

Bill Bradbury
Chair
Oregon

Henry Lorenzen
Oregon

W. Bill Booth
Idaho

James A. Yost
Idaho



Northwest Power and Conservation Council

Jennifer Anders
Vice Chair
Montana

Pat Smith
Montana

Tom Karier
Washington

Phil Rockefeller
Washington

February 4, 2014

MEMORANDUM

TO: Power Committee

FROM: Elizabeth Osborne

SUBJECT: Overview of Washington Attorney General's opinion on identifying cost-effective conservation for consumer-owned utilities

The Energy Independence Act (EIA or "I-937") requires large utilities in Washington to identify their achievable cost-effective conservation potential using methodologies consistent with those used by the Northwest Power and Conservation Council. The Washington Attorney General is responsible for enforcing compliance with the Act, and recently issued an opinion in response to a request from the Washington Auditor's Office, which is responsible for auditing utilities' compliance with the EIA. The Auditor requested answers to four questions about identifying cost-effective conservation for consumer-owned utilities in the state.

On February 11, 2014, I will give a presentation on the Attorney General's opinion, describe the context under which the Auditor's questions arose, outline the questions from the Auditor and the Attorney General's answers, and explain what impacts the opinion may have on the process by which consumer-owned utilities in Washington identify conservation potential and set conservation targets.

Overview of WA Attorney General's Opinion on
Identification of Conservation Potential by Consumer-
Owned Utilities

Elizabeth Osborne,
Washington Council Staff/
WA Department of Commerce
February 11, 2014

Background

- **The Energy Independence Act (I-937, codified RCW 19.285) requires large electric utilities to identify achievable, cost-effective conservation potential for a ten-year period and update this assessment every two years.**
- **The assessments form the basis for biennial conservation targets.**

Background

- The EIA requires that utilities identify their ten-year conservation potential “using methodologies consistent with those used by the Pacific Northwest Electric Power and Conservation Planning Council in its most recently published power plan” by January 1, 2010.
 - At the time, the Fifth Power Plan was in place.

Background

- Washington State Auditor's Office is responsible for auditing compliance, Attorney General is responsible for enforcement
- Commerce is authorized to adopt certain rules – advisory opinions, and rules concerning process, timelines, and documentation
 - Promulgated WAC 194-37, requiring COUs to submit annual conservation reports documenting progress toward conservation targets

Auditor's Question 1

- Does the phrase “most recently published regional power plan” in mean the power plan that was in place when the law was enacted, or does it refer to subsequent power plans as they are adopted by the Pacific Northwest Electric Power And Conservation Planning Council?

Attorney General's Answer 1

- The reference to the “most recently published regional power plan” refers to the power plan in existence at the time the statute was enacted.

Auditor's Question 2

- Is the term “methodologies” in the statute limited to the analytical steps used to calculate a conservation target? Or, does the term include both the application of such analytical steps as well as a unique combination of conservation measures, savings values, and assumptions?

Attorney General's Answer 2

- The term “methodologies” means a set of methods or procedures employed in the solution of a problem.
- “Methodology” refers to the series of analytical steps described in the Fifth Power Plan.

Auditor's Question 3

- Does the phrase “conservation calculator” mean only the Fifth Power Plan calculator, or does it also refer to calculators based on the most recently issued power plan?

Attorney General's Answer 3

- The phrase “conservation calculator” refers not only to the calculator employed in the power plan in existence at the time the EIA was enacted, but also refers to calculators based on the most recently published power plan.
 - The term is not limited to the Fifth Power Plan calculator

Auditor's Question 4

- **Based on the requirement that utilities shall pursue all available conservation that is cost-effective, reliable, and feasible, is a utility authorized to set its biennial targets by January 1, 2012, and every two years thereafter based solely on the conservation measures, values, and assumptions used in the Fifth Power Plan?**

Attorney General's Answer 4

- **The statute requires a consumer-owned utility to review and update its achievable cost-effective conservation potential every two years, including any necessary update to biennial targets based on new information.**
- **A utility may not necessarily rely on the conservation measures, values, and assumptions set forth in the Fifth Power Plan.**

Potential Impacts of the Opinion

- **What, if any, changes might occur to the conservation calculator from the Sixth Power Plan to the Seventh?**
 - Commerce's updated rules eliminate the conservation calculator option

Potential Impacts, continued

- **Council stated that the methodology in the Sixth Power Plan “was essentially the same” as that of the Fifth Power Plan. Is this expected to change substantially between the Sixth and Seventh Power Plans?**

Potential Impacts, continued

- **If a substantial change to the methodology in the Fifth Power Plan occurred in the future, Washington would require a legislative change to implement it**

Questions?