

Agenda Date: August 29, 2024  
Item Number: A3

**Dockets:** UG-230470  
**Company:** Puget Sound Energy

**Staff:** Corey Cook, Regulatory Analyst

### **Recommendation**

Issue an Order compelling Puget Sound Energy to (1) Discontinue any efforts to disenroll customers from its BDR or Low-Income CCA flags. (2) Begin targeted outreach efforts to enrolled customers who have not yet submitted an energy assistance application to PSE. Outreach efforts should, at a minimum, include (a) U.S. Postal Service mail to all customers; and (b) targeted telephone calls to a subset of the most vulnerable 20 percent of customers. PSE should first contact all customers who were past-due at any time in the last 24 months. 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. PSE should collaborate with the LIAC to determine what, if any, additional outreach efforts are appropriate for reaching these customers. (3) PSE should continue to provide 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.

Additionally, if the Commission believes the Executive Director’s June 24, 2024, compliance acknowledgement letter conflicts with the above requested relief, then the Commission should vacate the Executive Director’s letter.

### **Background**

In 2021, the Washington State Legislature passed the Climate Commitment Act (CCA), codified as RCW 70A.65, to reduce greenhouse gas (GHG) emissions. Also referred to as “Cap and Invest,” the law establishes a declining cap on GHG emissions from covered entities and is intended to reduce emissions in the state by 95 percent by 2050. Businesses producing enough emissions to be covered by the program must acquire allowance instruments equal to the total amount of emissions they produce and then submit those allowances to the Department of Ecology at the end of the compliance period.<sup>1</sup>

On June 9, 2023, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission), in Docket UG-230470, a proposed Tariff Revision to WN U-2, to implement Schedule 111, allowing PSE to recover costs associated with CCA allowances and pass back credits from allowance auction proceeds.

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<sup>1</sup> RCW 70A.65

PSE's revision was approved subject to several conditions set out in Order 01 of this docket. Among other requirements was for PSE to either identify known low-income customers or automatically enroll low-income customers in a bill discount or bill assistance program; the Order established a target of at least 70,000 customers to be met by Jan. 1, 2024.<sup>2</sup>

At the Commission's August 3, 2023, Open Meeting, this item was thoroughly discussed. The Commission ultimately agreed with commenters that PSE's proposal was insufficient, and stated that it would "...require the Company to find ways to increase its enrollment of eligible customers to ensure it complies with the CCA's requirement to eliminate any additional cost burden associated with statutory implementation to low-income customers."<sup>3</sup> When considering the Commission decision, Commission staff (Staff) can only interpret the 70,000-customer requirement as a minimum threshold for the number of customers PSE needs to have identified for CCA compliance.

On January 9, 2024, PSE met with the Low-Income Advisory Committee (LIAC) to confirm over 70,000 low-income customers were receiving the CCA credits which offset their CCA charges to eliminate any additional cost burden associated with CCA implementation, in accordance with Order 01.

On April 25, 2024, PSE submitted to the Commission a Compliance Filing detailing how it was able to achieve the 70,000-customer threshold. Upon review, Staff submitted a letter acknowledging compliance with Order 01.

PSE's Compliance Filing explained it used third-party data to add customers to the CCA cap and invest income-eligible flag, beginning with the lowest-income customers. The Company states these customers were temporarily enrolled into the lowest tier<sup>4</sup> of the Bill Discount Rate (BDR) program, which also added those customers to the CCA cap and invest income-eligible flag.

On September 18, 2023, December 12, 2023, May 14, 2024, PSE met with its LIAC to discuss the customers it had auto-enrolled through third-party data, more than 50,000, being removed from any discounts, including the CCA-related low-income identification flag. It was not clear to LIAC members until the May 14, 2024, meeting that these customers would lose the CCA cap and invest income-eligible flag in addition to the BDR.

During the May 2024, LIAC meeting, The Energy Project (TEP), Northwest Energy Coalition (NVEC), and Commission Staff asked about enrollment for these customers being extended beyond the original six months to which they were allotted. The Company expressed it would investigate what options were available for these customers. The Company did not provide any further detail about these customers until the July 2024, LIAC meeting in which PSE said it made the decision not to extend the enrollment period for those 50,000+ customers enrolled through third-party data.

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<sup>2</sup> UG-230470, Order 01, ¶20

<sup>3</sup> RCW 70A.65.130(2)(a).

<sup>4</sup> BDR established in Docket UG-230561

PSE met separately with TEP, NWECA, and Staff to discuss the collective concerns regarding PSE's intention to disenroll more than 70 percent of the customers it enrolled in response to Order 01. During this May 17, 2024, meeting, TEP requested PSE to extend the enrollment period and for PSE to conduct additional outreach to encourage those customers to complete an energy assistance application with PSE. During the meeting, PSE expressed its verbal support for this plan.

