

BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION

WASHINGTON UTILITIES AND	)	
TRANSPORTATION COMMISSION	)	
	)	
Complainant,	)	DOCKET NO. UE-140762
	)	
v.	)	
	)	
PACIFIC POWER & LIGHT	)	
COMPANY d/b/a PACIFICORP	)	
	)	
Respondent.	)	
.....	)	

THE ENERGY PROJECT'S  
INITIAL POST-HEARING BRIEF

## **I. SUMMARY**

Many of the issues originally of concern to the Energy Project were removed from consideration by virtue of the voluntary withdrawal by PacifiCorp of portions of Company witness Ms. Barbara Coughlin's testimony including her proposed increases to Schedule 300 customer service charges such as disconnection and reconnection, and field visit charges for disconnection due to non-payment. As stated in the testimony of Mr. Charles Eberdt, the Energy Project supports the Company's proposed annual adjustments to the LIBA program per the 5-year plan.

Thus, the two remaining issues of concern to the Energy Project pertain to: 1) the Company and Staff's proposed increases to the residential basic charge, and; 2) Staff's proposed rate design change implementing a third tier for residential customers.

## **II. ARGUMENT**

### **1) Basic Charge**

The Energy Project opposes any increase to the basic charge for several reasons. As noted in Mr. Eberdt's testimonies, the increases to that charge proposed by both Staff and the Company are substantial. It seems incongruous that Staff's primary rationale for the proposed 3rd tier is to send a proper price signal to encourage conservation, yet Staff proposes nearly doubling a charge over which customers have absolutely no control. In that respect, the two price signals are mixed.

Mr. Eberdt also testified that the proposed basic charge increases are a departure from historical practice in terms of which utility costs the charges are designed to recover. In this regard, Mr. Eberdt notes that the proposed charges will recover a portion of PacifiCorp's distribution system, a fixed cost not traditionally recovered through a basic charge.

Regarding the Company's proposal to only increase the basic charge by \$1.00 for low income customers who receive benefits under either LIHEAP or LIBA, Staff witness Roger Kouchi has noted that this group of customers is not a legitimate proxy for PacifiCorp's true low income population. The LIHEAP/LIBA recipients constitute only 5.4% of the Company's residential population, yet the poverty levels in the Company's Yakima and Walla Walla service areas might be as high as 38% and 28%, respectively. *Test. of R. Kouchi (Exh RK-1T), p.9.* Thus, limiting the basic charge increase to only those customers already receiving some form of assistance hardly scratches the surface of the true low income population, the majority of whom will bear the full brunt of a considerable basic charge increase.

Mr. Eberdt also noted that the Company's residential class end-use survey conducted pursuant to Commission Order No. 07 in Case No. 130043 showed that 65% of customers who responded objected to paying a higher percentage of their monthly bill in the form of a fixed charge over which they have no control.

In addition, and as discussed below, the evidence submitted in this case has revealed that a relatively significant percentage of LIBA participants are relatively high users, especially during winter months. At the same time, however, the Company's own end-use study indicates that there are certainly low income customers who are very low users as well. Whether these customers are senior citizens living in very small homes but with manageable heating costs, or any number of possible scenarios, nearly doubling their basic charge can have a proportionately greater impact on them. One cannot examine all of the rate designs presented to the Commission without taking the entirety of their various components, and the interaction between them, into consideration. For example, Staff's basic charge might result in a relatively large rate increase for low income customers with very low usage. Those customers who fall more into the second

tier will actually see a rate decrease, even with an increased basic charge. For those low income customers occupying the proposed 3rd tier, a higher basic charge might actually result in lower monthly bills in some months. Regardless, the point is that Staff's rate design proposal, when viewed on the whole, sends mixed rather than clearer price signals.

