

Notes for Tribal Tax Exemption - Technical Workshop

Docket # 190748

Oct. 15, 2020, 1-5 p.m.

Virtual Microsoft Teams Meeting

Participants

Facilitator

- Samantha Doyle, Administrative Law Judge

Utilities and Transportation Commission

- Bridgit Feeser, Asst. Director of Consumer Protection
- Jacque Hawkins-Jones, Compliance Investigator
- Amanda Maxwell, Director of Consumer Protection and Communications
- Harry Fukano, Asst. Attorney General, UTC Division of the ATG

Department of Revenue

- Keri O'Connell, Tribal Liaison
- ~~Andy Van Gerpen, Program Coordinator, Taxpayer Account Administration~~
- Rob Rice, Program Manager, Taxpayer Account Administration

Lummi Nation

- ~~Henry Cagey, Lummi Nation Councilmember~~

Puget Sound Energy

- ~~Jon Pilliaris, Director of Regulatory Affairs~~
- Matt Marcellia, Tax Director
- Nina Odell, Director of Local Government and Community Engagement
- Kelsey Hulse

Public Counsel Unit of the Attorney General's Office

- Ann Paisner, Asst. Attorney General
- Stephanie Chase, Regulatory Analyst

Introductions/Opening Remarks

Lummi Tribe is not available for meeting today, last minute council meeting is taking place right now so Henry was unable to join

Still continuing meeting for the other parties

Recap of Staff Investigation

Jacque Hawkins-Jones

- The commission requested list of all PSE customers, living within the Lummi Nation with a DOR public utility tax exemption form on file – 262 customers were provided

- Staff requested the monthly billing history for all 262 customers named over a 13-month period
 - 14 customers received the tax credit for only a portion of the 13-month period – August 2019 – September 2020
 - 6 customers received the tax credit at some point during the review period – applied for tax exemption
 - 8 customers stopped receiving the tax credit during 13-month review period – disconnected and didn't reapply, customers moved, never reapplied, only 1 customer stopped receiving the tax credit in error
- Staff found that PSE exempts eligible tribal members after verifying the members tribal status and service address based off the info submitted by the member on the DOR form and PSE retains the tax exemption form indefinitely
- PSE does not require resubmission unless the customer moves to another service address on tribal land and applies it to the tribal members monthly bill
- Tribe provided service addresses located on tribal land and the name of the tribal member associated with that address – 929 addresses provided, 226 were associated with Lummi Nation
 - Staff reviewed sampling of monthly billing histories for 75 iddfernet service addresses over a 22-month period and 0 customers received the public utility tax credit and 0 customers had evidence in their account to show a DOR public utility tax exemption form was filed
- Findings – PSE requires tribal members to complete and submit the DOR public utility tax exemption form before applying the tax credit to their accounts. PSE said it reviews the forms to ensure the service addresses
- Recommendations – workshop to establish a process for certifying tax exempt status for PSE customers (that is happening today) and PSE to provide tribes additional info regarding its public utility tax exemption process to tribal members to certify their status for the tax exemption
 - Designated page on PSE website to include information, link to DOR tax exemption form and a list of PSE contact designated for tribal members
 - An extra layer of review when handling tribal members accounts to ensure that if customer is disconnected, to make sure the tax exemption follows them to the new account number and make sure tax credit remains on their account

Review of Staff Recommendations – Group Discussion

Ann Paisner – Public Counsel

- It's important to hear from the Lummi Nation, they will have valuable input on best way to go about doing this but public counsel supports UTC staff recommendations – help eligible customers take advantage and receive credits – especially provide enhanced review – in addition, understand this credit only applies to eligible customers on tribal lands. Lummi Tribe land borders are known, PSE could provide additional information via mail, email, screener questions based on service address to let customers who may be eligible
- List of addresses of tribal members – would seem additional certification not necessary if accounts can be matched to those members and addresses
- Would like to see other utilities doing the same

Rob Rice – Department of Revenue

- In the findings when the exemption certificate is not on file – in the event of an audit, the business taking an exemption or deduction DOR looks for substantiation behind exemption and they can't provide then they access the tax on that – PSE was collecting the tax without certificate to authenticate tribal member

Matt Marcelia – Puget Sound Energy

- PSE needs to have documentation to support exemption for audit with DOR – have done outreach in past with Lummi Tribe which is how they got to over 200 service addresses/exemptions provided in the data– wants to hear from Lummi Tribe to try and get all of their members and addresses– knowing the addresses is difficult, non-tribal members may live on tribal lands so can't take an address and just qualify it immediately without confirming they are a tribal member and indeed eligible for the tax exemption

Nina Odell – Puget Sound Energy

- Challenge of privacy issues, tribal nations not feeling comfortable providing addresses – Tribe would send it out cause they have the address – have to check status and parcel in the registry – better partnership with the tribe would create better outreach

Amanda Maxwell – Utilities & Transportation Commission

- If the Tribe takes spread sheet of names and addresses and certifies, could they send as a batch to PSE to confirm members?

Matt Marcelia – Puget Sound Energy

- Yes, that's a good way to streamline the process

Keri O'Connell – Department of Revenue

- Should work with the Tribe to see if that is a potential option – not only the service address but who the customer is located on that address – larger number of residents owned by non-tribal members could be an issue. If Tribe can verify tribal members on tribal lands, would be substantial documentation to support exemption

Ann Paisner – Public Counsel

- Understand Tribal membership is another prong to tax credit – our suggestion of list of addresses is starting point. Wondering if PSE could elaborate on previous outreach, 929 addresses vs. 200 or so addresses provided by PSE is huge difference

Matt Marcelia – Puget Sound Energy

- Met with tribal leaders several years ago, was a challenge with confidentiality and reluctance to do anything broad-based and large. Tribal leadership orchestrated most of the outreach and distributing the outreach.

