

Perkins Coie LLP
10885 N.E. Fourth Street
Suite 700
Bellevue, WA 98004-5579
T: +1.425.635.1400
F: +1.425.635.2400
PerkinsCoie.com

DONNA L. BARNETT
DBarnett@perkinscoie.com
D: +1.425.635.1419
F: +1.425.635.2419

August 19, 2024

Jeff Roberson, Assistant Attorney General
Office of Attorney General
PO Box 40128
Olympia, WA 98504
Jeff.Roberson@atg.wa.gov

**Re: Staff Request to Extend BDR Enrollment Period
Docket UG-230470**

Dear Jeff Roberson:

This letter is in response to a request from WUTC Staff (“Staff”) in the above-referenced docket sent via email to Puget Sound Energy (“PSE”) on July 31, 2024. In that request, Staff asks PSE to extend the enrollment period and discontinue any efforts to disenroll customers from PSE’s Bill Discount Rate (“BDR”) and Low-Income designation pursuant to the Climate Commitment Act (“CCA”). As explained more fully below, PSE declines Staff’s request.

Background

On June 9, 2023, PSE initiated this proceeding when it filed with the Commission revisions to its currently effective natural gas tariff WN U-2 proposing a new tariff schedule (Schedule 111) that would allow PSE to recover allowance costs and pass back to customers auction proceeds mandated under the CCA. The Commission issued Order 01 allowing PSE’s tariff revisions to go into effect subject to conditions, including a condition requiring PSE to work with its Low Income Advisory Committee (“LIAC”) to either identify additional Known Low Income customers, or to automatically enroll low income customers in a bill discount or bill assistance program, to reach a target of at least 70,000 participants by January 1, 2024.¹ Because the tariff schedule in question involves costs and auction proceeds associated with the CCA, PSE interpreted this to mean that the Commission goal applied to the CCA credit provided to income eligible customers pursuant to CCA requirements to eliminate the cost burden associated with the CCA for low-income customers. However, in implementing the outreach and other steps to achieve this goal, PSE went a step further and auto-enrolled

¹ Order 01 at ¶ 20.

pre-qualified customers and cross-marketed the CCA income eligible credit with its new BDR to these pre-qualified customers.

PSE used third-party data to add customers to the CCA cap and invest income-eligible flag, beginning with the lowest-income customers, to get to the 70,000 customer target by January 1, 2024. For these customers, because income was not verified by the customer or other sources of information, PSE enrolled these customers into the sixth tier of BDR (receiving a 5% discount) for a temporary period of 6 months. These customers will receive targeted communications inviting and encouraging them to complete the self-attestation applications to potentially be placed on a higher discount tier in the Bill Discount Rate program for the full 13-month period of the BDR program, and potentially to be enrolled into PSE's other energy assistance programs for which they may be eligible.²

On April 25, 2024, PSE submitted a compliance filing pursuant to Order 01. In its compliance filing, PSE explained in detail how it had reached its target and expressly stated that certain pre-qualified customers were enrolled into the CCA income eligible credit and BDR for a period of six months.

Before and after PSE's compliance filing, PSE engaged with the LIAC multiple times regarding PSE's efforts and progress in achieving the target prescribed in Order 01, paragraph 20. Specifically, on September 18, 2023, December 12, 2023, May 14, 2024, and July 9, 2024, PSE discussed with the LIAC how it intended to reach the 70,000 goal. In addition to the LIAC meetings, PSE met with The Energy Project ("TEP"), NW Energy Coalition, and Staff in May 2024. During that meeting, these parties expressed their concern that customers who had not self-declared their income by August 31, 2024, would be de-enrolled from BDR and the CCA income eligible credit. PSE agreed to explore whether to extend the eligibility verification for customers with pre-qualified status beyond August 31, 2024, but PSE ultimately decided not to extend the deadline. PSE shared that decision and its basis with LIAC members at the July 2024 LIAC meeting. No requests, such as to conduct additional follow up, were made at that time.

Following its review of PSE's compliance filing, Staff submitted a letter on June 20, 2024, stating that PSE's compliance filing demonstrates that PSE has achieved the target outlined in paragraph 20 of Order 01.³ On June 21, 2024, TEP also submitted a letter in response to PSE's compliance filing, raising concerns that a subset of customers with pre-qualified status had not fully enrolled in the BDR program for a full 13-months. In its letter TEP notably did not recommend that the Commission find that PSE had not complied with Order 01. Rather, TEP suggested the following: "In evaluating PSE's compliance, the Commission should consider how many of these customers will continue to receive the BDR this fall and winter."⁴ The letter from TEP, however, did underscore that TEP was aware that customers with pre-qualified status could be de-enrolled from BDR after six months. "At the time of PSE's filing, the company intended to disenroll these customers from the BDR after 6 months if they did

² PSE's Compliance Filing at ¶ 14 (April 25, 2024).

