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Via UTC Web Portal

Amanda Maxwell
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Sq. Loop SE
P. O. Box 47250
Lacey, Washington 98503

Re: Climate Commitment Act Accounting Petitions
Dockets UE-220974, UG-220975, UG-220759, UG-220926, UG-220803.

Dear Director Maxwell:

The Energy Project (TEP) respectfully submits the following three recommendations as conditions for approval of the petitions for deferred accounting treatment of Climate Commitment Act (CCA) costs and revenues file by Puget Sound Energy, Avista, Cascade Natural Gas, and NW Natural.

TEP first requests that the Commission direct utilities not to comingle revenues from the consignment sale of no cost allowances and any other CCA expenses or revenues so that revenues are appropriately prioritized for low-income customers.

Second, the Commission should direct utilities not to provide any customer credits using these revenues until the Commission issues an order or guidance concerning this topic.

Finally, because deferred accounting is an extraordinary remedy which should be narrowly applied and most prudence determinations should occur inside a general rate case, the Commission should include a sunset requirement for these deferrals and ensure that CCA costs are included in each utility's next general rate case.

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I. To comply with the CCA’s requirement to prioritize low-income customers, utilities cannot comingle CCA revenues and costs.

Revenue generated from the consignment sale of no cost allowances may not be commingled with other revenues or expenses because the CCA requires that these funds be used for ratepayer benefit, with priority given to benefits for low-income ratepayers.¹ TEP requests that the Commission’s orders approving the accounting petitions clearly direct utilities not to comingle revenues from the consignment sale of no cost allowances and any other CCA expenses or revenues. The Commission’s orders should also clearly prohibit the netting of such revenues and expenses.

If utilities place revenues from the consignment sale of no cost allowances in the same account as any other CCA revenues or CCA expenses they will not be able to ensure that the benefits properly prioritize low-income customers and meet the CCA’s explicit requirements concerning these revenues. For example, if CCA costs reasonably attributable to all residential customers are placed in the same account as, and netted against revenues from the consignment sale of no cost allowances, that account would include costs attributed to all residential customers and revenues earmarked by the CCA as a priority to benefit low-income customers. Under those circumstances, it will not be possible to ensure the revenues are properly prioritized for low-income customers.

II. Customer credits should not be allowed without Commission approval.

It is the Commission’s responsibility to ensure that the revenues from the consignment sale of no cost allowances properly benefit low-income ratepayers.² TEP

¹ RCW 70A.65.120(4) (“The benefits of all allowances consigned to auction under this section must be used by consumer-owned and investor-owned electric utilities for the benefit of ratepayers, *with the first priority the mitigation of any rate impacts to low-income customers.*”) (emphasis added); RCW 70A.65.130(2)(b) (“Revenues from allowances sold at auction must be returned by providing nonvolumetric credits on ratepayer utility bills, *prioritizing low-income customers*, or used to minimize *cost impacts on low-income, residential, and small business customers.*”) (emphasis added).

² WAC 173-446-300(2)(b) “(i) . . . All proceeds from the auction of allowances consigned by electric utilities will be used for the benefit of ratepayers, which, for investor-owned utilities, will be determined by the utilities and transportation commission, and with the first priority the mitigation of any rate impacts to low-income customers. . . . (iii) All proceeds from the auction of allowances consigned by natural gas utilities shall be used for the benefit of customers, as determined by the utilities and

therefore requests that the Commission direct utilities not to provide any customer credits using these revenues until the Commission issues an order or guidance concerning this topic. Ideally, this guidance would come following a workshop with interested parties. Such guidance is necessary because the CCA's terms are ambiguous and the Commission has a responsibility to ensure that any utility interpretation of the CAA benefits low-income customers appropriately.

The CCA's explicit requirements concerning these revenues differ slightly between electric and methane gas utilities, though both require prioritizing benefits for low-income customers. For electric utilities, the CCA simply requires that the revenues "must be used . . . for the benefit of ratepayers, with the first priority the mitigation of any rate impacts to low-income customers."³ For methane gas utilities, the requirements include:

- "[A]t a minimum eliminating any additional cost burden to low-income customers from the implementation of this chapter."⁴
- Providing incremental benefits "in addition to existing requirements in statute, rule, or other legal requirements."⁵
- "[P]roviding nonvolumetric credits on ratepayer utility bills, prioritizing low-income customers, or used to minimize cost impacts on low-income, residential, and small business customers through actions that include, but are not limited to, weatherization, decarbonization, conservation and efficiency services, and bill assistance."⁶

Moreover, time is of the essence because methane gas utilities must consign for sale at least 65 percent of the no cost allowances allocated to them for 2023, and a higher

transportation commission for investor-owned natural gas utilities, including at a minimum eliminating any additional cost burden to low-income customers from the implementation of the Climate Commitment Act."); WAC 173-446-230(6); WAC 173-446-240(3).

