest reasonable cost to the utility and its ratepayers.” The regulation also directs electric utilities to include in the plan “[a]n assessment of a wide range of conventional and commercially available nonconventional generating technologies.” WAC 480-100-238(3)(c).

resources in utility integrated resource plans. In addition, the state of 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.<sup>20</sup> Consequently, state law and Commission regulations already implement Standard 16(A). Thus, the Commission determines that no further action is necessary to implement Standard 16(A) in order to carry out the purposes of PURPA and that the rulemaking should be terminated with regard to this standard.

18 We further find that Standard 16(B) has already been considered and implemented for electric utilities regulated by the Commission. As stated previously, the IRP statute requires that cost-effective conservation be included in utility resource plans. Further, the EIA, RCW 19.285, requires that utilities identify and acquire all cost-effective conservation subject to penalties if they fail to do so.<sup>21</sup> Notwithstanding the EIA's requirements for acquisition of renewable resources, utilities are not similarly required to acquire any other specific category of cost-effective resources. Consequently, state statute treats conservation as a priority resource, and Commission policies are driven by that legislative mandate. Indeed, the Commission has independently treated conservation as a priority resource,<sup>22</sup> and we reaffirm that policy in this order. Therefore, the Commission determines that no further action is necessary to implement Standard 16(B) in order to carry out the purposes of PURPA and that the rulemaking should be terminated with respect to this standard.

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<sup>20</sup> RCW 43.52A.

<sup>21</sup> RCW 19.285.040(1).

<sup>22</sup> As we stated previously, “[w]e favor utility efforts that accomplish cost-effective conservation through reducing utility costs and allowing consumers to manage their bills.” *WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-050684 and *In the Matter of the Petition of PacifiCorp d/b/a Pacific Power & Light Company For an Order Approving Deferral of Costs Related to Declining Hydro Generation*, Docket UE-050412 (consolidated), Order 04 and Order 03, respectively, ¶ 108 (April 17, 2006).

**B. Standard 17 (16 U.S.C. § 2621(d)(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.’’

19 *Summary of comments.* Public Counsel asserts 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 agree 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.<sup>23</sup> 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

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<sup>23</sup> Comments of Avista at 4 (April 24, 2009).

conservation depending on the underlying costs.<sup>24</sup> PacifiCorp states that larger fixed charges and variable charges that send appropriate price signals would likely increase the customer's incentive to conserve if both charges are set to reflect the actual costs of service.<sup>25</sup>

20 Avista states that the avoidance of penalties under the EIA is an additional incentive for utilities to meet the requirements under that chapter.<sup>26</sup> It notes, however, that the penalty is not an incentive to go beyond the cost-effective energy efficiency targets set forth in the statute. PSE agrees that the EIA's penalty structure would motivate a utility to meet its energy efficiency goals.<sup>27</sup> On the other hand, PacifiCorp does not view the penalty structure as an incentive because the penalty is not an off-ramp to compliance.<sup>28</sup> Public Counsel adds that, if the penalties are recoverable in rates, then the penalties are essentially meaningless in providing an incentive to the utility.<sup>29</sup>

21 All the utilities and Public Counsel assert 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.

22 However, PSE also proposes specific language for inclusion in a rule or Commission order. One suggestion from the company defines the importance of large fixed charges, while the other explicitly adopts Standard 17(A)(i).<sup>30</sup>

23 Commission discussion and decision. The Commission has adopted rate designs and policies consistent with PURPA Standard 17, though we have recognized the hazards

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<sup>24</sup> Comments of PSE at 6 (April 24, 2009).

<sup>25</sup> Comments of PacifiCorp at 4 (April 24, 2009).

<sup>26</sup> Comments of Avista at 4 (April 24, 2009).

<sup>27</sup> Comments of PSE at 7 (April 24, 2009).

<sup>28</sup> Comments of PacifiCorp at 4 (April 24, 2009).

<sup>29</sup> Comments of Public Counsel at 7 (April 24, 2009).

<sup>30</sup> Comments of PSE at 7 (April 24, 2009).

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.

