

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

PUGET SOUND ENERGY

Gas Climate Commitment Act Tariff WN
U-2 Revision.

DOCKET UG-230470

**BRIEF OF THE ENERGY PROJECT ON PUGET SOUND ENERGY'S
LOW-INCOME ENROLLMENT TARGET**

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I. Introduction

1 The Energy Project (TEP) respectfully submits this Brief in response to the request of the Utilities and Transportation Commission (Commission) in Order 02.¹ On August 19, 2024, TEP, Commission Staff, and the NW Energy Coalition (NWECC) filed a Joint Petition requesting the Commission find that Puget Sound Energy (PSE or Company) violated Order 01² by intending to disenroll, on August 31, 2024, approximately 50,000 customers from its bill discount rate program (BDR) and Climate Commitment Act (CCA) low-income credit.³ Order 01 required 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, 2024.⁴ On August 29, 2024, the Commission considered the Joint Petition at its regularly scheduled open meeting. The Commission required PSE to continue providing bill assistance and CCA low-income credits to customers who were automatically enrolled through December 1, 2024.⁵ The Commission did not issue a final decision on the Joint Petition, but requested the parties “provide further briefing on compliance with Order 01.”⁶

2 Order 01 and the CCA itself prohibit PSE from disenrolling the approximately 50,000 automatically enrolled low-income customers who have not self-declared their income. Order 01

¹ Order 02 Temporarily Extending Eligibility for Bill Discount Reduction Program (August 30, 2024) (Order 02).

² Order 01 Allowing Tariff Revisions to Become Effective Subject to Conditions (August 3, 2023) (Order 01).

³ Joint Petition to Compel Compliance with Order 01 and Hear the Petition at the August 29, 2024 Open Meeting (August 20, 2024) (Joint Petition).

⁴ Joint Petition ¶ 20.

⁵ Order 02 ¶ 39.

⁶ Order 02 ¶ 41.

contemplates PSE providing CCA low-income bill credits to at least 70,000 low-income gas customers within its service territory on an ongoing basis, and explicitly requires PSE to rely on automatic enrollment using third-party data if necessary to reach that target. The CCA expressly requires PSE to protect *every* low-income customer in its service territory from the costs of CCA implementation on a permanent basis. Due to the clarity of Order 01's and the CCA's mandate, PSE's attempted disenrollment was not allowed, and necessitated quick action from TEP, the Commission, and NWECA to prevent it.

3 In addition to being mandated by the Commission and the CCA, preventing PSE from disenrolling these low-income customers is strong policy. If PSE disenrolls the 50,000 low-income customers from the BDR program and no longer provides CCA low-income bill credits, PSE's rate of enrollment of low-income customers will fall far behind its peers. This is not an acceptable outcome for the State's largest utility.

4 PSE's attempted disenrollment of 50,000 low-income customers is particularly unsatisfactory given that the Company's initial outreach to the automatically enrolled customers was insufficient. On September 13, 2024, PSE, TEP, NWECA, and Commission Staff executed a Joint Outreach Plan, which presents a more comprehensive approach to communications with customers who were automatically enrolled but have not yet applied for energy assistance. However, more work is needed to answer the Commission's question concerning which forms of communication are most effective at enticing customers to apply for energy assistance. TEP therefore recommends PSE and its LIAC work together on a pilot that tests which forms of communication most effectively result in low-income customers applying for energy assistance. Upon completion of the Joint Outreach Plan, TEP would accept the eventual disenrollment *from the BDR* of automatically enrolled customers who have not verified their income.

5 However, TEP would not accept PSE refusing to provide *CCA low-income bill credits* to any customer who has been identified as low-income within the preceding two years, including automatically enrolled customers who have not verified their income. Unlike the BDR, the CCA includes a clear legal obligation to provide bill credits to all low-income customers in perpetuity. TEP therefore supports maintaining the 70,000-customer target as a baseline requirement for the number of customers PSE must provide CCA low-income bills credits to, even if it requires regular reliance on automatic enrollment.

