BEFORE THE WASHINGTON STATE

UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND )

TRANSPORTATION COMMISSION )

 )

 Complainant, ) DOCKET NO. UE-130043

 )

v. )

 )

PACIFICORP d/b/a/ PACIFIC POWER )

& LIGHT COMPANY )

 )

 Respondent. )

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THE ENERGY PROJECT’S

INITIAL POST-HEARING BRIEF

**I. ARGUMENT**

1. The Energy Project’s initial areas of interest and/or concern were discussed in the initial Responsive Testimony of Charles M. Eberdt, *Exh. CME-1T*, filed August 2, 2013, and included:

 A. The impact of the Company’s proposed rate increase on the poor and the Company’s proposed changes to its Low-Income Bill Assistance Program (LIBA);

 B. The Energy Project’s position on the proposed modifications to the LIBA 5-year settlement plan, and;

 C. The Company’s proposed changes to its Schedule 300 Customer Service Charges such as disconnection and reconnection fees.

2. Regarding the Energy Project’s concerns about the impact that the requested rate increase will have on the poor, Mr. Eberdt notes that the Company has proposed a sizeable rate increase “which will have significant consequences for PacifiCorp’s low-income customers who struggle to pay for life’s basic necessities.” *Exh No. CME-1T, p. 2, lns 10-12.* Mr. Eberdt further testified that “[u]tility bills are often the most significant bill that a typical low income family must pay every month. The current trend of nearly annual general rate cases for regulated electric utilities seeking sizeable rate increases has taken an increasingly heavy toll on those customers who are financially at the margin in terms of their ability to pay.” *Id. at lns., 12-16.* Mr. Eberdt concluded that “[w]hile the 5-year plan for LIBA is of tremendous assistance to the Company’s low income customers, the Energy Project remains concerned about the size of the rate increase in this case and the impact it will have on low income customers, especially those who are unable to participate in the LIBA program.” *Id., lns., 16-20.* Based on the foregoing, Mr. Eberdtd stated that “[t]he Energy Project opposes the magnitude of the requested rate increase but leaves it to other parties to address the technical aspects of revenue requirement.” *Id., lns 21-23.*

3. Mr. Eberdt articulated the Energy Project’s position that the changes to LIBA proposed by the Company in this case are consistent with the 5-year plan approved by the Commission in Docket No. 111190, Order 07 issued on March 30, 2012, regarding phased-in changes to LIBA funding and other program design characteristics and supports those proposed changes. *Id., p. 4, lns 15-21.* The plan includes the following changes to LIBA over the 5-year plan period: 1) a percentage of the Company’s LIBA recipients will be certified every other year, as opposed to annually; 2) the program will provide assistance to additional recipients; 3) the LIBA eligibility certification fee paid to the community action agencies who administer LIBA will be incrementally increased, and; 4) funding for benefits received by LIBA participants will be increased to twice the amount of any rate increase authorized by the Commission for PacifiCorp.

4. Mr. Eberdt pointed out that whatever ultimate rate relief any given party supports, under the terms of the 5-year plan and as confirmed by the Company and other parties, LIBA funding will increase by twice the percentage of any rate increase ultimately approved by the Commission for the residential class and the other conditions of the 5-year LIBA plan will still be implemented and funded. *Id., p. 5, lns. 2-6.*

5. The Energy Project opposed PPL’s proposed changes to its Schedule 300 customer service charges on numerous grounds including the fact that “[i]t is evident that PacifiCorp's basis for the reconnection fee increase is based on an amalgam of generalizations, allocations, averages, subjective assignment of costs, inclusion of costs completely unrelated to reconnection, and an assortment of other speculative and/or subjective information.” *Id., p. 10, lns. 9-12.* The Energy Project also challenged the proposed Schedule 300 charge increases on the basis that they would disproportionately impact low-income customers. For example, roughly one-third of the customers against whom the disconnection charge is imposed are low-income. *Exh. CME-1T, p. 12, lns. 20-22.* Mr. Eberdt outlined a number of other concerns about the proposed customer charge increases and provided a detailed discussion of the many consequences of the Schedule 300 charge increases and illustrated how the proposed increases to the customer charges were most likely to impact low-income customers and significantly so. Finally, Public Counsel also opposed the Schedule 300 changes.

6. In the face of the Energy Project’s and Public Counsel’s opposition to the customer service charge increases, the Company filed a Motion to Withdraw Tariff Filing on July 11, 2013, withdrawing all of the proposed Schedule 300 charge increases from consideration in this case. That motion was approved by the Commission in Order No. 04 on July 29, 2013. The issues regarding Schedule 300 charges, therefore, are no longer at play in this case.