- 24 The Commission in two recent proceedings has considered electric rate design modifications that promote energy efficiency investments by electric utilities. In Docket UE-050684, the Commission provided guidance regarding the necessary elements of a proposal to decouple rates from volumetric charges.<sup>31</sup> Specifically, we stated, “[w]e favor utility efforts that accomplish cost-effective conservation through reducing utility costs and allowing consumers to manage their bills. A well-designed decoupling mechanism may support the Company’s increased investment in energy conservation and promote our state’s goal of furthering energy conservation.”<sup>32</sup> Later, in Docket UE-060266, involving PSE, we emphasized that “decoupling is merely one regulatory tool in a larger toolbox of devices we might use to promote greater energy conservation.”<sup>33</sup> In that proceeding, the Commission adopted an electric conservation incentive program for PSE, providing the company with financial incentives to meet certain conservation targets.<sup>34</sup>
- 25 In the course of these and other proceedings, the Commission considered the various policy options in PURPA Standard 17(B)(i)-(iv), including removing the throughput incentive and other disincentives to energy efficiency,<sup>35</sup> providing utility incentives

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<sup>31</sup>*WUTC v. PacifiCorp*, Dockets UE-050684 and UE-050412, Order 04 and Order 03, respectively, ¶¶ 103-110 (June 28, 2006).

<sup>32</sup> *Id.*, ¶108.

<sup>33</sup>*WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267, Order 08, ¶ 54 (January 5, 2007).

<sup>34</sup>*Id.*, ¶¶ 145-158.

<sup>35</sup>*WUTC v. PacifiCorp d/b/a Pacific Power & Light Company*, Docket UE-050684 and *In the Matter of the Petition of PacifiCorp d/b/a Pacific Power & Light Company For an Order Approving Deferral of Costs Related to Declining Hydro Generation*, Docket UE-050412 (consolidated), Order 04 and Order 03, respectively, ¶¶ 108-110 (April 17, 2006) (“We favor utility efforts that accomplish cost-effective conservation through reducing utility costs and allowing consumers to manage their bills.”).

for energy efficiency programs,<sup>36</sup> the adoption of energy efficiency in rate design, and adopting rate designs that encourage energy efficiency for each customer class.<sup>37</sup>

26 The Commission has also implemented the remaining policy options in PURPA Standard 17(B) (in subsections (v) and (vi)) by providing timely recovery of energy efficiency-related costs in rates,<sup>38</sup> and encouraging and supporting utility-based activities that educate consumers as to their energy use and the availability of energy efficiency measures and related programs.<sup>39</sup>

27 The Commission also completed a rulemaking to implement the EIA but did not include in its rules a general policy of incentives for additional conservation above that required by statute. However, in that proceeding, we pointed out that we would consider added incentives on a case-by-case basis.<sup>40</sup> Consistent with the above, the

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<sup>36</sup> In this matter, the Commission found that “state law and policy clearly support the use of financial incentives to promote a broad array of conservation measures.” *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267 (consolidated), Order 08, ¶ 153 (January 5, 2007). The Commission also has determined that “the proposed electric conservation programs provide such incentives and encourage through their design Company efforts to achieve as much cost-effective conservation as possible. *Id.*”

<sup>37</sup> *Petition of Puget Sound Power & Light Company for an Order Regarding the Accounting Treatment of Residential Exchange Benefits*, Docket UE-920433, *WUTC v. Puget Sound Power & Light Company*, Docket UE-920499, and *WUTC v. Puget Sound Power & Light Company*, Docket UE-921262 (consolidated), Ninth Supplemental Order on Rate Design Issues, at 14 (August 17, 1993) (“The company’s objective for its rate design proposals was to send a stronger and more accurate price signal to its customers regarding the costs of producing energy and, thus, to rely on economic efficiency and market forces to encourage efficient energy usage... We believe that the company proposals generally take a good step in the direction of greater efficiency, without sacrificing considerations of equity and affordability.”)

<sup>38</sup> See, Avista Corporation, d/b/a Avista Utilities’ Electric IOU Conservation Tariff, WN U-28, Schedule 90 – Energy Efficiency Program Descriptions and Schedule 91 – Energy Efficiency Tariff Rider; Pacific Power & Light Company’s Electric Tariff, WN U-74, Schedules 107-130 – Conservation Program Descriptions and Schedule 191 – System Benefit Charge; and Puget Sound Energy’s Electric Tariff G, WN U-60, Schedule 83 – Conservation System Description, Schedule 120 – Conservation Tariff Rider, and Schedule 121 – Conservation Incentive Mechanism.

<sup>39</sup> *Id.*

<sup>40</sup> *In the Matter of Adopting Rules to Implement the Energy Independence Act*, Docket UE-061895, General Order R-546, ¶ 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

Commission has, and will continue to examine and approve rate structures that “align utility incentives with the delivery of cost-effective energy efficiency” in accord with PURPA Standard 17. The Commission, therefore, determines it unnecessary to take further action by adopting Standard 17 in order to carry out the purposes of PURPA and finds that the rulemaking addressing this standard should be closed.