Nina Odell – Puget Sound Energy

- Needed support from Lummi Nation, service area wide not just Lummi Nation – started with a list but took what they could with cooperation they received.

Amanda Maxwell – Utilities & Transportation Commission

- Staff should go back to Lummi and nail down certification batch process, rather than go customer by customer.

Keri O’Connell – Department of Revenue

- Would be cumbersome for PSE to get form from every customer that qualifies, recommend work with tribe to name and address to match to certify information – would that be something workable for PSE if they provided every 6 months or quarter?

Matt Marcelia – Puget Sound Energy

- Can make that work just a matter of working out the details as long as we can support documentation for the audit.

Amanda Maxwell – Utilities & Transportation Commission

- Does Puget Sound Energy accept recommendations from staff?

Matt Marcelia – Puget Sound Energy

- PSE unfamiliar with IT but sounds reasonable for website, additional level of review maybe a flag in the system - can’t attach exemption to person (person can move off tribal lands) or address (non tribal moves onto land don’t qualify) – precise mechanics not clear about at this moment – agree in principle, subject to technical specifics

Nina Odell – Puget Sound Energy

- report up to the customer group – can take this on and look into everything

Ann Paisner – Public Counsel

- Going forward, seems like PSE knowing the boundaries of the Lummi Nation when there’s a request for service for a new customer some sort of outreach to give information to customer if it applies to them

Matt Marcelia – Puget Sound Energy

- not sure if we have considered that, interesting idea. If an address falls within tribal land, then anybody moving in or out set up some kind of flag/query asking if they are a Lummi Nation tribal member, add it to the technical questions if that’s a possibility. Would be great if it works that way

DOR Refund Process

Nina Odell – Puget Sound Energy

- Defers to Rob Rice for high level overview of DOR refund process and what we recommend

Rob Rice – Department of Revenue

- In general when working with refunds on the consumer side – encourage customer to go back to vendor/business to try and receive a refund of taxes from them – that business has a better record if the tax was paid/when it was paid/remitted to department or not – if the business does refund taxes to consumer then they will come forward to department and request from DOR – if larger scale go back and amend or create schedule if it spans over multiple periods or years of refunds they have done – when business submits documentation why they requested refund – also proof that refund took place – accounts been credited, checks issued, etc.
- If PSE must go back and refund several tribal members over time – best way lump sum refund request supported with schedules and supporting documentation of tribal members

Keri O’Connell – Department of Revenue

- Any ideas of what PSE would like to do in going forward for refunding tribal members? What you would need from tribe?

Matt Marcelia – Puget Sound Energy

- Need from tribe exemption certificate, need to validate person lived at address during period of refund requested. Need some internal conversations, one-time bill credit probably the simplest way but not certain. Have to look at valid starting point for refunds – duration of time customer has been at qualifying address

Keri O’Connell – Department of Revenue

- If tribe could provide customer information – name, residential address, date services started for that customer is that sufficient information to look in records to calculate what could be refunded? Tax is on company – exemption they can take when filing returns for this type of sale, wouldn’t look to PSE to provide – pass tax onto customer to provide credit to offset tax

Matt Marcelia – Puget Sound Energy

- We have records of billing, other issue can only go back to open years, can’t request refund past open years. Not sure how fluid their population is, ton of turnover more onerous process, 900 address turns over in 2 years 1800 exemptions. Hard to say without having Lummi Tribe input.

Ann Paisner – Public Counsel

- If it’s a closed account are there no records?

Matt Marcelia – Puget Sound Energy

- Have data on closed accounts, if person is no longer at account not good candidate for refund opportunity – not sure where they've gone to now

Ann Paisner – Public Counsel

- If someone lived within Lummi tribe lands, but several different addresses would you not be able to find records for prior to addresses?

Matt Marcelia – Puget Sound Energy

- Can be messy not really any way to track where person is now since there's no linkage

2021 Statewide Effort Planning

Amanda Maxwell, UTC

- Investigation did show there's a gap between eligible tribal members and who's getting the tax exemptions – trying to work on Lummi customers but all tribal members are getting those credits – larger reviews of IOUs public utility tax – thoughts or ideas, workshop style to reach more tribal members, communications component for statewide outreach effort. Looking at PSE, DOR, public counsel on what's working, what's not working?

Nina Odell – PSE

- Echo that Lummi Tribe list – if Tribe could provide validated addresses for recognized tribal property and customer's tribal member status – initial start of list would be helpful

Keri O'Connell – DOR

- Focus more on educational effort – utility providers and tribal members – Tribe should share with tribal members – don't have input from Tribe today but can share with them education for their citizens and completing tax exemption forms and begin receiving credit/interested in looking at refunds for past periods?

Ann Paisner – Public Counsel

- Two prongs forward looking and backward looking - support efforts on getting refunds, interested in how the tribe would like to go about doing that. Confidentiality – could neutral questions be asked? Mailers, emails, to inform members

Wrap and Next Steps

- UTC and DOR will return to the Lummi Tribe to update them on the discussions had in this meeting, and this group should plan an additional meeting with the Tribe in attendance to follow up with today's discussion.