

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of	DOCKET UG-210823
PUGET SOUND ENERGY’S	ORDER 02
2022-2023 Biennial Gas Conservation Target Under RCW 80.28.380	ACCEPTING PSE’S 2022-2023 BIENNIAL GAS CONSERVATION REPORT; ADDRESSING COMPLIANCE WITH DECOUPLING COMMITMENT

BACKGROUND

1 Until recently, conservation targets for gas companies were set by Commission order in a general rate case. Effective 2022, Revised Code of Washington (RCW) 80.28.380 codified requirements for conservation targets for gas companies. These new statutory requirements for gas company conservation targets, unlike those for electric company conservation targets, do not contain an exception for extenuating circumstances if a company fails to reach its target.¹ On May 31, 2024, Puget Sound Energy (PSE or Company) filed in Dockets UE-210822 and UG-210823, its 2022-2023 Biennial Conservation Report (Biennial Conservation Report or BCR) for both its electric and gas services.² The gas conservation targets must meet the requirements of the Commission-approved settlement in its 2002 general rate case in Docket UG-011571.³ The Company’s gas conservation target achievements as outlined in the Company’s Biennial Conservation Report are summarized in the table below:

¹ The exception for electric companies is contained in RCW 19.285.040(1)(e).

² PSE filed updated BCRs on July 18, 2024, and on August 9, 2024. Both updates corrected errors in which the BCR did not reflect adjustments from final Home Energy Reports evaluation savings.

³ *WUTC v. Puget Sound Energy, Inc.*, Docket UG-011571, Exhibit F—Settlement Terms for Conservation, Settlement Stipulation (June 6, 2002). PSE’s gas biennial conservation targets were filed in Docket UG-190913, consistent with Exhibit F of the Settlement Stipulation.

Table 1: PSE’s Natural Gas Targets and Savings (Therms)

A	Total Conservation Goal ⁴	9,791,327
B	Decoupling Penalty Threshold	463,147
C	Two-Year Conservation Target	9,262,931
D	Total Reported Savings	9,225,209
E	Home Energy Report Evaluation Adjustment	102,207
F	Total Conservation Achievement	9,327,416
G	% of Total Conservation Goal Achieved (F/A X 100%)	95%

- 2 In sum, the Company achieved 9,327,416 therms of its 2022-2023 biennial conservation target of 9,262,931 therms, overachieving by 64,485 therms. However, the Company did not meet its decoupling penalty threshold of 463,147 therms. In its BCR, the Company acknowledged that it failed to achieve its 2022-2023 gas conservation targets, noting that “[t]he lingering economic effects of the COVID-19 pandemic continued to make a significant impact on energy efficiency operations in the 2022-2023 biennium. In 2022, inflation, rising interest rates, skilled labor shortages, supply chain disruptions, and code changes were the key issues that affected customer participation and PSE’s ability to meet savings targets.” *BCR*, p. 6 (footnote omitted).

⁴ The Total Conservation Goal includes the Two-Year Conservation Target (C), the Decoupling Commitment, projected savings from the Northwest Energy Efficiency Alliance (NEEA) savings, and any additional conservation savings that PSE expects to achieve from pilots or other programs. In the biennium, there were no reported savings from NEEA or other programs.

- 3 In their comments on PSE’s 2022-2023 BCR, Commission Staff agreed it was a difficult biennium for conservation achievement.⁵ The COVID-19 pandemic, they said, had lingering effects, such as customer financial challenges; changes in customer demand; and labor and supply chain shortages. These elements added to the already significant challenges utilities faced in achieving conservation in the region.
- 4 The Company’s 2002 General Rate Case Settlement outlines the enforcement provisions relating to PSE’s natural gas conservation.⁶ Specifically, the Commission can assess penalties if the Company’s average savings targets are not achieved during a two-year period. The Company’s enforcement provisions for natural gas are provided for in Order 08 in Dockets UE-170033 and UG-170034.⁷
- 5 Regarding decoupling, Staff recommends penalties according to Commission Order 08 in Dockets UE-170033 and UG-170034.⁸ PSE’s Two-Year Decoupling Penalty Threshold for 2022-2023 reflects the percentage of the conservation commitment decoupled to determine penalty bands.⁹ PSE overachieved its conservation target of 9,262,931 therms, by 64,485 therms – this amount is less than 3.75 percent of the Company’s incremental decoupling commitment and triggers a \$75,000 penalty under the formula adopted in Order 08 in Dockets UE-170033 and UG-170034.
- 6 As the Company achieved less than 3.75 percent of its incremental decoupling commitment, Staff recommended that the Commission assess \$75,000 in penalties, consistent with the penalty provisions of Order 08 in Dockets UE-170033 and UG-170034. Staff’s review did not identify exemption provisions for PSE’s failure to meet its decoupling commitment.