³ Letter from Corey Cook, June 20, 2024

⁴ Letter from counsel for TEP, June 21, 2024.

not apply for energy assistance by self-declaring their income like all other customers applying for the BDR.”⁵

On June 24, 2024, the Commission issued an acknowledgment letter confirming that PSE’s compliance report complies with paragraph 20 of Order 01. The Commission-approved tariff Schedule 23BDR, which has the force and effect of law⁶ and allows PSE full discretion to de-enroll pre-qualified customers if they have not declared eligibility under the schedule:

DE-ENROLLMENT BY COMPANY: The Customer must declare eligibility under this schedule upon enrollment and may need to re-declare their qualifications every year. Each year, the Company will select at random a sampling of Customers and will request that Customers provide Agencies information to verify Customer eligibility. Any Customer who fails to re-declare or to provide eligibility verification within ninety (90) days if requested may be removed from this schedule by the Company. De-enrollment from this schedule will be effective during the billing period for which it occurs. Discounts provided under this schedule will not be retroactively removed.

Staff’s Request

On July 31, 2024, Staff sent an email to PSE requesting PSE to voluntarily (1) immediately cease any efforts to disenroll customers, (2) begin U.S. mail and telephone outreach to customers who have not submitted a paper application to PSE for BDR enrollment, (3) work with the LIAC to determine additional outreach efforts to these customers, and (4) continue providing credit to all pre-qualified customers for a minimum of two years from the initial date of enrollment.⁷

Staff’s email also included several false narratives and misinterpretations of Commission rules, particularly regarding which credit and collections rules apply to the group of customers with pre-qualified status. For example, Staff claimed that PSE does not hold low-income customers harmless. This is not true. Low income customers are held harmless as soon as they self-attest as low income. Staff also claimed that PSE’s outreach efforts were limited to two emails. This is not true. Many customers received US Mail outreach, email outreach, and broader outreach via newsletter, social media, and community outreach (as discussed below). Finally, Staff claimed that PSE’s actions would not satisfy the bare minimum late-payment noticing requirements in WAC 480-100 and 480-90. It is unclear exactly which late-payment noticing requirements Staff is referring to, but this statement evidently conflates customers in pre-qualified status with customers who are being disconnected.

⁵ *Id.*

⁶ *GTE v. Bothell*, 105 Wn. 2d 579, 585, 716 P.2d 879, 883 (1986).

⁷ Staff’s email is attached hereto.

PSE's Position

PSE has considered Staff's request and has reviewed the Commission's Policy Statement issued on August 15, 2024,⁸ and PSE is unable to agree to Staff's request. PSE believes its Commission-approved BDR tariff schedule and CCA income eligible credit remain consistent with the intent of the CCA and with the Commission's Policy Statement. PSE achieved the Commission's target, Staff approved PSE's work, and both Staff and TEP were extensively involved in the process.

Staff now requests that PSE undo the collaborative effort and achievements it has made to reach this enrollment target. As communicated to the LIAC and in its compliance filing, when enrolling these pre-qualified customers, PSE set the end date to August 31, 2024. PSE is not de-enrolling these customers; rather PSE is not taking action to extend the eligibility of pre-qualified customers. Enrolling customers without self attestation was always understood by all parties as a temporary auto-enrollment for six months, and that is what was communicated to the Commission. Importantly, PSE would not be able, as a practical and technical matter, to change the end date for these customers in time to stop the expiration. Further, re-enrolling customers who have been de-enrolled would arguably violate PSE's Schedule 111.⁹

As stated in its compliance filing, PSE has achieved its outreach efforts stated in the compliance filing and is not obligated to continue, (or as Staff requests, increase) those efforts. Nor does PSE believe that continuing benefits to customers without self-attestation will increase the conversion rate. Pre-qualified customers were specifically targeted with two outreach efforts, and most of those customers have taken no action to apply for BDR credit. Conversion rates are:

- Email: 7.2% (Round 1 sent to 46,708 customers, Round 2 sent to 40,946 customers)
- Mail: 8.1% (Round 1 sent to 23,292 customers, Round 2 sent to 10,959 customers)¹⁰
- Total: 7.6%

PSE has a holistic and robust marketing and outreach strategy that is ongoing and is used to continue to reach potentially eligible customers and get them enrolled in assistance programs. The subset of customers that were auto-enrolled to meet the 70,000 requirements have received outreach as a part of the

⁸ Docket U-230161, Policy Statement Addressing The Issues And Impacts Of The Climate Commitment Act (Aug. 15, 2024)

⁹ See Schedule 111, Greenhouse Gas Emission Cap and Invest Adjustment, Definitions: Identified Low-Income Customer.

