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UG-210461

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Executive Director and Secretary  
Washington Utilities and Transportation Commission  
621 Woodland Square Loop SE  
Lacey, WA 98503

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COMMISSION

**Re: Docket UG-210461: Comments of Puget Sound Energy**

Dear Ms. Maxwell:

Puget Sound Energy (“PSE”) provides these comments in response to the Washington Utilities and Transportation Commission’s (“Commission”) September 14, 2021 Notice of Opportunity to File Written Comments in the above-captioned docket (“Notice”). PSE appreciates this opportunity to respond to the questions in the Notice, which relate to the Commission’s ongoing review of natural gas conservation potential assessments (“CPA”) submitted for Commission approval pursuant to RCW 80.28.380.<sup>1</sup>

**1. Does the requirement to incorporate the social cost of greenhouse gases under RCW 80.28.380 require the utility to use a total resource cost-effectiveness test in identifying cost-effective conservation measures?**

No, this provision does not require the utility to use a specific cost-effectiveness test. However, it does require the utility to include the social cost of greenhouse gas in its conservation analysis when evaluating the cost-effectiveness of natural gas conservation targets. Specifically, the

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<sup>1</sup> RCW 80.28.380 provides as follows:

Each gas company must identify and acquire all conservation measures that are available and cost-effective. Each company must establish an acquisition target every two years and must demonstrate that the target will result in the acquisition of all resources identified as available and cost-effective. The cost-effectiveness analysis required by this section must include the costs of greenhouse gas emissions established in RCW 80.28.395. The targets must be based on a conservation potential assessment prepared by an independent third party and approved by the commission. Conservation targets must be approved by order by the commission. The initial conservation target must take effect by 2022.

statute states that “[t]he cost-effectiveness analysis required by this section must *include* the costs of greenhouse gas emissions . . .” (emphasis added).

Consistent with this requirement, PSE’s 2021 Integrated Resource Plan (“IRP”), and thus the CPA, included the social cost of greenhouse gas—calculated pursuant to RCW 80.28.395—as an adder to the natural gas commodity price in order to determine total natural gas cost. As a result of this policy change, PSE’s most recent natural gas resource plan focuses on significant, aggressive acquisition of conservation due to the increase in total natural gas costs.

Regarding cost-effectiveness more broadly, PSE uses the Total Resource Cost (“TRC”) test, as modified by the Northwest Power and Conservation Council (“Council”), as the primary test to determine the cost-effectiveness of its portfolio of conservation programs. For natural gas, PSE’s approach has been prescribed by Commission-approved settlement agreement and tariff language for nearly two decades. In addition to the modified TRC test, PSE also provides certain cost-effectiveness calculations using the Utility Cost Test. This general approach is also consistent with PSE’s approach to determining cost-effectiveness for electric conservation as required by the Energy Independence Act (“EIA”) and the Commission’s rules implementing the EIA.

**2. An analysis of the availability of conservation is required under RCW 80.28.380. What considerations should be included in this analysis?**

From the context of the Notice, PSE interprets this question to be focused narrowly on the issue of whether utilities’ CPAs are required to include an assessment of conservation potential for gas transportation customers—i.e., those customers that purchase their own natural gas from third parties, but rely on PSE for distribution services. For PSE’s primary response on this issue, please see the response to question three. For purposes of this question, PSE notes simply that, for nearly two decades, not all conservation that may be available and cost-effective has been identified through a utility’s CPA, even for electric conservation potential covered by the EIA rules. PSE and other utilities with transportation customers are not responsible for acquiring supply resources for electric or natural gas transportation customers. Accordingly, in the IRP’s analysis they are removed from the demand forecast before supply-side resource need is determined.