⁵ *In the Matter of Puget Sound Energy 2022-2023 Biennial Acquisition Target Under RCW 80.28.280*, Docket UG-210823, Commission Staff Comments Regarding Electric and Natural Gas Utility Conservation Achievements at 9 (July 24, 2024).

⁶ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-011570, UG-011571, and UE-100177, Order 05, at 5-6, ¶13, (Sept. 28, 2010).

⁷ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-170033 and UG-170034, Order 08 at 85, ¶250, at 91, ¶261 (Dec. 5, 2017).

⁸ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-170033 and UG-170034, Order 08 at 85, ¶250, at 91, ¶261 (Dec. 5, 2017).

⁹ *Wash. Utils. & Transp. Comm’n v. Puget Sound Energy*, Dockets UE-170033 and UG-170034, Exh. JAP-1T (Testimony of Jon A. Piliaris), at 145, ¶11-20 (Jan. 13, 2017).

- 7 PSE filed responsive comments on August 21, 2024, strongly contesting Staff's penalty recommendations on several grounds.¹⁰
- 8 This matter came before the Commission at its August 22, 2024, Recessed Open Meeting.¹¹ The Commission heard comments from Staff and PSE. The Company argued against Staff's recommendation and expressed that conservation is important and that the Company took every adaptive management option reasonably available.

DISCUSSION AND DECISION

- 9 We appreciate Staff's careful review of the requirements in prior Commission orders for compliance with biennial gas conservation targets and the provisions for decoupling targets. However, we decline to adopt Staff's recommendations to assess PSE with penalties for noncompliance with Commission Order 08 in Dockets UE-170033 and UG-170034. As a preliminary matter, we find that PSE has complied with the biennial reporting requirements in Order 01,¹² Docket UG-210823, by timely filing a biennial conservation report with sufficient detail to allow the Commission to determine how PSE is performing compared to its conservation targets.
- 10 We acknowledge that, as stated in Staff's comments on gas biennial conservation reports, 2022-2023 were difficult years for conservation achievement.¹³ However, with the benefit of PSE's additional comments filed the day before the Recessed Open Meeting, and those provided during the Open Meeting, we find that the lingering economic effects of the COVID-19 pandemic have persisted to cause challenges outside of the Company's reasonable control, such as customer financial challenges; changes in customer demand; and labor and supply chain shortages. These elements added to the already significant challenges utilities faced in achieving the remaining conservation in the region.

¹⁰ *In the Matter of Puget Sound Energy. 2022-2023 Biennial Conservation Report*, Dockets UE-210822 and UG-210823, PSE's Comments on Staff Recommendation (August 21, 2024).

¹¹ The Commissioners present at the August 22, 2024, Recessed Open Meeting included Chair Dave Danner, who has since retired as the issuance of this decision, but voted to approve this Order 02, at the August 22, 2024, Recessed Open Meeting.

¹² *In the Matter of Puget Sound Energy 2022-2023 Biennial Acquisition Target Under RCW 80.28.280*, Docket UG-210823, Order 01 at Page 5 (Jan. 18, 2022).

¹³ Dockets UE-190905, UE-190912 & UE-190908, Commission Staff Comments Regarding Electric Utility Conservation Achievements Under the Energy Independence Act (Staff Comments) (July 1, 2022).

- 11 The Commission has discretion to impose or not impose penalties.¹⁴ Our intent in approving decoupling goals is to encourage conservation. Although PSE failed to meet its decoupling target, we find that there exists sufficient circumstances to allow PSE to be “considered in compliance.”
- 12 As a result, notwithstanding the Company’s failure to comply with Order 08 in consolidated Dockets UE-170033 and UG-170034, the Commission finds it appropriate to forgo issuing a penalty here due to the totality of the circumstances. On this point, and for future clarity, we find it appropriate to amend Order 08 in consolidated Dockets UE-170033 and UG-170034, and Order 01 in this matter, to clarify that it is our intent that similar provisions to RCW 19.285.040(1)(e) apply to the gas conservation targets and natural gas decoupling commitments.¹⁵ Notice shall be issued to interested parties so as to allow an opportunity to comment on these proposed amendments.