**C. Standard 18, Part A (16 U.S.C. § 2621(d)(18)(A))**

**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.

28 *Summary of comments.* The electric utilities state that some, but not necessarily all smart grid technologies, are considered as a part of their IRPs.<sup>41</sup> Generally, smart grid technologies related to energy resources (generation and conservation/demand response) are considered in the IRP process. On the other hand, smart grid technologies related to system operation (distribution and transmission) and customer service and billing generally fall outside the parameters of the typical IRP. At the May 21, 2009, workshop, the utilities contended that incorporating all of the various smart grid applications into the IRP process would be awkward and inefficient. The Commission’s rulemaking team suggested that a planning process and requirement

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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.”)

<sup>41</sup>Comments of PSE at 9 (April 24<sup>th</sup>, 2009); Comments of Avista at 5 (April 24, 2009); Comments of PacifiCorp at 6 (April 24, 2009).

for smart grid technologies that is separate, but similar to the IRP, might be appropriate and practical.<sup>42</sup>

29 The electric utilities and Public Counsel oppose the concept of a new and ongoing, IRP-like, planning requirement for smart grid technologies. Avista states that 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.<sup>43</sup> According to Avista, these strategies will be considered in future IRPs and “therefore, there is no need for [an] additional, parallel process outside of the IRP process.”<sup>44</sup> PacifiCorp states that “smart grid technology is an emerging technology with unproven benefits” and that a planning standard around smart grid is premature. Public Counsel argues that “it is premature for the Commission to establish a new planning requirement.”<sup>45</sup> 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.<sup>46</sup> At the rulemaking hearing, Public Counsel suggested that any reporting requirements on smart grid technologies be consistent among the utilities. 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.<sup>47</sup>

30 Commission discussion and decision. The utilities and Public Counsel make persuasive arguments that a complex new planning requirement analogous to an IRP intended solely to address smart grid technologies is neither practical nor necessary.

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<sup>42</sup>Staff Recommendation Memorandum to Commissioners regarding PURPA Standards in the Energy Independence and Security Act of 2007, Docket U-090222, at 7 (July 30, 2009).

<sup>43</sup>Comments of Avista at 2-3 (April 24, 2009).

<sup>44</sup>Comments of Avista at 3 (June 1, 2009).

<sup>45</sup>Comments of Public Counsel at 1 (June 1, 2009).

<sup>46</sup>*Id.* at 3-4.

<sup>47</sup>Comments of PSE at 4 (June 1, 2009).

That being said, the Commission recognizes the benefits that would be derived from reports documenting a utility's assessment of the smart grid technologies available to it in the marketplace and feasible for implementation. We anticipate that these reports would incorporate the factors listed in Standard 18(A), and reflect the utility's business plans related to such technologies. It also may include its assessment of the risk of investment in such technologies and any recommendations for regulatory treatment supported by its rationale.

- 31 The Commission, therefore, determines that further work to consider a rule requiring electric utilities to report on their activity and evaluations regarding smart grid technology is appropriate. We direct the rulemaking team to prepare a discussion draft of such a reporting rule and to allow stakeholders an opportunity to comment on the draft. We will make further determinations regarding Standard 18(A) with the benefit of the discussion draft rule and related comments.

**D. Standard 18, Part B (16 U.S.C. § 2621(d)(18)(B))**

**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.

- 32 *Summary of 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.<sup>48</sup> PSE interpreted the phrase “for the deployment of the qualified smart grid” to mean pre-approval.<sup>49</sup> PSE also suggested that consideration of smart grid recovery be afforded a separate proceeding and that it be allowed a separate rate of return.<sup>50</sup> PSE does not indicate if the rate of

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<sup>48</sup> Comments of PacifiCorp at 7 (April 24, 2009).

<sup>49</sup> Comments of PSE at 11 (April 24, 2009).

<sup>50</sup> *Id.* at 11.

return should be higher or lower than the authorized rate of return on other investments the utility makes.

33 Commission discussion and decision. Though Standard 18(B) did not specifically use the term, we read it to state a policy that utilities should be allowed to include prudently incurred costs in rates. State law<sup>51</sup> and Commission policies and practices,<sup>52</sup> already authorize recovery of prudently incurred utility costs and investments, including an opportunity to earn a reasonable rate of return. Thus, state law and the Commission have already implemented the policies embodied in Standard 18(B). No further action is necessary to carry out the purposes of PURPA and the rulemaking addressing this Standard 18(B) should be closed.

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<sup>51</sup>*People's Organization for Washington Energy Resources v. WUTC*, 104 Wash.2d 798, 711 P.2d 319 (1985) (“A utility cannot include every expense it wishes in this operating expense category since the regulatory agency has the power to review operating expenses incurred by the utility and to disallow those which were not prudently incurred.”). *See also Id.* at 813, citing *Bluefield Water Works & Imp. Co. v. Public Serv. Comm'n*, 262 U.S. 697, 692, 67 L. Ed. 1176, 43 S. Ct. 675 (1923).