³ RCW 70A.65.120(4).

⁴ RCW 70A.65.130(2)(a).

⁵ RCW 70A.65.130(2)(b).

⁶ RCW 70A.65.130(2)(b).

percent in subsequent years.⁷ Electric utilities may, but are not required to, consign for sale the no cost allowances in the first compliance period.⁸

III. TEP requests that the Commission’s orders approving these petitions include a sunset and require CCA costs to be included in each utility’s next general rate case.

The Commission has discretion to approve or deny utility deferred accounting requests.⁹ Indeed, a utility is not entitled to deferred accounting as a matter of law simply upon request. Rather, deferred accounting is allowed, if at all, as a fully discretionary, exceptional remedy in cases where there are extraordinary circumstances¹⁰ and only when the costs are material.¹¹ As Staff opined when evaluating the COVID-19 accounting petitions, “it is neither normal Commission practice, nor Staff’s preference, to allow the deferral of revenues.”¹²

Deferred accounting is a special remedy that is a form of single-issue ratemaking. As such, it is generally disfavored because it is inappropriate to cherry-pick isolated types of costs on a single-issue basis for piecemeal accounting and separate recovery of increasing costs (or declining revenues).

Moreover, deferred accounting undermines the primary customer benefit provided by multiyear rate plans (MYRP). The reason that TEP supports a performance-based ratemaking metric of “revenues outside of the multi-year rate plan” is to track and contain costs recovered through these types of mechanisms. If a large percentage of utility revenues are recovered through deferrals or other mechanisms outside of the general rate

⁷ WAC 173-446-300(2)(b)(ii).

⁸ WAC 173-446-300(2)(b)(i).

⁹ See RCW 80.04.090.

¹⁰ Wash. Utils. & Transp. Comm. v. Pacific Power & Light Co., Dkt. UE-140762 et al., Order 08, ¶¶ 273–274 (Mar. 25, 2015) (that costs are extraordinary is “a criterion that should apply to a cost deferral accounting mechanism at the time requested and at the time any recovery is sought.”).

¹¹ Wash. Utils. & Transp. Comm. v. NW Nat. Gas Co., Dkt. UG-080519 and UG-080530, Order 01, ¶ 7 (May 2, 2008) (“In prior decisions concerning accounting petitions, the Commission has determined that deferred amounts must be of a magnitude such that recording the costs under the Federal Energy Regulatory Commission’s uniform system of accounts has a material impact on company earnings.”).

¹² In the Matter of Response to the COVID-19 Pandemic, Dkt. U-200281, UTC Staff Proposed COVID-19 Response Term Sheet Memo, at 6 (Sept. 17, 2020).

case's MYRP, then SB 5295 will fail to achieve its most significant customer benefit: designing the MYRP to serve as a cost-containment tool.

Finally, TEP requests that the Commission not allow prudence determinations concerning CCA costs to occur outside of general rate cases for longer than necessary, and certainly not in perpetuity. Sound regulatory policy places the vast majority of prudence reviews inside the general rate case process for multiple reasons. First, the general rate case process provides parties sufficient process, opportunity for discovery, time, and notice to conduct robust prudence reviews. This is particularly important for less-resourced parties, who often cannot participate in the increasing number of annual prudence reviews that take place outside of the first phase of a general rate case proceeding, *e.g.* power cost adjustments, purchase gas adjustments, and second year rate plan capital project reviews.

TEP does not oppose these petitions. Time limited deferrals may be appropriate because the Department of Ecology only recently finalized its auction rules, the magnitude of the costs and function of the auctions are still largely unknown, and, as described above, the Commission has yet to opine on how to return revenues to low-income customers. However, for the reasons described herein, some limits should be placed on the deferrals, TEP requests that the Commission's orders approving these petitions include a sunset and require any CCA costs going forward to be included in each utility's next general rate case.

TEP thanks the Commission for the opportunity to provide these comments and will make a representative available for any questions you may have at the open meeting.

Very truly yours,

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