II. Order 01 and the CCA require PSE to provide low-income CCA credits to qualifying customers on an ongoing basis.

6 PSE has a statutory obligation to comply with all Commission orders that remain in force, including Order 01.⁷ Order 01 provides:

PSE must work with its Low-Income Advisory Group between August and October 2023 to either identify additional KLI 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. We agree with the commenters that PSE’s proposal is insufficient, and therefore 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.⁸

7 Order 01 requires PSE to protect a minimum of 70,000 low-income customers from CCA charges by enrolling them in the BDR program on an ongoing basis. The Commission did not authorize PSE to disenroll any low-income customers. Nor did the Commission state that low-income customers identified using third-party data would only remain eligible if they applied for bill assistance. The Commission established a minimum target of 70,000 low-income customers and provided explicitly that PSE was required to rely on automatic enrollment if necessary to

⁷ RCW 80.04.380.

⁸ Order 01 ¶ 20.

reach that goal. PSE’s contention that automatic enrollment using third-party data “was always understood by all parties as a temporary feature for six months”⁹ is baseless. When the informal efforts of TEP, Commission Staff, and NWECA to ensure compliance with Order 01 failed, we immediately responded to the planned disenrollment with the Joint Petition.

8 Equally meritless is PSE’s contention that requiring it to continue providing CCA bill credits to automatically enrolled customers “would arguably violate PSE’s Schedule 111.”¹⁰ In support of this assertion, PSE simply cites to the definition of “Identified Low-Income Customer” in Schedule 111, which only encompasses customers who have verified their income in some form. The definition contained in Schedule 111 is entirely irrelevant here, as it was not used in Order 01. The Commission expressly acknowledged Schedule 111 in Order 01¹¹, and still required PSE to rely on third-party data to automatically enroll customers if necessary to reach the 70,000 target. That Order 01 was issued in light of Schedule 111 only provides further support that Order 01 does not require any income declaration or verification as a prerequisite to receiving CCA low-income credits.

9 The CCA itself confirms that PSE is required to provide CCA low-income credits on an ongoing basis to customers who were automatically enrolled using third-party data. 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.¹² The CCA does not define “low-income,” but it is generally accepted among

⁹ Puget Sound Energy’s Objection and Response in Opposition to Joint Petition ¶ 11 (PSE Opposition)

¹⁰ PSE Opposition ¶ 11.

¹¹ Order 01 ¶ 3.

¹² RCW 70A.65.130(2)(a).

interested parties that the definition should be identical to that in the Clean Energy Transformation Act (CETA).¹³ The CCA requires gas utilities to hold *all* low-income customers harmless against every cost associated with the implementation of the CCA. The CCA contains no income verification requirements, nor does it contemplate temporary provision of low-income credits. Like Order 01, the CCA requires gas utilities to permanently provide CCA bill credits to low-income customers.

III. Continued provision of CCA low-income credits to automatically enrolled customers is necessary to ensure PSE’s enrollment does not lag behind its peers.

10 The need to prevent PSE’s planned disenrollment is underscored when PSE’s enrollment of low-income customers is compared to its peers. PSE has estimated that approximately 250,000 gas customers within its service territory qualify as low-income under the CETA definition.¹⁴ With 70,000 enrolled customers, 28% of PSE’s low-income gas customers would receive CCA credits. If the approximately 50,000 automatically enrolled customers who have not self-declared their income are disenrolled, *just 8%* of low-income gas customers will receive the bill credits they are statutorily entitled to receive. This year, PSE reports that just over 10% of its low-income customers (electric and natural gas) applied for and received bill assistance (this excludes auto-enrolled gas customers who have not yet self-attested their income).¹⁵

11 Hence, without acknowledging and building upon their automatic enrollment efforts, PSE’s energy assistance service to its low-income customers falls far behind its peers.

¹³ RCW 19.405.020(24) (“household incomes as defined by the department or commission, provided that the definition may not exceed the higher of eighty percent of area median household income two hundred percent of the federal poverty level, adjusted for household size.”).

¹⁴ Order 01 ¶ 2, fn. 1 (Meeting #3 Video at 1:25).

¹⁵ Puget Sound Energy, Presentation to Low Income Advisory Committee, at 12-13 (Sept. 10, 2024).