<sup>52</sup>For example, in a case involving The Washington Water Power Company, the Commission concluded that a 42 megawatt wood waste fuel steam plant near Kettle Falls, Washington, was not prudent and that, therefore, the portion of the costs relating to the imprudent expenses of the plant should not be recovered from consumers. *WUTC v. The Washington Water Power Company*, Cause No. U-83-26, Fifth Supplemental Order, at 12-16 (January 19, 1984). Specifically the Commission noted that, “[r]atepayers should not be forced to pay for all of the costs of a plant and thereby bear all risks when a company cannot demonstrate that its decision is not in all respects prudent.” *Id.*, at 14. In a consolidated Puget Sound Power & Light Company decision, the Commission found that “[i]t is clear that the utility seeking permanent recovery of resource acquisition costs in general rates bears the burden of proof with respect to the prudence of the acquisitions...[a]llowing these resources to be recovered in general rates, without such support, would violate the Commission’s duty to ensure that rates are based on prudent costs.” *Petition of Puget Sound Power & Light Company for an Order Regarding the Accounting Treatment of Residential Exchange Benefits*, Docket UE-920433, *WUTC v. Puget Sound Power & Light Company*, Docket UE-092499, and *WUTC v. Puget Sound Power & Light Company*, Docket UE-921262 (consolidated), Eleventh Supplemental Order, at 23 (September 21, 1993). The Commission also stated in a more recent ruling that, “[h]istorically the Commission has followed the widely adopted standard for evaluating prudence... [t]he company must establish that it adequately studied the questions relevant to management of the costs of gas and made prudent decisions in light of the contract restructuring approved by the Commission...” *WUTC v. Puget Sound Energy, Inc.*, Docket UE-031725, Order 14, ¶ 65 (May 13, 2004)

34 We decline to adopt at this time PSE's suggestion for a separate proceeding and separate rate of return for smart grid investment. It may be true that certain investments expose an investor to an inherently higher or lower risk of cost recovery and return. When making rates, however, we have not chosen to segregate a company's rate base portfolio to ascertain the investor's risk exposure as to each of its components and to assign a return commensurate with such risk. Rather, we have considered the utility's portfolio in the aggregate, with a single rate of return assigned to the portfolio as a whole. PSE's suggestion implies that smart grid investments fall outside the "ordinary" business of the utility and, therefore, should be treated differently than other capital investments when making rates. While we recognize PSE's interest in ensuring that its risks are properly reflected in its return, we do not view this proceeding as the proper forum to resolve the issue.

35 First, there is nothing in this record to support the implication that capital invested in the smart grid carries a risk factor different from capital invested in other infrastructure used to produce or deliver energy. In other words, smart grid capital was not distinguished from other capital invested in the ordinary course of doing business as a utility.<sup>53</sup> Furthermore, no party, including PSE, argued that the Commission's practices with regard to setting rates of return required reform. Nor would we have expected this proceeding to produce such a record. This proceeding was initiated to examine the need for rules governing our treatment of PURPA electric utility Standards 16-19, and not for the purpose of addressing our ratemaking practices generally.

36 Therefore, we acknowledge PSE's comment as a reflection of its concern for a reasonable return of and on capital invested in the smart grid. We share its concern that compensation for capital put at risk falls within the parameters of a fair, just, reasonable, and sufficient rate of return. Should we find smart grid investments to fall outside our general treatment of other invested capital, then the proper level of compensation could be addressed in a general rate case proceeding wherein such investments are brought before us. Thus, we expect our actions to be entirely consistent with Standard 18(B).

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<sup>53</sup>Standard 18(B) does not require, or even imply, that rate determinations for smart grid technology be separate and apart from the rest of a company's investments.

37 Finally, we reject PSE's assertion that Standard 18(B) suggests that a company may obtain preapproval of operating expenditures and all other costs associated with the deployment of smart grid technologies prior to their deployment. The express language of Standard 18(B) does not support PSE's interpretation. The language merely refers to recovery of a reasonable rate of return on capital expenditures for the deployment of smart grid technologies, not before the deployment of those technologies. As discussed above, the treatment of these investments are presumed to follow the well established practices related to the determination of a reasonable rate of return. Furthermore, we find no requirement to change these practices. If Congress had intended such a dramatic departure from historic cost recovery practices of state commissions, one would assume it would have used clearer language.<sup>54</sup>

**E. Standard 18, Part C (16 U.S.C. § 2621(d)(18)(C))**

**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.

38 *Summary of 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.<sup>55</sup> Public Counsel posits that obsolescence occurs when equipment is no longer capable of performing at its planned or prior capabilities.<sup>56</sup> PSE comments that obsolete equipment is not necessarily unable to perform its function, but has been superseded by more advanced

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<sup>54</sup> Furthermore, clearly, there is no basis on which one could conclude that we should *both* allow a higher rate of return *and* provide preapproval for expenditures. The rationale for a higher rate of return would be because some smart grid investments may be riskier. However, preapproval would reduce that risk. Therefore, if preapproval were to be required a more logical result would be a lower rate of return on such investments.

