

Agenda Date: February 9, 2023
Item Numbers: A1

Docket: U-210595

Company Names: Puget Sound Energy
Avista Corporation d/b/a Avista Utilities
PacifiCorp d/b/a Pacific Power & Light Company
Cascade Natural Gas Corporation
Northwest Natural Gas Company d/b/a NW Natural

Staff: Heather Moline, Deputy Assistant Director, Energy Regulation

Recommendation

Issue an order in Docket U-210595 approving the extended interim participatory funding agreement reached between jurisdictional gas and electric companies and groups representing various customer interests subject to the following conditions.

- Remove provision 4.2.4, “Request to Increase Sub-funds.”
- Remove provision 7.9, “Recovery of Grant Funds.”

Approving this agreement with the above modifications will extend the authorization of funding for groups participating in the Commission’s regulatory processes as required by the Legislature.

Background

In 2021, the Legislature enacted Engrossed Substitute Senate Bill 5295 (ESSB5295), codified as RCW 80.28.430, to update the Washington Utilities and Transportation Commission’s (Commission) regulation of electric and natural gas utilities.¹ Among other things, the bill requires electric and gas companies to “upon request, enter into one or more written agreements with organizations that represent broad customer interests in regulatory proceedings conducted by the Commission.” The Legislature requires that any agreement prioritize funding for groups representing vulnerable populations or highly impacted communities (prioritized communities).

The Commission is directed to review and approve, approve with modifications, or reject these agreements.² To provide guidance on its interpretation of ESSB5295’s participatory funding provisions, the Commission issued a notice, gathered comments, held a workshop, and ultimately, issued a Policy Statement (Policy Statement) on November 19, 2021.³

¹ See generally LAWS OF 2021, ch. 188.

² *Id.* at § 2, codified at RCW 80.28.430(2).

³ Policy Statement on Participatory Funding for Regulatory Proceedings filed November 19, 2021, in Docket U-210590.

In February 2022, the Commission approved the first participatory funding agreement with several modifications.⁴ The agreement expired December 31, 2022. The Commission expressed that this first year of the agreement was experimental and that changes were expected.

Substantive Details in the Proposed Extension

In November 2022, several participating organizations and the regulated gas and electric utilities entered negotiations for extension of and modification to the agreement. All signatories to the agreement were invited. The significant modifications made to the agreement are as follows.

Agreement Term

The petition extends the agreement term from one year to two. The joint parties argue this will give all parties and the Commission more time to learn, and reduces administrative burden as the agreement will not need to be re-negotiated and evaluated at the end of the year.

PSE Fund Increase

The extension proposes a \$100,000 increase in PSE's prioritized communities sub-fund, raising the total fund amount from \$300,000 to \$400,000. Both of PSE's funds, including the prioritized communities sub-fund, were over-subscribed. Given the statute's intent to prioritize participation from certain communities, the joint parties believe this is appropriate.

Safety Valve

New provision 4.2.4, "Request to Increase Sub-funds," is a "safety valve" provision that would allow the Commission to consider requests for an increase to funding after an annual limit is exhausted if a participating organization demonstrates good cause. The joint parties argue that some sub-funds were over-subscribed, which indicates an additional need for funding. Among other benefits, the parties argue this would prevent cross-subsidization in the case of a proceeding like a rulemaking, where if one utility's sub-fund is exhausted but all utilities are paying for a certain organization's participation, the other utilities' ratepayers begin subsidizing the certain organization's participation.

Advance Provision

This provision would allow requests for advances from the following year's fund if a proceeding is expected to carry through the following year and if the participating organization demonstrates that the funds will be used commensurate with the work planned in the following year. The parties argue this provides a fair procedural path for significant proceedings that span more than one year.

Timing of Payment Requests

An edit to provision 7.1 would allow participating organizations to request payment once eligible expenses are finalized, rather than at end of a proceeding, which the parties argue may provide needed financial flexibility.

⁴ Order 01 Approving Agreement with Modifications filed February 24, 2022, in Docket U-210590.

Budgeting Process

Minor edits to the proposed budgeting process include updating the timeline for participating organizations to itemize expenses, and removing a 20 percent discount for expert witness fees, which was inadvertently included in the previous agreement.

Further Guidance Requested

In addition to the changes above, the parties also request the Commission's guidance on the following.

- Upon request from other parties, Alliance of Western Energy Consumers (AWEC) has offered to create templates for submission of fund requests and other administrative forms, on condition of receiving "outreach funding." This program is intended to encourage participation and templates would help newcomers participate.
- Participants suggest the Commission track fund amounts and requests on its public facing website.
- The parties request that the Commission rule on filings under the extended agreement within 30 days of receipt.

Discussion

Commission staff (Staff) takes no issue with the proposed modifications to the agreement with respect to PSE's fund increase, the timing of payment requests, and the budgeting process. However, as discussed below, Staff has some concerns with the other proposed modifications.

Agreement Term

While Staff takes no issue with the proposed two-year term, Staff believes the Commission and signing parties should work toward a permanent agreement to take effect when this proposed extended agreement expires.

Safety Valve

Staff is opposed to this modification. It may add unnecessarily to administrative burden and increased burden on ratepayers unnecessarily. Staff's understanding is that only Puget Sound Energy's sub-fund was depleted, and the extended agreement proposes an increase for this purpose. Additionally, the participatory funding program should be fair and transparent, and Staff is weary of a process through which a better-resourced organization might be able to advocate for further and that other organizations might not be able to track.

Advance Provision

While Staff takes no issue with new provision, Staff would like further information on the potential impact to the Commission's administrative burden from such a change.

Further Guidance Requested

The parties request that the Commission rule on filings under the extended agreement within 30 days of receipt. Staff takes no issue with such a timeline being the goal, but does not believe the Commission should bind itself by including such language in an order.

The parties also request fund amounts and requests be displayed on the Commission's website. Staff supports this request.

Accounting Treatment and Allocation of Costs

Last year, the advocates and the utilities proposed that the utilities be allowed to incur a carrying charge equal to a company's rate of return until amortization begins on the balance, at which point the companies will accrue interest at the then-published FERC rate. To mitigate the financial impact of these deferrals, the Commission required the companies to annually file for recovery of these costs. No changes to this provision are made in this extended agreement. The pleading explains that the utilities do not see a need to change elements of accounting treatment, because they believe their current deferrals are ongoing. Staff disagrees and clarifies that the accounting petitions that have been approved pertain only to funds distributed in 2022 and are not ongoing, and as such either new or amended petitions will need to be filed.

Moreover, Staff believes the provision regarding accounting treatment in the extended agreement, provision 7.9, should be removed. Typically, the Commission has not pre-authorized accounting treatment, and it should not do so in those case. Specific accounting treatment should be determined by the Commission via accounting petitions, consistent with other Commission practices, rather than through a pre-negotiated agreement. This does not increase administrative burden, as regardless of the provision, to effectuate this change, the utilities will need to file accounting petitions.

Summary

In Staff's view, this agreement, except as otherwise noted, aligns with the guidance the Commission set forth in its Policy Statement. The funding limits are appropriate. There is funding set aside for organizations representing prioritized communities and there are other mechanisms in place for prioritizing these communities as well. The Commission retains discretion to approve funding where appropriate.

Staff recommends the Commission issue an Order in Docket U-210595 approving the agreement, subject to the following modifications.

- Remove provision 4.2.4, "Request to Increase Sub-funds."
- Remove provision 7.9, "Recovery of Grant Funds."