7. On August 2, 2013, the Commission Staff filed the Responsive Testimony of Mr. Christopher T. Mickelson proposing, among other things, that the Company’s existing two-tiered residential rate design structure be revised as follows: 1) the existing first tier consisting of consumption up to 600 kWh/month be increased to 800 kWh. According to Mr. Mickelson, this captures a greater amount of non-discretionary usage for which there is no price elasticity. *Exh. CTM-1T, pp. 33-34;* 2) Mr. Mickelson further proposed that the existing second tier be capped at 1500 kWh/month because “any usage over 1,500 kWh should be considered discretionary, or excessive, energy use.” *Id., p. 34, lns 10-11*, and*;* 3) Mr. Mickelson proposed a third tier or “tail block” of all monthly consumption in excess of 1500 kWh, priced at the highest energy rate that residential customers would pay under Mr. Mickelson’s proposal. In support of this proposal, Mr. Mickelson noted that PPL’s average residential monthly consumption is 1300 kWh and that “creating a three-block rate design, compared to the current two-block rate design, should help with conservation measures by allowing a slightly more aggressive tail block rate.” *Id., p. 34, lns. 15-16.*

8. The Energy Project opposed Staff’s residential rate design proposals and filed the Cross-Answering Testimony of Charles Eberdt articulating that opposition. Mr. Eberdt pointed out that Staff’s proposed rate design changes are based on the presumption that the Company’s highest consuming residential customers are non-low income. Mr. Eberdt testified that PPL responses to Energy Project initial data requests in this case strongly suggest that this presumption might well be false and that, at least during winter heating months, low-income customers consume significantly more electricity than non-low income.

9. The Energy Project submitted a number of data requests in this case comparing monthly consumption between non-low income residential customers and low-income customers using a “low-income proxy group” defined as those PacifiCorp Washington customers who received either LIHEAP or LIBA benefits during the test year, but counting customers who received multiple forms of low-income assistance only once to avoid over-counting. Mr. Eberdt notes that, with respect to the data obtained thus far, “it is too early to be certain”[[1]](#footnote-2) as to any conclusions the data supports because of the complexity involved in analyzing the data and the need to collaborate with other parties, especially Staff and the Company, in order to fully understand the implications of the data and the likely need to obtain even more. Though the low-income proxy group is far smaller than all PPL customers who otherwise meet federal definitions of “low-income,” it is the best surrogate that the Energy Project has identified thus far that does not violate privacy rights.

10. Again, as Mr. Eberdt conceded in his cross-answering testimony, “the Energy Project has not had sufficient time or resources to fully vet this issue [referring to the relative consumption by low-income as opposed to non-low income PPL residential customers]. ” *Exh. CME-8T, p. 2, lns. 2-4.* Nonetheless, the Energy Project based its opposition to Staff’s proposed residential rate design on something greater than mere speculation and genuinely believes that additional, collaborative work on this issue will confirm that great care must be exercised when balancing the interests of low-income customers with the objective of encouraging conservation through higher rates imposed on discretionary consumption. The danger in pursuing this latter objective is that if low-income customers use relatively high amounts of electricity because of factors beyond their control such as poor housing stock, reliance on electric heat, and the inability to install weatherization measures, then they have little to no discretion or ability to avoid their high consumption. Considering that historic assumptions are now in doubt as to their accuracy, this collaborative effort to craft a residential design that best meets the disparate objectives described above will likely be challenging and will likely involve some very unique solutions, but is essential.

11. Mr. Eberdt expressed concern that, if one accepts the possibility that PPL’s low-income consumers are the highest residential users, especially during the cold weather months, then Staff’s proposed residential rate design changes would result in low-income customers paying the highest residential energy rates that PPL charges. Thus, Staff’s rate design proposal might well increase low-income bills and substantially so. As Mr. Mickelson noted himself, his proposed rate design changes would target higher users. Based on “simple logic and arithmetic,” Mr. Eberdt testified, this disproportionate impact on higher users would occur both by increasing the first residential rate tier from 600-800 kWh as well as by adding a third tier. *Id., p. 2, ln. 10.* Despite the fact that data provided by PPL has not been fully scrutinized, Mr. Eberdt still felt that he had “gleaned enough from the data provided [by PPL] thus far to form a basis for objecting to Mr. Mickelson’s proposal.” *Id., lns 5-*10*.* For this same reason, and despite the fact that Mr. Mickelson’s proposed rate design changes might be right-minded in terms of Staff’s objectives, Mr. Eberdt reasoned that “it is premature to alter the Company’s existing residential rate design as proposed by Mr. Mickelson until such assessment [i.e., the true relative level of low-income consumption and the impact of Staff’s proposed rate design changes on those customers] has been made.” *Id., p. 2, ln. 22-p. 3, lns1-2.*