<sup>55</sup> Comments of Avista at 6 (April 24, 2009).

<sup>56</sup> Comments of Public Counsel at 10 (April 24, 2009).

technology.<sup>57</sup> PacifiCorp uses a stricter accounting test, such 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.<sup>58</sup> 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.<sup>59</sup> 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.<sup>60</sup>

39 *Commission discussion and decision.* The utilities have various options to request the recovery of plant rendered obsolete by technological advancements, change in economic circumstances, or by change in operational requirements. We see smart grid investments as being appropriate for the same ratemaking framework,<sup>61</sup> which we believe to be flexible enough to deal with the recovery of any equipment replaced by new smart grid infrastructure.

40 Thus, we determine that current policy and practice regarding the recovery of costs for obsolete equipment already address the subject of Standard 18(C) and that no additional action is necessary to further the objectives of PURPA. We find that the rulemaking regarding this standard should be closed.

**F. Standard 19 (16 U.S.C. § 2621(d)(19))**

**SMART GRID INFORMATION.—**

(A) STANDARD.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate,

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<sup>57</sup> Comments of PSE at 13 (April 24, 2009).

<sup>58</sup> Comments of PacifiCorp at 9 (April 24, 2009).

<sup>59</sup> Comments of PSE at 13 (April 24, 2009).

<sup>60</sup> Comments of Avista at 7 (April 24, 2009).

<sup>61</sup>As reflected in our discussion of Standard 18(B) above, we find nothing in this record that dictates a unique ratemaking treatment for these investments.

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

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

42 *Commission discussion and decision.* The Commission's existing regulations address many of the requirements set forth in Standard 19. For example, the regulations currently require that customer bills 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.<sup>62</sup> Thus, ratepayers are provided with the usage, pricing, and interval information that is practical and

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<sup>62</sup> WAC 480-100-178.

relevant to utility service in the state of 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. Commission-regulated electric utilities currently supply ratepayers with all other information addressed in Standard 19(B) to the extent practicable and available, and ratepayers have access to such information as required under Standard 19(C). The Commission determines that existing policy and practice is already consistent with Standard 19 and that no further action is necessary to carry out the purposes of PURPA. The rulemaking relating to this standard should be closed.

- 43 COMMISSION DISCUSSION AND RESPONSE TO COMMENTS – NATURAL GAS: EISA directs the Commission to determine whether to adopt two natural gas utility standards if adoption is appropriate to carry out the purposes of PURPA, is otherwise appropriate, and is consistent with applicable state law. These two standards, Standard 5 and Standard 6, respectively, address energy efficiency and rate design modifications to promote energy efficiency investments.

**G. Natural Gas Standard 5 (15 U.S.C. § 3203(b)(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.

- 44 *Summary of comments.* All parties commenting on Standard 5 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. Public Counsel states that the Commission has already adopted Standard 5 by rule and practice.<sup>63</sup> Cascade comments that utilities already pursue cost-effective energy efficiency through the IRP rule.<sup>64</sup>

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<sup>63</sup> Comments of Public Counsel at 14 (April 24, 2009).

<sup>64</sup> Comments of Cascade at 1 (April 24, 2009).

45 Public Counsel reiterates 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.<sup>65</sup> 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.”<sup>66</sup>

46 Paralleling its recommendation regarding the comparable electric utility 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.”<sup>67</sup> Avista asserts that some such benefits can be quantified and included in the TRC evaluation, while others are difficult to quantify and should be represented by a proxy such as a 10 percent adder.<sup>68</sup> Avista does not argue that including any well-defined, but difficult to quantify, benefits in the TRC evaluation is precluded by any Commission policy or practice.

47 The NWEAC and the Energy Project again state that establishing energy efficiency as a priority resource is consistent with and authorized by both state and federal law. NWEAC 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.”<sup>69</sup> They contend that “both can be accomplished within the concept of ensuring the portfolio of conservation programs . . . is cost-effective.”<sup>70</sup>

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<sup>65</sup> Comments of Public Counsel at 4 (April 24, 2009).

<sup>66</sup> Comments of PSE at 2 (April 24, 2009).