FINDINGS AND CONCLUSIONS

- 13 (1) The Commission is an agency of the state of Washington vested by statute with the authority to regulate the rates, rules, regulations, practices, accounts, securities, transfers of property and affiliated interests of public service companies, including electric companies.
- 14 (2) PSE is a gas company and a public service company subject to Commission jurisdiction. PSE is a subject to the conservation reporting requirements of RCW 80.28.380; Order 01 in Docket UG-210823; and to Order 08 in consolidated Dockets UE-170033 and UG-170034.
- 15 (3) On May 31, 2024, PSE filed its Biennial Conservation Report, which showed that PSE complied with the biennial reporting requirements in Order 01 of Docket UG-210823.
- 16 (4) PSE achieved 9,327,416 therms of its 2022-2023 biennial conservation target of 9,262,931 therms, an overachievement of 64,485 therms. As a result, PSE is in

¹⁴ *MCI Metro Access Transmission Servs., Inc. v. U.S. West Commc’n, Inc.*, Docket UT-971063, Commission Decision and Final Order Denying Petition to Reopen, Modifying Initial Order, in Part, and Affirming, in Part (1999).

¹⁵ The Commission proposes to amend paragraphs 250 and 261 of Order 08 in Dockets UE-170033 and UG-170034, as well as paragraph 22 in Order 01 of this Docket.

compliance with the biennial conservation targets accepted in Order 01 in Docket UG-210823, in accordance with RCW 80.28.380.

- 17 (5) For the 2022-23 biennial, after applying 64,485 therms to its 2022-2023 decoupling commitment of 463,147 therms, PSE has a deficit of 398,662 therms. Therefore, PSE has not complied with its natural gas conservation decoupling mechanism, pursuant to Order 08 in consolidated Dockets UE-170033 and UG-170034.
- 18 (6) The Commission is not required to penalize a Company for violation of an order; the Commission finds it appropriate to exercise this discretion for gas companies decoupling targets using a standard equivalent to the one used for electric companies in RCW 19.285.040(1)(e).
- 19 (7) Pursuant to the standard set in RCW 19.285.040(1)(e), the Commission may determine that a utility is considered in compliance with its biennial acquisition target for cost-effective conservation if events beyond the reasonable control of the utility that could not have been reasonably anticipated or ameliorated prevented it from meeting the conservation target.
- 20 (8) The COVID-19 pandemic and the changes to the economic landscape that followed created circumstances beyond the control of PSE that interfered with the Company's ability to meet its conservation targets.
- 21 (9) After reviewing PSE's report and Staff's comments, and giving due consideration to relevant matters, the Commission finds that PSE took adequate adaptive measures to attempt to ameliorate the effect of the pandemic on its gas conservation efforts.
- 22 (10) The Commission should reject Staff's recommendation to assess penalties against PSE for its failure to comply with Commission Order 08 in Dockets UE-170033 and UG-170034 and should not assess Puget Sound Energy any penalties for noncompliance.
- 23 (11) This matter came before the Commission at a recessed open meeting on August 22, 2024.

- 24 (12) In order to clarify the Commission's discretion, it is appropriate to modify language contained in Order 8 in Docket UG-170034. Notice shall be given to interested parties prior to such amendments going into effect.

ORDER

THE COMMISSION ORDERS

- 25 (1) The Commission accepts Puget Sound Energy's 2022-2023 Biennial Report of Conservation Accomplishments and determines that it complies with the conditions of Order 01 in UG-210823.
- 26 (2) The Commission shall reject Staff's recommendation to assess PSE with penalties for its failure to comply with Commission Order 08 in Dockets UE-170033 and UG-170034 and shall not assess Puget Sound Energy any penalties for noncompliance.
- 27 (3) The Commission shall issue notice to amend Order 08 in consolidated Dockets UE-170033 and UG-170034, and Order 01 in this matter, to clarify that it is our intent that similar provisions to RCW 19.285.040(1)(e) apply to the gas conservation targets and natural gas decoupling commitment.
- 28 (4) This Order shall not affect the Commission's authority over rates, services, accounts, valuations, estimates, or determination of costs, on any matters that may come before it.

DATED at Lacey, Washington, and effective January 31, 2025.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



ANN E. RENDAHL, Commissioner



MILTON H. DOUMIT, Commissioner