

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PUGET SOUND ENERGY'S

**Gas Climate Commitment Act Tariff
WN U-2 Revision.**

DOCKET UG-230470

**PUGET SOUND ENERGY'S
OBJECTION AND RESPONSE
IN OPPOSITION TO
JOINT PETITION**

I. INTRODUCTION

- 1.* Pursuant to WAC 480-07-370(4), Puget Sound Energy ("PSE" or "Company") hereby responds to the Joint Petition to Compel Compliance with Order 01 and Hear the Petition at the August 29, 2024, Open Meeting submitted on August 20, 2024 ("Petition"). PSE opposes the Petition and urges the Washington Utilities and Transportation Commission ("Commission" or "WUTC") to deny the Petition submitted by The Energy Project ("TEP"), WUTC Staff, and the NW Energy Coalition ("NWEC"). Further, PSE objects to the Commission's consideration and determination of the Petition at a regular open meeting on less than twenty days' notice to PSE. Without waiving such objection, and subject thereto, PSE responds as follows:

II. BACKGROUND

- 2.* On June 9, 2023, PSE initiated this proceeding when it filed with the Commission revisions to its 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 Climate Commitment Act (“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 requirement to eliminate any additional cost burden associated with the implementation of the CCA for natural gas low-income customers². However, in implementing the outreach and other steps to achieve such goal, PSE went a step further and auto-enrolled pre-qualified customers and cross-marketed the CCA income eligible credit with its new Bill Discount Rate (“BDR”) to these pre-qualified customers.³

3. Although PSE’s robust outreach resulted in a high number of new customers officially enrolling in both bill assistance programs, PSE used third-party data to add customers to the CCA cap and invest income-eligible flag, beginning with customers

¹ Order 01 at ¶ 20.

² RCW 70A.65.130.

³ See PSE’s Compliance Filing at ¶ 14 (April 25, 2024).

estimated with the lowest-income, to get to the 70,000 customer target by January 1, 2024. Because income was not verified by the customer or other verified sources of information, PSE enrolled these customers into the sixth tier of BDR (receiving a five percent discount) for a temporary period of six months.⁴ These customers received 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 be enrolled into PSE's other energy assistance programs for which they may have been eligible.⁵

4. 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:

Fourth and finally, 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.⁶

⁴ *See id.*

⁵ *See id.*

⁶ *Id.*

5. Before and after PSE's compliance filing, PSE engaged with the LIAC multiple times regarding PSE's plans, 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 TEP, NWECC, 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. Staff issued no data requests to PSE in response to the Company's compliance filing, and no party or person requested any follow-up information from the Company. There was no confusion or misunderstanding about PSE's BDR tariff, PSE's outreach efforts, or the temporary nature of the BDR and CCA income eligible credit.

6. 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 01.⁷ On June 21, 2024, TEP also submitted a letter in

⁷ See Letter from Staff finding that PSE complied with paragraph 20 of Order 01 (June 20, 2024).

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.”⁸ The letter from TEP, however, did underscore that TEP was aware at that time 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 not apply for energy assistance by self-declaring their income like all other customers applying for the BDR.”⁹

7. On June 24, 2024, the Commission issued an acknowledgment letter confirming that PSE’s compliance report complies with paragraph 20 of Order 01.¹⁰ The Commission-approved tariff Schedule 23BDR, which has the force and effect of law¹¹ 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-

⁸ Letter from counsel for TEP, June 21, 2024.

⁹ *Id.*

¹⁰ Compliance Acknowledgement Letter – PSE by WUTC Executive Director, June 24, 2024.

¹¹ *GTE v. Bothell*, 105 Wn. 2d 579, 585, 716 P.2d 879, 883 (1986).

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.¹²

III. DISCUSSION

A. The Petition

8. 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. A copy of Staff's email is attached hereto as Exhibit A.

9. 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.¹³ 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

¹² PSE Schedule 23BDR, effective August 25, 2023 (Issued June 30, 2023; Advice No. 2023-27).