### **3) Staff's 3- Tiered Residential Rate Design Proposal**

#### **A) Synopsis**

Staff's three tiered residential rate design proposal was withdrawn through settlement in PPL's last general rate case (Docket 130043) pending the acquisition of additional information that would help guide the parties and the Commissioners toward better informed decisions related to the impact that a 3rd tier would have on low income customers. Slightly more than a year later, the questions raised in that case have largely gone unanswered. As demonstrated below, there is now solid evidence that the Company's low income population is largely underestimated and unidentified and that a relatively high percentage of low income customers already needing assistance in paying their bills populate the group of highest users during the critical winter months. Still, no definitive bill impact analyses have been performed to reveal the overall effect that a 3rd tier would have on the poor. If anything, there is even less support for Staff's proposal now than a year ago.

#### **B) Background**

Order 05 issued on December 4, 2013 in Case No. 130043 accepted a settlement through which the parties agreed to defer Staff's proposal for a 3<sup>rd</sup> residential tier for PacifiCorp. Beginning on page 94 of Order 05, the Commission summarized the various positions of the parties to the settlement agreement on the issue of rate design and made numerous references to information needed to inform a future decision about whether to implement a 3rd tier for the

Company. For example, starting on page 95, paragraph 247, the Commission noted the Energy Project's "premise" that identified low income customers are "relatively high users, especially in the winter months." That premise now rests on solid and unchallenged factual evidence, though the overall impact of a 3rd tier on the Company's true low income population remains quite blurry.

The Commission further stated:

Without more statistical analysis and some attempt to identify low-income customers who do not participate in low-income assistance programs, it is difficult to know whether creating a third tier or raising rates more in the higher tiers unduly burdens those who have the least ability to pay.

*Order 05, p. 96, par. 248.*

In its determination, the Commission noted that adding a 3rd tier to PPL's residential class "is an idea worth revisiting" in the next general rate case "when the Commission will be better informed concerning the possible impacts of such a change on low-income customers." *Id., p. 97, par. 250.* The Commission concluded by commending the parties "for their plans to develop meaningful information on these subjects that will better inform the Commission in a future case concerning possible changes in rate design that will promote conservation while providing rates that are reasonable and fair to all customers." *Id. at par. 251.*

Regarding its understanding and expectation of future studies and analyses concerning alternative rate designs and their impact on low income customers, the Commission noted:

PacifiCorp will also conduct a new survey of residential consumption no later than July 31, 2014, for the Company's Washington service area. This information will help the parties in PacifiCorp's next general rate case to formulate alternative rate spread and rate design proposals by providing data relevant to the Company's current Washington operations.

*Id., p. 95, par. 243.*

Finally, the Settlement Agreement submitted to the Commission on August 21, 2014 in

Case 130043 and ultimately approved by the Commission included the following conditions:

- PacifiCorp will include direct testimony in its next general rate case that analyzes the current residential tiered block rate design and possible alternatives, including changes in the number of blocks, size of blocks, and impacts on low-income customers.
- PacifiCorp will conduct and provide to all Parties, no later than July 31, 2014, a new survey for residential end-use consumption and rate design for the Company's Washington service area, as described by Company witness Joelle R. Steward in Exhibit No. JRS-7T at pages 17-18.

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*Settlement Agreement at pp. 5-7.*

The Settlement Agreement and Commission's final order approving it leave no doubt that there existed high hopes for additional data that would reveal of the consequences of a 3rd residential tier, both positive and negative, and with a particular eye toward the impact on low income customers. The Energy Project respectfully submits that these objectives have not been achieved and the Commission is now presented with even less factual support for a 3rd residential tier than it was a year ago. The Energy Project wishes to emphasize that it does not oppose a 3rd tier per se, but proposes that the Commission order the Company to perform and provide to the parties a detailed bill impact analysis revealing whether the Company's low income customers will be unduly harmed as a result of such a rate design change.

**D) Staff's Proposed 3rd Tier**

As noted in Mr. Eberdt's Cross-Answering testimony, Staff's proposed 3<sup>rd</sup> tier rate is 30% higher than the proposed 2<sup>nd</sup> tier. Though Staff's proposed second tier rate is lower than the existing 2nd tier, the proposed 3<sup>rd</sup> tier rate is still 22% higher than that. Mr. Eberdt states that under Staff's proposal, a customer can consume up to 1956 kWh/month and still pay less than he would under the Company's current rate design. This contradicts the very price signals that Staff claims will result from a 3rd tier.