- Avista’s energy assistance programs currently serves 37% of estimated low-income customers, and Avista anticipates serving 53% of estimated low-income customers in 2025.¹⁶
- In conjunction with its CCA cost recovery filing, Cascade Natural Gas committed to serve at least 20% of its estimated low-income customers with bill assistance and automatically enroll customers if necessary to reach that target.¹⁷
- PacifiCorp reported serving 17% of its estimated low-income electric customers with bill assistance in 2023 and 2024,¹⁸ compared with PSE’s 5% in 2023 and 10% in 2024.¹⁹ PSE launched its enhanced energy assistance program with self-declaration of income on October 1, 2023, while PacifiCorp continues to require documentation of income for every customer served.²⁰ Despite the fact that PSE doubled the percent of customers receiving bill assistance in the last program year, PSE is still serving a smaller percentage of estimated low-income customers than PacifiCorp. The following table compares the percentage of estimated low-income customers enrolled in energy assistance programs.

Table 1

	PSE (electric and gas)	Avista (electric and gas)	PacifiCorp	Cascade
2023	5%	24%	17%	
2024	10%	37%	17%	
2025		53% estimate		20% with auto-enrollment

¹⁶ Dkts. UE-UG-240651-52, Avista Utilities, Cover Letter, Low-Income Rate Assistance Program Cost Recovery Filing, at 13 (Aug. 30, 2024). Dkts. UE-UG-240006-07, Avista Utilities 2024 GRC, Ex. SJB-9X at 22, Avista Bill Assistance Monthly Update (Aug. 8, 2024).

¹⁷ Dkt. UG-240141, Order 01, ¶ 9; Dkt. UG-240141, TEP Comments on Cascade Natural Gas Climate Commitment Act Tariff, at 2 (4-12-24).

¹⁸ PacifiCorp’s Energy Burden Assessment estimates that PacifiCorp serves 107,000 households, of which 45% fall below the income threshold of 80% of AMI. Dkt. UE-230172, PacifiCorp 2023 GRC, Exh. SNS-3 at 17 (Energy Burden Assessment). PacifiCorp reports serving 8,132 customers with bill assistance in the 2022-2023 program year. Dkt. UE-191024, PacifiCorp Low Income Bill Assistance Program 2023 Annual Report, at 2 (January 29, 2024). TEP estimates there are 48,150 income-eligible customers by multiplying 107,000 x 45%. TEP estimates that 17% of those customers are served in 2023 by dividing 8,132 / 48,150. TEP estimates 17% for 2024 by dividing 8,354 / 48,150. E-mail from Charity Spires, PacifiCorp, to Yochanan Zakai and Shaylee Stokes, The Energy Project, *LIBA Enrollment* (Oct. 10, 2024) (“The LIBA enrollment counts as of 09/31/2024 is 8,354.”).

¹⁹ Puget Sound Energy, Presentation to Low Income Advisory Committee, at 12-13 (Sept. 10, 2024).

²⁰ PacifiCorp will implement its enhanced energy assistance program with self-declaration of income no later than October 1, 2025. Dkt. UE-20172, Order 08, Settlement Stipulation, ¶ 19 (March 19, 2024).

12 Enforcing the minimum target of 70,000 customers, or 28% of estimated low-income gas customers, is reasonable to ensure that PSE—the State’s largest utility—is adequately serving its customers and complying with the CCA. Otherwise, a significant difference will exist between PSE’s enrollment rate and that of its peers. If automatic enrollment using third-party data is necessary to reach this target, the Commission should require PSE to utilize it.

13 In its opposition to the Joint Petition, PSE once again argued that the third-party data relied on for automatic enrollment is not reliable.²¹ However, at the August 29, 2024 Open Meeting, Commission Staff noted that PSE believes the data is over 90% reliable.²²

14 TEP reiterates its position that approximately 90% of eligible low-income gas customers not receiving the bill credits required by the CCA is a much worse outcome than some residential gas customers who are (perhaps marginally) over the income threshold receiving bill credits. Additionally, customers enroll in PSE’s energy assistance programs by self-declaring their income, a reliable practice which TEP strongly supports. PSE has yet to present evidence demonstrating that the third-party income data relied on for purposes of automatic enrollment is materially less reliable than self-declared income data provided by customers. Moreover, achieving and maintaining the 70,000 target can be done without relying on automatic enrollment *if* PSE conducts comprehensive outreach to the low-income customers within its service territory.