<sup>67</sup> Comments of Avista at 2 (April 24, 2009).

<sup>68</sup> *Id.* at 2.

<sup>69</sup> Comments of NWEAC and the Energy Project at 9 (June 1, 2009).

<sup>70</sup> *Id.*

48 *Commission discussion and decision.* 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. Avista, the NVEC and the Energy Project all assert, correctly, that refinement may be possible to the TRC evaluation to better measure the value of energy efficiency. However, 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 encourage utility investment in cost-effective energy efficiency.<sup>71</sup> In furtherance of this policy, the Commission has authorized and will soon be evaluating two natural gas utility decoupling programs.<sup>72</sup>

49 The Commission finds that its existing policy and practice already require that energy efficiency be incorporated into natural gas planning as a priority resource. Thus, the Commission determines that it is not appropriate to adopt Standard 5 in order to carry out the purposes of PURPA. The rulemaking proceeding should be closed with respect to this particular standard.

#### **H. Standard 6 (15 U.S.C. § 3203(b)(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—

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<sup>71</sup> RCW 80.28.260(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.”).

<sup>72</sup>In Docket UG-060518, we adopted, with modification, Avista’s request for a decoupling pilot program. *WUTC v. Avista Utilities*, Docket UG-060518, Order 04, ¶¶ 1-49 (February 1, 2007). In Docket UG-060256, we adopted, with modification, Cascade’s decoupling pilot program. *WUTC v. Cascade Natural Gas Corporation*, Docket UG-060256, Order 05, ¶¶ 67-85 (January 12, 2007).

- (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.

50 *Summary of comments.* PSE and Avista submitted the same comments on Standard 6 as each did for the comparable electric utility Standard 17. Cascade asserted that it was not 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.<sup>73</sup> 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 5 and 6, PSE pointed out that fixed charges for gas service are easier to determine.

51 *Commission discussion and decision.* It is the Commission's existing policy to "align utility incentives with the deployment of cost-effective energy efficiency." 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, "The Commission believes that the wide variety of alternative approaches to decoupling make it more efficient to address these issues in the context of specific utility proposals included in general rate case filings rather than through a generic rulemaking."<sup>74</sup>

52 Since the close of that prior rulemaking, the Commission has ruled on natural gas decoupling proposals on a case-by-case basis in three proceedings. In Docket UG-060267, the Commission rejected PSE's request for a natural gas decoupling mechanism finding that PSE was already achieving all the cost-effective energy

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<sup>73</sup> Comments of Cascade at 1 (April 24, 2009).

<sup>74</sup> *Rulemaking to Review Natural Gas Decoupling*, Docket UG-050369, Notice of Withdrawal of Rulemaking (October 17, 2005).

efficiency available and that its corporate culture needed no further incentives to embrace energy efficiency as a priority resource.<sup>75</sup> In two subsequent proceedings, the Commission approved pilot decoupling programs for utilities that committed to building their energy efficiency programs in consideration for the benefits derived from their individual “decoupling” mechanisms.<sup>76</sup>

53 The Commission has also implemented the various policy options of Standard 6(B)(i)-(iv), including: separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer,<sup>77</sup> 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,<sup>78</sup> promoting the impact on adoption of energy efficiency as one of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objective,<sup>79</sup> and adopting rate designs that encourage energy efficiency for each customer class.<sup>80</sup>

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<sup>75</sup> *WUTC v. Puget Sound Energy, Inc.*, Dockets UE-060266 and UG-060267, Order 08, ¶¶ 68 (January 5, 2007).

<sup>76</sup> In Docket UG-060518, the Commission adopted, with modification, Avista’s request for a decoupling pilot program. *WUTC v. Avista Utilities*, Docket UG-060518, Order 04, ¶¶ 1-49 (February 1, 2007). In Docket UG-060256, the Commission adopted, with modification, Cascade’s decoupling pilot program. *WUTC v. Cascade Natural Gas Corporation*, Docket UG-060256, Order 06, ¶¶ 67-85 (January 12, 2007).

<sup>77</sup> *Id.*

<sup>78</sup> *See*, Avista Corporation d/b/a Avista Utilities’s Natural Gas Tariff, WN U-29, Schedule 159 – Natural Gas Decoupling Rate Adjustment; Puget Sound Energy’s Natural Gas Tariff, WN U-2, Schedule 120 – Gas Conservation Service Tracker and Schedule 183 – Natural Gas Conservation Service; and Cascade Natural Gas Corporation’s Natural Gas Tariff, WN U-3, Schedule 300 – Residential Conservation Incentive Program, Schedule 301 – Low Income Weatherization Incentive Program, Schedule 302 – Commercial/Industrial Conservation Program, and Schedule 303 – Pilot Residential Low-Flow Showerhead Program.