Identified Low-Income Customer is a Customer whose adjusted household income does not exceed the higher of 80 percent of area median household income or two hundred percent of the federal poverty level, adjusted for household size (consistent with RCW 19.405.020(25)); who also 1) has successfully completed the enrollment process to take service under an applicable Bill Discount Rate schedule, or has taken service under an applicable Bill Discount Rate schedule within the last 24 months, as long as the Customer has not been de-enrolled for failure to provide eligibility verification; or 2) receiving bill assistance under Schedule 129 – Low Income Program or has received bill assistance under Schedule 129 within the last 24 months.

¹⁰ Round 1 went to all 70,000 customers whereas round 2 went to just those customers who were still active and had not yet applied.

larger campaigns, in addition to the two rounds of outreach done specific to that effort. In order to support ongoing efforts to increase customer adoption, PSE has engaged in use of Google Ad Words, E-Mail, The Voice (monthly bill insert), direct mail postcards and letters, social media, radio, updates to the new customer booklet and pse.com. PSE has also created step-by-step application overviews in five languages. PSE launched an objective in 2024 to continue to engage customers with the highest level of estimated energy burden who could most benefit from assistance programs. This campaign included expanding multi-lingual efforts to include printed outreach and event materials in 14 languages, focus on reaching rural and senior customers not inclined to engage digitally, and maintain awareness components to reach all income eligible customers focusing on vulnerable populations.

PSE disagrees with Staff that the company should continue to provide low-income credits for two years to pre-qualified customers who have taken no action to validate or attest to their income status. PSE does not agree that pre-qualified customers should obtain credits in the same manner and amount as those customers who have made the effort to apply and qualify for bill assistance programs. Providing two years of benefits to pre-qualified customers who have failed to apply for BDR and self-declare their eligibility for low-income status, would amount to over \$8 million, based on current costs. Such costs would necessarily come at the expense of other customers. Such action was never contemplated or discussed in this proceeding, and to unilaterally and “voluntarily” extend such assistance would be inconsistent with the collaborative and effective efforts PSE has made to date.

PSE continues to strongly caution LIAC that unverified third-party income estimates only provide estimations of aggregate energy burden, demographic and shared characteristics information. While this information allows for broad understanding of customers and can be used to advance certain policies to increase assistance and affordability as well as marketing and outreach of programs, products and services, this information does not provide the customer level precision needed to use the data to confirm income levels or energy burden, or be used as the basis for low- and moderate-income status. Therefore, unverified third-party data should not be used to assume or confirm specific customer status with respect to income, characteristics, or demographics. Consequently, when pre-qualifying customers for income qualified programs, PSE requires customers to confirm their income through self-attestation to continue receiving benefits beyond a temporary period.

PSE continues to remain open to working with the LIAC and its CAP agencies to conduct additional outreach to this group of pre-qualified customers. PSE is open to determining timing for additional outreach to customers who still have an active account with PSE and who have not applied in Q4 2024 or Q1 2025. Any such outreach should use the customer’s preferred communication method of email or mail. Furthermore, pursuant to the Policy Statement’s encouragement for utilities to “continue to expand the identification of customer’s experiencing low-income circumstances,” PSE is interested and willing to explore other opportunities to identify and enroll verified income-qualified customers in its programs. PSE’s partnership with Seattle Housing Authority, which is described in the compliance filing, is an example of a method to identify income-qualified customers whose income has already been

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substantiated – a more dependable source for auto-enrollment than unverified third-party data. PSE looks forward to collaborating with the LIAC and other partners to find similar opportunities that will expand its number of known low-income customers.

Sincerely,

Perkins Coie LLP

A handwritten signature in blue ink that reads "Donna Barnett" with a long horizontal flourish extending to the right.

Donna L. Barnett

DLB:dc

Enclosure

Wallace, Carol

From: Cook, Corey (UTC) <corey.cook@utc.wa.gov>
Sent: Wednesday, July 31, 2024 3:36 PM
To: Sasville, Suzanne; Wallace, Carol; Burch, Theresa
Cc: Yochi Zakai; charlee@nwenergy.org; Shaylee Stokes ; Dreyer, Jean Marie (ATG); Dahl, Corey J (ATG)
Subject: Follow-Up to 7/9/24 LIAG discussion

CAUTION - EXTERNAL EMAIL

Phishing? Click the PhishAlarm "Report Phish" button.