Many low income customers utilize electric resistance heating which explains why their winter consumption places many of them among the highest residential users. Thus, the proposed 3<sup>rd</sup> tier hits low income customers at a time of year when they can least afford it, the winter months. Despite Mr. Twitchell's admirable attempts to target truly elastic consumption for higher pricing, there is simply no elasticity for low income customers during the winter months unless they endanger their own health and safety and until the extent of the impact on low income customers with high yet inelastic consumption is better known, the risks outweigh the potential reward from a ratemaking standpoint.

**i) Residential Survey**

The Company sent its survey out to a few thousand customers, but the response rate to the survey was discouragingly low, especially with respect to low income customers. Heat pumps are even less common for low income households.

Although the Energy Project had much higher expectations regarding the Company's residential survey and the information it would yield, it did provide a modest bit of useful data. For example, it shows that identified low income customers use electric resistance heat twice as much and use gas half as much as regular residential customers.

**ii) Other Information**

Mr. Eberdt pointed out in Cross-Answering testimony the possibility that Staff selected 1700 kWh as the threshold for the 3<sup>rd</sup> tier based on an agreement reached in a recent PSE case. But the fact that the 1700 kWh/month threshold was adopted for PSE does not mean that it is appropriate for PacifiCorp, the latter having a colder winter service territory and a service territory with higher poverty levels.

Because of the paucity of useful information contained in the responses to the Company's survey, the Energy Project submitted a number of discovery requests during the course of the hearing in this case. For example, the Energy Project sought a bill impact analysis using the precise parameters and metrics that Staff indicated it would likely propose in support of its 3 tier rate design when it filed its direct case. The Energy Project even couched these requests in the hypothetical given that Staff had not yet made its filing. As it turned out, the hypothetical data requests submitted by the Energy Project to the Company align perfectly with Staff's proposal. The Company declined to respond to the Energy Project's data requests, however, on the basis that Staff had not formally filed its direct case. The Energy Project believes that a bill impact analysis of the nature it sought from the Company is critical to providing the very information that the Commission declared was necessary in Case 130043.

The Company did respond, however, to other pertinent discovery requests providing concrete evidence that there are LIBA participants included among the Company's highest users and a substantial percentage of low income customers' usage would fall well within Staff's proposed 3rd tier, especially during the coldest winter months. The data that PPL did provide indicated that a higher percentage of LIBA participants' monthly usage during the winter exceeded that of non-low income customers. For example, during the coldest winter months of Dec-Feb, 40-60% of low income customers exceed 2000 kWh, 50% of such customers exceed 2200 kWh and more than 40% exceed 2400 kWh during Dec and Jan. *Cross-Answering Testimony of Charles Eberdt (Exh. CME-9T) at p. 7.* All three of the foregoing groups would have higher bills under Staff's proposed rate design than under the existing two tiered system.

The foregoing facts prove that 1700 kWh is simply too low as a threshold for a 3<sup>rd</sup> tier and without a detailed bill impact analyses, it is difficult if not impossible to determine how a 3<sup>rd</sup>

tier could be established and truly elastic consumption targeted without risking significant harm to the Company's most vulnerable customers.

Another compelling factor is that the foregoing information is based on LIHEAP and LIBA recipients who constitute 5.4% of the total residential population. Staff witness Kouchi has pointed out that this is well below the actual percentage of low income customers system-wide. To the extent that the proposed 3rd tier will have an overall negative impact on low income customers, it will be much greater in magnitude than suggested by the handful of customers analyzed.

### **iii) Staff's Proposal**

Staff witness Jeremy Twitchell states that the Company's LIBA program will "continue to address the needs of [PacifiCorp's] low-income consumers," and that "there is no need for additional rates specifically targeted at low-income customers at this time." *Test. of J. Twitchell (JBT-1T)*, p. 34, lns 20-22 through p. 35, ln. 1. Mr. Twitchell does state that "Staff, the Company and its implementing partners re-evaluate" the LIBA program benefits "based on the outcome of this case." *Id.*, p. 34, lns 6-8. This merely begs the question, however, of whether this would only occur after harm had already been inflicted.