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

54 Thus, the Commission determines that it is not appropriate to adopt Standard 6 in order to carry out the purposes of PURPA. The rulemaking docket should be closed regarding this standard.

55 **COMMISSION ACTION:** After considering all of the comments, both written and oral, received from stakeholders regarding the new PURPA electricity and natural gas standards established by EISA, and after reviewing its rules and past decisions, and applicable statutes, the Commission finds and concludes that it should terminate the rulemaking and close the docket with regard to electric utility Standards 16, 17, 18(B) and (C), and 19. The Commission further finds and concludes that it should terminate the rulemaking and close the docket with regard to natural gas utility Standards 5 and 6.

56 The Commission finds and concludes that further consideration of electric utility Standard 18(A) is appropriate. The Commission directs its rulemaking team to prepare a discussion draft of a rule that would require electric utilities to report on their evaluation and implementation of smart grid technology, and to solicit further comments from interested persons on that discussion draft. The Commission will then consider whether or not to develop a proposed rule (CR 102) for smart grid technology reporting or take such other action as is necessary and appropriate.

### **ORDER**

#### **THE COMMISSION ORDERS:**

57 (1) The rulemaking shall be terminated and the docket shall be closed with regard to PURPA electric utility Standards 16, 17, 18(B) and (C), 19, and PURPA natural gas utility Standards 5 and 6.

58 (2) The rulemaking shall remain open with regard to PURPA electric utility Standard 18(A).

- 59 (3) The Commission rulemaking team shall prepare a discussion draft rule for PURPA electric utility Standard 18(A) that would require electric utilities to report on their evaluation and implementation of smart grid technology, and then solicit further comments from stakeholders on this discussion draft rule.

DATED at Olympia, Washington, September 14, 2009.

WASHINGTON STATE UTILITIES AND TRANSPORTATION COMMISSION

JEFFREY D. GOLTZ, Chairman

PATRICK J. OSHIE, Commissioner

PHILIP B. JONES, Commissioner

**APPENDIX A**

1. CR-101, Notice of Opportunity to File Written Comments by April 24, 2009, questions:

Standard 16, Integrated Resource Planning (Electric), 16 U.S.C. § 2621(d)(16)

- 1) Should the Commission, by rule, implement part B of PURPA Standard 16 establishing cost-effective energy efficiency as a priority resource?
- 2) What is a “priority resource”?
- 3) Does the term “priority resource” differ in affect from the requirement to pursue all cost-effective conservation? If so, how?
- 4) If establishing energy efficiency as a priority resource requires the acquisition of energy efficiency in aggregate that is above the cost effectiveness threshold, would its establishment as a priority resource conflict with any existing policy established in state law statute or regulation?
- 5) If establishing energy efficiency as a priority resource does not mean pursuing additional energy efficiency above the cost effectiveness threshold, then how would it differ from current Commission regulation and policy?

Standard 17, Rate Design and Modifications to Promote Energy Efficiency Investments (Electric), 16 U.S.C. § 2621(d)(17)

- 1) Are there modifications to current utility block electric rate designs that could promote conservation? How would such modifications be implemented in a rulemaking?
- 2) What are the implications for utility conservation efforts if the incremental cost of power is higher than the cost of power embedded in rates? Under such circumstances, what, if any, incentives should be considered to encourage a utility to promote conservation between rate cases?

- 3) If customers supply much of the investment in energy efficiency, even when they participate in and receive utility sponsored incentives, what additional incentive could be provided by the electric rate design?
- 4) Would an electric rate design with larger fixed charges reduce the customer incentive to conserve?
- 5) To what extent will the penalties under Initiative 937 provide an incentive for utilities to achieve the energy efficiency goals established in Initiative 937?

Standard 18(A), Consideration of Smart Grid Investments (Electric), 16 U.S.C. § 2621(d)(18)(A)

- 1) What constitutes a “qualified smart grid system?”
- 2) Are the technologies that constitute a “qualified smart grid system” commercially available? If so, how might adoption of today’s smart grid technology affect adoption of future technology refinements?
- 3) The IRP rule currently requires the lowest reasonable cost set of resources to be determined after a “detailed and consistent analysis of a wide range of commercially available sources.” Does this requirement already encompass “qualified smart grid systems?”
- 4) What level of screening and analysis of smart grid investment would constitute a demonstration to the Commission?
- 5) Are the six factors listed an adequate set for reviewing smart grid investments? Should additional factors be included? If so, what additional factors? What, if any, rules should govern measurement and evaluation of these listed or additional factors?