Carol, Theresa, Suzanne, Puget Sound Energy, et al.,

I am reaching out on behalf of Staff, The Energy Project (TEP), and NW Energy Coalition (NWECC) regarding Puget Sound Energy's (PSE, Puget, or Company) compliance with Docket UG-230470, Order 01, Condition 4 (the Order), which requires PSE to enroll 70,000 customers in its low-income programs to ensure its low-income customers receive the benefits of PSE's CCA Compliance efforts.

In May 2024, TEP took this issue to PSE directly to request extension of the enrollment period beyond the 6-8 months when customers were initially enrolled. Puget appeared to be agreeable to extending the enrollment period to allow PSE to make additional outreach efforts to these customers as well as giving additional time for these customers to contact PSE and complete their bill discount rate (BDR) enrollment.

PSE described its efforts to meet the 70,000 enrollment target which included, among other things, "targeted communications inviting and encouraging [enrollees] to complete the self-attestation applications."^[1] Staff understood PSE's efforts to be compliant with the Order, Condition, and RCW 70A.65.130(2)(c). On June 20, 2024, Staff submitted a Compliance Letter to the Commission supporting PSE's Compliance Filing.

However, on July 9, 2024, at Puget's scheduled Low-Income Advisory Group (LIAG) meeting, it explained that any customers (more than 50,000 out of 70,000) who have not reached out to the Company by a certain date in August 2024, would be disenrolled from any discounts; including a CCA-related low-income flag for those same customers.

Staff is disheartened by PSE's lack of effort to hold its low-income customers harmless from CCA-compliance and its willingness to undo the commendable work it took to reach this enrollment target. Considering PSE's outreach efforts thus far have been two emails, it does not appear PSE is putting forth an earnest effort to be compliant with the spirit of Order 01. We also note the harms of disenrollment would be exacerbated by the upcoming winter season and increased rates.

We are collectively asking PSE to voluntarily do the following, at a minimum, as a show of good faith towards its LIAG and low-income customers:

1. Immediately discontinue any efforts to disenroll customers from its BDR or Low-Income CCA flags.
2. Begin targeted outreach efforts, beyond emails, to the customers who have not yet submitted a paper application to PSE.

- a. Outreach efforts should, at a minimum, include U.S. Postal Service mail to all customers; targeted telephone calls to a subset of the most vulnerable 20% of customers. PSE should first contact all customers who were past-due at any time in the last 24 months.
 - i. Factors for determining vulnerability beyond the initial 24-month past-due threshold should include: past-due amount owed and age of debt, prior obligation, and disconnection status.
 - b. PSE should also work with the LIAG to determine what, if any, additional outreach efforts are appropriate for reaching these customers.
3. PSE should continue to pass along the benefits of its CCA low-income credit to all customers identified above for a minimum of two years from the initial date of enrollment.
 - 4.

Staff interprets the 70,000-customer condition of the Order to be a minimum, or baseline, requirement of enrollment; not a threshold to be met at a singular point in time. It is unreasonable for PSE to believe that its disenrollment of these 50,000+ customers is compliant with Order 01, RCW 70A.65.130, or the Company's CCA requirements.

It is worth noting that PSE's actions to reach these customers would not satisfy the bare minimum late-payment noticing requirements in WAC 480-100 and 480-90. Consequently, Staff believes the requests made here are reasonable. We look forward to collaborating on this ongoing work with PSE and the LIAG, helping to ensure PSE's continuing compliance with applicable laws, rules, regulations, and Commission Orders.

We appreciate PSE taking the time to review our concerns. We would appreciate a response no later than Wednesday, Aug. 7, 2024.

If you have any questions or concerns, I am available to assist you.

Thanks,

Corey T. Cook
Regulatory Analyst, Energy Regulation
(360) 664-1309 Office
Corey.Cook@utc.wa.gov
www.utc.wa.gov



This email/letter states the informal opinions of commission staff, offered as technical assistance, and are not intended as legal advice. We reserve the right to amend these opinions should circumstances change or additional information be brought to our attention. Staff's opinions are not binding on the commission.

^[1] *Wash. Utils. & Transp. Comm'n v. Puget Sound Energy*, Docket UG-230470, Compliance Filing of Puget Sound Energy, ¶ 14 (April 25, 2024).