Moreover, it's not clear if Mr. Twitchell is aware that the 5-year LIBA program agreement was a negotiated settlement primarily between Staff and the Energy Project, though the other parties to that case agreed to it, and approved by the Commission on March 30, 2012 in Order 07, Case No. 111190. Thus, we are roughly halfway through the 5 year plan and it is uncertain whether it can even be altered at this point. If so, it seems that the consent of Staff, all parties to the agreement, and the Commission would most certainly be required, certainly a time-consuming process. Thus, Mr. Twitchell's inference that the LIBA program can possibly be "re-

evaluated" after the fact is of little to no value with respect to the collateral harm that might be inflicted on an unknown but likely considerable percentage of the low income population if the 3rd tier is approved.

It should also be noted that the 5 year LIBA plan annually adjusts LIBA benefits and agency compensation, but was not designed to offset the effects of interim rate design changes that negatively impact the poor. As Staff witness Kouchi points out, the LIBA program is woefully inadequate to truly address the needs of the Company's actual low income customers anyway. Piling a potentially harmful 3rd tier on an under-funded low income bill assistance program seems highly unwarranted. Perhaps a better solution would be to use the time remaining before the 5-year LIBA plan expires to conduct the analyses anticipated by the parties to the 130043 general rate case. Thus, to the extent that it is even possible for changes to the LIBA program to sufficiently offset the impacts of a three tier rate design, these decisions could be made simultaneously by the Commission rather than in a staggered fashion with the harm likely coming well ahead of offsetting benefits.

Considering that PPL has gone until now without a 3rd tier, it seems more prudent to move forward with rate design changes cautiously and only when ample information exists to guide the associated decisions.

#### **iv) PacifiCorp's Position**

The Company's itself acknowledges the potential harm that Staff's proposed 3<sup>rd</sup> tier will cause low income customers pointing out that 85% of the Company's Schedule 17 LIBA recipients had usage exceeding 1700 kWh during winter months driven largely by the use of electric heat. *Reb. Testimony J. Steward (Exh. JRS 13-T), pp. 37-40.*

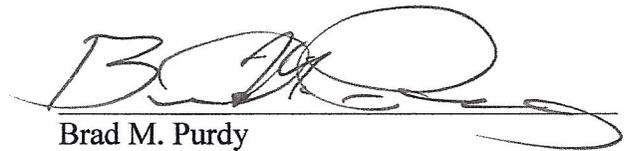
### III. CONCLUSION

The Energy Project respectfully submits that, in the grand scheme of things, the highest priority in this proceeding related to low income issues is to advance the understanding of PacifiCorp's low income customers from their numbers to the patterns and amounts of consumption. Staff witness Kouchi very eloquently framed this issue and expressed the overriding fact that we still possess relatively little knowledge regarding the vast majority of PacifiCorp's low income customers.

In light of the terms of the Settlement Agreement in Case 130043 and Commission Order 05, the Energy Project had expectations that the Company's survey would offer more than characterization of customers' appliances, heating and cooling systems, and so on. The survey fails to adequately reflect the sizable low income population that could be affected by the three-tier rate design that Staff has proposed in the course of the last two general rate cases. The Commission could direct the Company to dive deeper into gathering and analyzing the usage characteristics of the large low income share of its customer base that is not already identified by and limited to those customers who are current participants in the existing bill assistance programs. The Company could easily segment residential customers by usage levels by month, but should also research what percentage of each level qualifies as low income. The Company could then cross-reference usage levels with metrics such as housing size, geographic location, presence of affordable housing, etc., to attempt to gather a better picture of who its low income population is and how they will be affected by different rate designs. It might be that PacifiCorp will need to retain an outside consultant with the necessary expertise, but the fact is that such segmentation has been used by utilities for other purposes over the past couple decades.

In short, the Energy Project submits that until this groundwork has been done, the impact of alternative rate designs, and a host of other issues, on low income customers will continue to involve shooting in the dark and assessing the consequences after the fact.

RESPECTFULLY SUBMITTED, this 22nd day of January, 2015.



Brad M. Purdy