Standard 18(C), Obsolete Equipment (Electric), 16 U.S.C. § 2621(d)(18)(C)

- 1) What constitutes a “qualified smart grid system?”
- 2) Is there a distinction between replacing existing equipment with a “system” versus the replacement of some existing equipment with individual components?
- 3) Are the technologies that constitute a “qualified smart grid system” commercially available? If so, how might adoption of today’s smart grid technology affect adoption of future technology refinements?

- 4) What constitutes “obsolete equipment”?
- 5) Should a cost effectiveness test be applied to the equipment replacement before recovery of book-value costs are allowed?
- 6) How would net salvage value be accounted for under this standard?
- 7) How would this standard conform to used and useful standards?

Standard 5, Energy Efficiency (Natural Gas), 15 U.S.C. § 3203(b)(5)

- 1) Should the Commission, by rule, adopt Standard 5(B) establishing cost-effective energy efficiency as a priority resource?
- 2) What is a “priority resource”?
- 3) Does the term “priority resource” differ in affect from the requirement to pursue all cost-effective conservation? If so, how?
- 4) If establishing energy efficiency as a priority resource requires the acquisition of energy efficiency in aggregate that is above the cost-effectiveness threshold, would its establishment as a priority resource conflict with any state law?
- 5) If establishing energy efficient as a priority resource does not mean pursuing additional energy efficiency above the cost-effectiveness threshold, then how would it differ from current Commission regulation and policy?

Standard 6, Rate Design Modifications to Promote Energy Efficiency Investments (Natural Gas), 15 U.S.C. § 3203(b)(6)

- 1) Are there any benefits from separating fixed-cost revenue recovery from the volume of transportation or sales service provided to customers that the Commission has not yet considered in either a rulemaking or in adjudication?
- 2) Are there any drawbacks of separating fixed-cost revenue recovery from the volume of sales service provided to customers that the Commission has not yet considered?
- 3) What advantages are there in establishing *by rule* (rather than through case-by-case adjudications) an incentive for the utility to successfully manage energy efficiency that allows the utility to keep some portion of the “cost-reducing benefits” accruing from the programs?

- 4) If the conservation measures near the total-resource-cost (TRC) threshold are the hardest to achieve and would provide the least amount of shared “cost-reducing benefits” to the utility, would the utility be less inclined to achieve conservation that was near the cost-effective threshold?
- 5) If the utility received some portions of the cost savings from energy efficiency, should that portion of cost be added to the TRC?
- 6) Would such “cost-reducing benefits” to be shared be calculated on a measure-by-measure basis? If not, would such a sharing mechanism encourage the utility not to pursue a mix of measures that are, in sum, at the cost effective threshold?
- 7) Could a practical rule be fashioned that states promoting energy efficiency is one of the goals of natural gas rate design while at the same time allowing actual rate designs to vary with each company’s cost structure and needs?

2. May 21, 2009, Workshop questions:

Standard 16, Integrated Resource Planning

- 1) Under what statutory authority could the Commission cite to adopt the “valuation of the reduced externality costs” as part of the evaluation of cost effective conservation?
- 2) Does the present Integrated Resource Planning fail to capture the value to the customer of the decrease in portfolio volatility due to conservation? Is this a modeling problem or does the current rule not require an evaluation of the volatility of the portfolio that includes the effect of conservation on volatility?

Standard 18, Smart Grid Investment

- 1) Part A – What is the definition of “Smart Grid”? Is it defined as the piece of technology employed such as a “smart meter”? Or is Smart Grid defined by the function of the technology as in “two-way real time communication”? Or alternatively is Smart Grid defined by the policy objective of the technology function as in “demand response”?

- 2) Are smart grid technologies and functions evaluated within the scope of the present Integrated Resource Planning? Is enhancement of the Integrated Resource Planning rule necessary to ensure that smart grid capabilities are fully considered? Is Integrated Resource Planning the right process for assessing smart grid opportunities?
- 3) Part B – Does Standard 18(B) imply or suggest pre-approval of “Qualified Smart Grid Systems”?

3. Notice of Opportunity to File Written Comments by June 1, 2009, questions:

- 1) Please provide statutory authority for the Commission’s ability to consider a conservation priority criteria, e.g., 10 percent.
- 2) How are the utilities currently evaluating smart grid technology and opportunities internally? Is this evaluation coordinated with or otherwise a part of processes used to develop the Integrated Resource Plan? If so, how? If not, please elaborate?
- 3) Would a planning requirement, analogous to an IRP, for assessment of smart grid technology and opportunities, be practical? Why or why not?
- 4) For Avista and PacifiCorp, how is smart grid assessment or planning addressed in the other states you serve?