

SHUTE MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

YOCHANAN ZAKAI
Attorney
yzakai@smwlaw.com

July 3, 2023

Received
Records Management
Jul 3, 2023

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

Re: Puget Sound Energy Climate Commitment Act Implementation
Dockets UG-230470, UG-230471

Dear Director Maxwell:

The Energy Project (TEP) respectfully submits the following comments on Puget Sound Energy's (PSE) petition to establish a new tariff schedule that recovers Climate Commitment Act (CCA) costs and provides credits to offset CCA rate impacts. TEP requests the Commission order PSE to work with its Low Income Advisory Committee to automatically identify eligible low-income customers and provide those customers bill credits to offset all CCA-related costs no later than January 1, 2024. In contrast, PSE's petition only proposes to offset all CCA-related costs to those low-income customers who are currently receiving, or have recently received, bill assistance. PSE should continue to rely on current and former enrollment in bill assistance programs for identification of eligible low-income customers, and in addition establish a process for automatic identification.

The CCA requires gas utilities to use the revenues generated by the auction of no-cost allowances to "eliminat[e] any additional cost burden to low-income customers from the implementation" of the CCA.¹ PSE's petition proposes to limit the scope of customers who receive bill credits that offset all CCA-related costs to income qualified customers who are also (1) currently taking service under an applicable Bill Discount

¹ RCW § 70A.65.130(2)(a).

Rate schedule; or (2) receiving bill assistance under Schedule 129 – Low Income Program or has received bill assistance under Schedule 129 within the last 24 months.

PSE’s proposal will likely result in the majority of eligible low-income gas customers within its service territory not receiving bill credits. PSE hosted meetings in early 2023 to discuss issues related to the filing of this petition. In these meetings, PSE estimated that approximately 250,000 gas customers within its service territory qualify as low-income, but only about 10,000 customers would receive bill credits under its limited proposal. Therefore, unless the Commission orders PSE to enlarge the scope of customers who receive bill credits, less than ten percent of eligible low-income customers will receive the bill credits required by the CCA when PSE begins to distribute the credits in August. Allowing approximately ninety percent of low-income gas customers to bear the costs of implementing the CCA will severely exacerbate the affordability crisis caused by increased rates in recent years and runs counter to the state’s goal of ensuring a just and equitable clean energy transformation.

Automatically identifying eligible low-income customers is feasible. In Docket UE-210792, PSE distributed approximately \$35 million of COVID-19 funds to help customers in arrears.² PSE automatically identified and provided grants to customers whose household income below 200 percent of the federal poverty level and had an arrear. To determine eligibility, PSE purchased Experian data to estimate household income.³ PSE estimated household size based on the average size of households in the customers census block. NW Natural adopted a similar automatic enrollment program, relying on third party data to guide the distribution of COVID-19 funds to all qualifying low-income customers.⁴ TEP cites these prior instances to demonstrate that such

² Dkt. UE-210792, Revises Tariff WN U-60, Electric Schedule 129, Low Income Program to Implement a Supplemental Crisis Affected Customer Assistance Program, Advice No. 2021-35, at 1-2 (Oct. 15, 2021) (“the Company will identify those customers who meet the criteria described above and will automatically provide the qualified Supplemental CACAP benefit amount to the qualifying residential service account”).

³ Dkt. UE-210792, Staff Open Meeting Memo for the November 12, 2021 Open Meeting, at 2 (Nov. 12, 2021).

⁴ Dkt. UG-220358, Revises Tariff No. WN U-6 to Add Language to the Existing Schedule K COVID-19 Assistance Program (CAP) to Enable NW Natural to Expand its Current Auto-Enrollment of Income Qualifying Customers, Advice No. 2022-03, at 1-2 (May 20, 2022) (“By adding language stating that the Company may identify auto-enrollments for past-due customers earning up to 200% FPL based on availability of

automatic identification is possible, not to recommend the Commission order PSE to provide CCA bill credits in the exact same manner.

PSE expressed concern with automatically providing bill credits on the grounds that third party data is not entirely accurate, and its use creates the risk of providing bill credits to medium or higher income customers. However, the inevitability that approximately ninety percent of eligible low-income customers will not receive the bill credits required under the CCA is a much more severe negative outcome than the possibility that some customers who do not qualify as low-income will receive bill credits. No policy provides perfect outcomes, and the CCA contemplates that medium and higher income gas customers will receive some relief from CCA costs through bill credits, which is reflected in PSE's proposal to provide non-volumetric credits to all customers as well.⁵ However, the CCA does not contemplate eligible low-income customers bearing the burden of CCA-related costs. To the contrary, the statute is clear that gas utilities must eliminate all CCA-related costs for each low-income customer within their service territory.

In stakeholder meetings with PSE, TEP responded to PSE's concern regarding accurate identification by suggesting that PSE target its automatic identification efforts to customers most in need, *e.g.*, under 200% of the federal poverty level. In that way, only customers automatically identified as having the lowest incomes—and the most in need—are automatically enrolled. All income-qualifying customers could receive the low-income CCA credit by enrolling in energy assistance programs, consistent with PSE's proposal.

TEP requests the Commission order PSE, as a condition of approving its petition, to work with its Low Income Advisory Committee to finalize a procedure for automatic enrollment of identified low-income customers by January 1, 2024. Otherwise, it is likely—if not inevitable—PSE will violate the CCA's mandate to eliminate all CCA-related costs for eligible low-income customers.

TEP also supports the Commission providing ratepayer advocates sufficient time to develop proposals addressing how PSE and its customers will share the risks associated with CCA implementation. Under PSE's proposal, the Company will recover 100% of the costs it incurs purchasing CCA allowances, regardless of how expensive they are on the market at any given time. To ensure market risks are sufficiently balanced

customer data, customer need and availability of funds, we hope to reach additional customers needing assistance”).

⁵ RCW § 70A.65.130(2)(b).

between PSE and its customers, PSE should have some “skin in the game” and share this risk. Ratepayer advocates requested additional time to craft proposals to address this issue.⁶ TEP recommends the Commission provide ratepayer advocates sufficient time to craft a mechanism, like the Power Cost Adjustments, which share this risk.

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 recessed open meeting.

Very truly yours,

/s/ Yochanan Zakai
Oregon State Bar No. 130369
SHUTE, MIHALY & WEINBERGER LLP
396 Hayes Street
San Francisco, California 94102
(415) 552-7272
yzakai@smwlaw.com

⁶ Dkt. UG-230470, Puget Sound Energy Petition to Revise Tariff WN U-2, Northwest Energy Coalition Request to Extend the Deadline for Written Comments, at 1-2 (June 28, 2023); Dkt. UG-230470, Puget Sound Energy Petition to Revise Tariff WN U-2, Public Counsel Notification of Support of the Northwest Energy Coalition’s Request to Extend the Deadline for Written Comments, at 1 (June 28, 2023).