On the electric side, in particular, PSE’s retail wheeling customers who are on rate Schedules 448, 449, 458, or 459 are excluded from the CPA, as these accounts do not contribute to PSE’s electric system loads even though they have a regional capacity impact. Unlike natural gas transportation customers, however, these electric customers *do* contribute to conservation funding, and therefore, are eligible for participation in select—and administratively complex—PSE conservation programs. However, any savings from those customers, along with forecasted savings from customers under Special Contracts, is subsequently administratively added to the portfolio subtotal amount; it is not identified through the CPA.

There is no similar savings category on the natural gas side, however, as natural gas transportation customers do not pay into PSE’s Gas Conservation Rider and are thus ineligible to participate in PSE gas conservation programs. Specifically, pursuant to the 2002 Commission-

approved settlement terms for conservation in Dockets UE-011570 and UG-011571, “[n]o gas conservation program costs shall be allocated for recovery from natural gas transportation customers.”

### **3. Must utilities include conservation measures from gas transportation customers in their identification of all conservation measures under RCW 80.28.380?**

No. PSE does not interpret RCW 80.28.380 to require utilities to include conservation measures from natural gas transportation customers in their CPAs or otherwise assess their conservation potential. PSE recognizes that, in general, statutory requirements trump conflicting agency rules, orders, or administratively approved settlement agreements. However, the Legislature generally announces major shifts in direction explicitly and without ambiguity; that is, changes to existing practices are not usually the result of the Legislature’s silence on an issue or the omission of a specific topic.

Here, RCW 80.28.380 does not specifically mention natural gas transportation customers. Rather, this provision adopts nearly identical language from the EIA concerning electric conservation and applies a generic requirement to natural gas utilities. Specifically, under RCW 80.28.380, “[e]ach gas company must identify and acquire all conservation measures that are available and cost-effective.” Similarly, under the EIA, “[e]ach qualifying utility shall pursue all available conservation that is cost-effective, reliable, and feasible.” RCW 19.285.040. Even under the EIA, however, CPAs do not always assess conservation potential from *all* customers for which there may be “cost-effective, reliable, and feasible” conservation. As noted above, certain large PSE retail wheeling customers—the electric analogue to natural gas transportation customers—are specifically excluded from the CPA, even though those customers contribute under the Conservation Rider. Given these similarities and the absence of a clear directive from the Legislature, PSE does not believe the Commission has a clear mandate to alter the treatment of natural gas transportation customers so significantly. If anything, the statute’s silence on this topic renders it relatively clear that existing practices for these customers, as governed by PSE’s Commission-approved settlement, have not changed.

Additionally, because this interpretation is supported by nearly two decades of natural gas conservation experience and precedent, a number of related policy challenges also warrant consideration, in addition the legal issues noted above. As is likely the case for other natural gas utilities, PSE’s Commission-approved natural gas conservation settlement, which governs many aspects of PSE’s natural gas conservation program, would have to be reopened and revisited to enable PSE to recover funds from these customers under the Conservation Rider. This agreement currently prohibits PSE from recovering funds from these customers for conservation. Practically, PSE also has approximately 230 natural gas transportation customers. And although in the aggregate their usage may be substantial, it is likely that only a small percentage of these customers are not already actively managing their energy usage through their own efficiency measures. These customers are sophisticated entities that have devoted substantial resources to managing their energy portfolios by seeking efficiencies where possible. So it is unlikely that an assessment of their conservation potential would result in significant opportunities for further savings, absent special circumstances.

Finally, PSE also understands that many transportation customers may be either entities that own or operate “covered commercial buildings” that are soon becoming subject to the Washington Department of Commerce’s newly-implemented Clean Buildings Standard, or Emissions-Intensive Trade-Exposed entities that will be covered by Washington’s Climate Commitment Act, when implemented. PSE therefore questions the need to devote limited administrative and staff resources to an issue of dubious legality, when conservation efforts for transportation customers may ultimately be covered by other state programs.

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PSE appreciates the opportunity to provide these comments. Please contact Brett Rendina at (425) 457-5677 for additional information about these comments. If you have any other questions please, contact me at (425) 456-2142.

Sincerely,

*/s/ Jon Piliaris*

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