²¹ PSE Opposition ¶¶ 15-16.

²² Wash. Utils. and Transp. Commn. August 29, 2024 Open Meeting, Comments of Andrew Roberts, at 3:19.

IV. PSE must build on its prior outreach attempts to ensure it reaches the 70,000-customer target established by Order 01.

15 PSE’s original outreach of just two emails was insufficient to justify disenrolling approximately 50,000 of the lowest-income customers within its service territory. Because PSE enrolled these customers in the BDR tier that provides the least discount (5 percent)—instead of the tier that corresponded with their estimated income—many customers likely did not notice they were enrolled. TEP suspects that many low-income customers do not know they are receiving CCA credits, since these credits do not show up on PSE’s bill as a reduction in rates, but rather, as a lack of an increase to the basic charge. Pursuant to the Commission’s direction in Order 02,²³ PSE, TEP, NWECC, and Commission staff executed a Joint Outreach Plan to govern PSE’s outreach efforts to low-income customers who were automatically enrolled for the CCA low-income credit but have not yet declared their income.²⁴ TEP supports the Joint Outreach Plan, which reflects a significant step towards ensuring PSE conducts substantial outreach to these typically hard-to-reach customers.

16 However, more work is needed to so that the parties and Commission may adequately determine the effectiveness of the outreach delineated in the Joint Outreach Plan. In its opposition to the Joint Petition, PSE cited the conversion rate for the e-mail and mail communications they transmitted to the automatically enrolled customers.²⁵ The conversion rate for e-mail was 7.2%; for mail, the rate was 8.1%.²⁶ At August 29, 2024 Open Meeting, the Commissioner asked what a reasonable conversion rate would be. TEP does not have sufficient

²³ Order 02 ¶ 40.

²⁴ PSE, TEP, NWECC, Commission Staff Joint Outreach Plan Complying With Order 02 (September 13, 2024).

²⁵ PSE Opposition ¶ 12.

²⁶ PSE Opposition ¶ 12.

data to recommend a reasonable conversion rate. To determine a target conversion rate, TEP suggests PSE work with its LIAC to design a pilot to determine how different groups (e.g., elderly, rural, urban, non-English speakers) respond to different forms of outreach (e.g., postcard, mailed letter, automated phone call, personal phone call, text message, e-mail, or a combination of multiple forms). This pilot will provide important data allowing for the selection of a benchmark conversion rate.

V. TEP would accept differential treatment for CCA low-income credits and enrollment in the BDR program, if preceded by sufficient outreach efforts.

17 TEP believes that the CCA low-income credits and the BDR program do not need to be treated in an identical manner, given the different legal frameworks in which each requirement exists. The CCA includes strict language mandating that PSE protect each low-income gas customer within its service territory from the costs of CCA implementation. TEP would accordingly accept disenrolling some non-responsive customers from the BDR program, but only if the disenrollment is preceded by the additional outreach discussed above.

18 TEP, however, does not support the exclusion of any automatically enrolled low-income customer that has been identified in the past two years from the provision of CCA low-income credits. TEP recommends that the 70,000-customer target remain as a baseline requirement for PSE, unless the LIAC collaboratively agrees to request that the Commission modify the target, for example by establishing a target that applies to both gas and electric customer enrollment in energy assistance. PSE should be required to automatically enroll customers using third-party data if necessary to reach the target. PSE should routinely update its enrollment whenever updated third-party data from Experian is available, to ensure that a total of 70,000 customers are consistently receiving the credit. Targeted outreach should be provided to every customer who is automatically enrolled for CCA low-income credits.

VI. Conclusion and Recommendations

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For the foregoing reasons, TEP respectfully asks that the Commission:

1. Grant the Joint Petition.
2. Establish the 70,000-customer target as an ongoing baseline for the provision of CCA low-income bill credits.
3. Require PSE to periodically auto-enroll low-income gas customers when updated data from Experian is available, to ensure the 70,000 target is maintained.
4. Require PSE to provide outreach communications to every customer automatically enrolled.
5. Require PSE to work with its LIAC to develop a conversion rate pilot that tests the effectiveness of various forms of outreach communication.

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