12. The Energy Project was not alone in its opposition to Mr. Mickelson’s proposed rate design changes. The Company also opposed Staff’s residential rate design proposal regarding the revision of the existing two-tiered rate structure through the rebuttal testimony of Ms. Joelle Steward who testified that: “the Company does not support Mr. Mickelson’s other proposed changes to residential rate design because the supporting information is neither current nor necessarily reflective of the Company’s Washington service area.” *Exh. JRS-T2, p. 2, lns. 14-17.* Ms. Steward argued that the Company’s existing residential rate structure “already sends strong price signals to more customers than Mr. Mickelson’s proposed rate structure, including high usage customers.” *Id., lns. 18-21.* In addition, Ms. Steward testified, “the proposed rate structure could adversely impact the benefits customers receive through the Low Income Bill Assistance Program (LIBA).” *Id. pp. 19-21.* Ms. Steward argued that under Staff’s proposed rate design changes, some low-income customers “would not receive a low income credit in some months.” *Id. p. 21, lns. 1-2.* Ms. Steward concluded her discussion of this issue noting that Staff’s proposal to alter the existing tiered residential rate structure “was not included in the required notice to customers for this case; therefore, residential customers that would be affected would have not had an opportunity to comment before implementation.” *Id., lns. 3-6.*

13. Following the filing of PPL’s rebuttal and the other parties’ cross-answering testimonies, settlement discussions were conducted resulting in a Partial Settlement Regarding Cost of Service, Rate Spread, and Rate Design and executed by the Energy Project, the Company, Staff, Public Counsel and Boise White Paper and filed with the Commission on August 21, 2013. That partial settlement involved a variety of issues. Those issues relevant to the Energy Project’s direct interests include the impacts of Staff’s proposed residential rate designs on low-income residential customers as discussed below.

14. As part of the partial settlement, it was agreed that any increase to the Company’s residential rate class be recovered through “an equal percentage increase to all demand and energy rate components within each rate schedule,” and that the Company’s basic monthly charge be increased from $6.00 to $7.75. The effect of the partial settlement is that, among other things, Staff’s proposed residential rate design changes will no longer be proposed or supported by Staff or any other party to this case. The partial settlement is applicable only to any rate increase resulting from the Commission’s ruling in this case. The parties are free to propose residential rate design changes in future cases following a reasonable period of time during which they can work collaboratively to identify means of balancing the objectives of sending conservation price signals to residential customers while protecting low-income customers from paying a disproportionate share of the residential class revenue requirement while having no realistic ability to reduce their consumption.

15. The partial settlement was supported by the Joint Testimony of Christopher T. Mickelson, Joelle R. Steward, Lea Daeschel, Charles Eberdt and Michael C. Deen all of whom testified jointly and appeared at the hearing as a panel where the witnesses were available to the Commissioners for cross-examination. The Energy Project notes that Commissioners Goltz and Danner asked a number of questions of the panel during the hearing in this matter including, among other things, whether the imposition of a third residential rate tier was desirable because it would target those customers with a high degree of discretionary usage and questioning whether it was very likely that low-income customers would be among the Company’s highest residential consumers.

16. The Energy Project submits that the partial settlement constitutes a wise course of action by which Staff’s conservation price signal objectives will be fully explored along with the Energy Project’s objectives of avoiding a rate design that punishes low-income customers for non-discretionary consumption. The collective wisdom, knowledge and skills of the respective participants to such a collaborative should produce valuable information to better inform the Commission when this matter is addressed at a future time.

**II. CONCLUSION**

17. The Energy Project remains concerned about the magnitude of the Company’s requested rate increase and the impact on the poor of the annual filing of general rate cases. As noted, the Energy Project did not take a position on issues related to revenue requirement and revenue allocation or “rate spread” in this proceeding.

18. Notwithstanding its concern over rapidly increasing electric bills for the poor, the Energy Project supports the LIBA changes proposed by the Company under the 5-year plan and either not challenged or supported by all other parties to this case.

19. The Energy Project supports the partial settlement suspending Staff’s residential rate design changes and respectfully requests that the Commission direct the parties to analyze the issues raised by the Energy Project in this case and related to low-income consumption and the need to craft a rate design that is fair, just and reasonable to those customers. The Energy Project, therefore, requests that the Commission accept the partial settlement and order the collaborative rate design effort just described.

RESPECTFULLY SUBMITTED, this 1st day of October, 2013.

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 Brad M. Purdy

 Attorney for the Energy Project

 Attorney at Law

 2019 N. 17th St.

 Boise, ID. 83702

 (208) 384-1299 (Land)

 (208) 484-9980 (Cell)

 bmpurdy@hotmail.com

1. *Exh. CME-8T, p. 2, ln 1.* [↑](#footnote-ref-2)