¹³ See Exh. A at p. 1.

efforts were limited to two emails.¹⁴ This is not true. 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 480-90.¹⁵ It is unclear exactly which late-payment noticing requirements Staff is referring to, but this statement indicates that Staff could be mixing up customers in pre-qualified status with customers who are being disconnected for nonpayment.

B. PSE's Position in Light of its Compliance Filing and BDR Tariff

10. PSE considered Staff's request and declined to agree to Staff's proposed changes to the Company's BDR tariff and CCA income eligible credit. PSE believes its Commission-approved BDR tariff schedule and CCA income eligible credit remain consistent with the intent of the CCA. PSE achieved the Commission's target, Staff approved PSE's work, and Staff, TEP, and NVEC were all extensively involved in the process.

11. The Petition requests the Commission order PSE to undo the collaborative effort and achievements the Company has made to reach its enrollment target. As communicated to the LIAC and in its compliance filing, when enrolling pre-qualified customers, PSE set the enrollment end date to August 31, 2024. PSE is not de-enrolling customers; rather, PSE is not taking additional action to extend the eligibility of pre-qualified customers who have

¹⁴ *See id.*

¹⁵ *See id.* at p. 2.

taken no action to self-attest their income status. Enrolling customers without self-attestation (auto-enrollment) was always understood by all parties as a temporary feature 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 of CCA income-eligible credits and BDR tier 6 discounts for these customers in time to stop the expiration. Further, re-enrolling customers who have been de-enrolled would arguably violate PSE's Schedule 111.¹⁶

12. PSE has completed its outreach efforts 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 types of outreach based on their preferred communication preference, 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

¹⁶ See Schedule 111, Greenhouse Gas Emission Cap and Invest Adjustment, Definitions: Identified Low-Income Customer (effective November 1, 2023; Issued September 15, 2023; Advice No.: 2023-40): “**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 past 24 months.”

- Total: 7.6% (4,196 customers)

13. PSE has a holistic and robust marketing and outreach strategy that is aimed at reaching potentially eligible customers to get them enrolled in assistance programs. The subset of estimated low-income customers that were auto-enrolled to meet the 70,000 requirement have received outreach as a part of the larger campaigns, in addition to the two rounds of outreach targeted specifically to them. 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.

14. PSE disagrees with Staff, TEP, and NWECA that the Company should continue to provide low-income credits for two years to a subset of estimated low-income customers who have taken no action to validate or attest to their income status. PSE does not agree that all or a subset of estimated low-income 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 a subset of estimated low-income

customers who have failed to take any action to apply for BDR and self-declare their eligibility for low-income status would cost over \$8 million, based on current data. Such costs would necessarily come at the expense of other customers. Such action was never contemplated or discussed in this proceeding, and to order PSE to extend such assistance would be contrary to PSE's BDR tariff and inconsistent with the collaborative and effective efforts PSE has made to date.

15. As stated above and in PSE's compliance filing, customers were temporarily auto-enrolled using unverified third-party income estimates.¹⁷ PSE continues to strongly caution the Commission that unverified third-party income estimates only provide estimations of low-income status, 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, such information does not provide the customer-level precision needed to confirm income levels or energy burden or be used as the basis for low- and moderate-income status.

16. 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

¹⁷ Compliance Filing of PSE at ¶ 14 (April 15, 2024).

customers to confirm their income through self-attestation to continue receiving benefits beyond a temporary period.


IV. CONCLUSION

16. PSE is proud of the work it has done to reach and enroll low-income customers in its income eligible programs and plans to continue and broaden outreach efforts in the coming years. To the issue at hand, PSE continues to remain open to working with the LIAC and its Community Action Plan 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.
17. Furthermore, 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 substantiated – a more dependable source for auto-enrollment than unverified third-party data.
18. 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. PSE respectfully requests the Commission deny the Petition, reject the parties' attempt to circumvent

Commission process, and allow PSE to continue operating under its Commission-approved tariff.

DATED: August 26, 2024

PERKINS COIE LLP

By 
Donna L. Barnett, WSBA #36794
DBarnett@perkinscoie.com
10885 N.E. Fourth Street, Suite 700
Bellevue, Washington 98004-5579
Telephone +1.425.635.1400
Fax +1.425.635.2400

Attorneys for Puget Sound Energy