PSE did not conduct a June 2024 LIAC meeting.

On June 20, 2024, Staff submitted a Compliance Letter to the Commission acknowledging PSE's compliance demonstrated in its April 25, 2024, Filing.

On July 9, 2024, PSE advised its LIAC it would be disenrolling the 50,000+ customers effective August 31, 2024. PSE advised the customers would be removed from both the BDR program, as well as the CCA cap and invest income-eligible flag. LIAC members did not voice support for PSE's decision. TEP, NWECA, and Commission Staff voiced their strong opposition to PSE's decision.

On July 16, 2024, Staff met with TEP, NWECA, and PC regarding our collective, planned approach with PSE. The parties collaborated across the following two weeks before sending PSE a final request. On July 31, 2024, Staff sent a request via email<sup>5</sup> to PSE requesting extension of enrollment for these customers to maintain its compliance with Order 01. PSE was largely unresponsive to Staff until August 19, 2024, when it notified Staff via email it would be declining to take the requested action under advice of counsel.

On August 19, 2024, PSE also filed a letter<sup>6</sup> to the Attorney General's Office providing its interpretation of events.

On August 20, 2024, TEP submitted the Joint Petition on which Staff and NWECA have signed.

## **Discussion**

Staff interprets the condition requiring "at least 70,000" customers in Paragraph 20 of Order 01 to be a minimum threshold of customers which must be flagged as eligible for receiving cap and invest CCA-related credits. Staff does not believe the 70,000 number is a single point-in-time achievement. Staff believes it was intended as an ongoing minimum expectation.

Staff does not believe PSE was transparent with the LIAC at each of its September 18, 2024, December 12, 2024, May 14, 2024, and July 9, 2024, meetings. PSE was not forthcoming about disenrollment of these customers until May 2024. Further, during a separate May 17, 2024,

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<sup>5</sup> Attachment A

<sup>6</sup> Attachment B

meeting with Staff, TEP, and NWECA, PSE gave the impression it would continue to attempt additional rounds of outreach and delay removal of the CCA low-income.

Staff acknowledges its June 20, 2024, Compliance Acknowledgement Letter of PSE's having met Order 01, Paragraph 20. However, this letter was filed with the understanding having been gained on May 17, 2024, that PSE would be extending enrollment and conducting additional outreach to those 50,000+ customers. Had Staff been accurately informed by PSE of its intention to take no action and allow itself to become noncompliant, the letter would not have been filed and this issue would have been brought to an earlier Commission Open Meeting.

Initially Staff believed that PSE's outreach efforts to these customers facing disenrollment was limited to two rounds of e-mails. PSE clarified in its August 19, 2024, letter that the first round of outreach was conducted to exactly 70,000 customers. Staff understands the 46,708 customers in round 1, and 40,946 customers in round 2, as having been sent only emails, while the remaining 23,292 customers in round 1, and 10,959 customers in round 2, as having only been sent outreach by U.S. mail.

PSE states in its letter that it disagrees with Staff that it should continue providing credits to these customers it has identified as low-income through third-party data. PSE is now adding the stipulation that only customers who submit an energy assistance application through the Company should be eligible for credits. Staff acknowledges that the data is not independently verified; however, Staff notes that PSE does not propose any alternative to maintain compliance with the Conditions set out in Order 01.

Staff agrees, to the extent necessary, that unverified third-party data should not be relied upon as a sole source of information regarding customer data, including income information. Staff believes PSE's lack of response to its LIAC members when this concern was presented on July 31, 2024, demonstrates PSE's lack of commitment to maintaining its CCA-related compliance. PSE did not put any effort into addressing member concerns, and instead elected inaction until submitting its August 19, 2024, letter, including "...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."

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.

### **Conclusion**

Staff recommends the Commission issue an Order compelling Puget Sound Energy to:

- (1) Discontinue any efforts to disenroll customers from its BDR or Low-Income CCA flags.
- (2) Begin targeted outreach efforts to enrolled customers who have not yet submitted an energy assistance application to PSE. Outreach efforts should, at a minimum, include:

- a. U.S. Postal Service mail to all customers; and,
  - b. Targeted telephone calls to a subset of the most vulnerable 20 percent of customers.
    - i. PSE should first contact all customers who were past-due at any time in the last 24 months. 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. PSE should collaborate with the LIAC to determine what, if any, additional outreach efforts are appropriate for reaching these customers.
- (3) PSE should continue to provide 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) If the Commission believes the Executive Director's June 24, 2024, compliance acknowledgement letter conflicts with the above requested relief, then the Commission should vacate the Executive Director's letter.