

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  
POST-HEARING REPLY BRIEF

## **I. INTRODUCTION**

The Energy Project hereby respectfully replies to several arguments raised in the Initial Post-hearing Briefs of the Commission, Staff and The Alliance for Solar Choice related to Staff's rate design proposal.

## **II. ARGUMENT**

### **1. Commission Staff**

#### **A. Staff's Estimate of Energy Efficiency Investment Resulting from Third Tier Is Overstated.**

In its initial brief, Staff argues that its proposed third tier “would incent investment in energy efficiency by providing high-use customers a stronger and more effective price signal.” *Br., Par 118, p. 45* Staff adds that this price signal “would support multiple state policies that express strong support for increased investment in energy efficiency and renewable energy generation.” *Id.* But as the undisputed evidence on record in this case reveals, 85% of those customers who received bill assistance through LIHEAP or LIBA during the test year had usage that exceeded 1700 kWh at least one month during the year. *Exh. JRS-13T 36:8-9.* Company witness Joelle Steward's analysis of low income consumption further reveals that during the months of December through February, Schedule 17 (bill assistance recipients) customers had consumption in excess of 2000 kWh, and well in excess of 2500 kWh during December. *Id., p. 38 (Table 12).*

In addition, Mr. Eberdt's Exhibit CME-11 shows that more than 60% of Schedule 17 low income customers exceeded 1700 kWh in January and February and more than 50% exceeded that mark in December. Staff has not challenged any of the foregoing factual assertions on record in this case.

As submitted by both Ms. Steward and Mr. Eberdt, the likely reason that many low income customers are high users, at least during winter months, is the heavy reliance of those customers on electric resistance heating. This is particularly true in PacifiCorp's service territory which, in comparison to that of PSE, is relatively colder during the winter. Due to the lack of viable alternatives for low income customers with respect to reduced consumption or switching to a cheaper heat source, Staff's 3-tier rate design effectively penalizes low income customers due to their electric heat source, something they have no control over. It is difficult to see how this constitutes any manner of "price signal." *See, e.g., Exh. JRS-13T 36:8-9.*

Staff witness Roger Kouchi contends that PacifiCorp's true low income population is considerably higher than the Schedule 17 bill assistance recipients who constitute a mere 5.6% (5876 customers) of the total residential population of 104,928. Noting the relatively high poverty rate of PacifiCorp's service territory, Mr. Kouchi estimates the Company's true low income population to range from 23-49% of all residential customers. *See, Exh. RK-1T, pp. 8-11.* Assuming, for the purposes of a hypothetical, a mid-point of 36% as the Company's true low income customer population, and further assuming that 85% of these customers will also consume more than 1700 kWh at least one month each year just as the Schedule 17 customers did, that suggests that there could be 32,108 low income customers within the Company's third tier during one or more months each year.

While the foregoing calculations are clearly based on estimates and a hypothetical scenario, it does lend a clearer perspective to the potential consequences of implementing Staff's third tier proposal until additional data can be obtained and measures by which low income customers with no price elasticity can be protected from substantial harm are devised. Until then, it is dangerous to make critical decisions based on the assumption that only 5.6% of

PacifiCorp's customers are low income and that all customers who consume more than 1700 kWh have the ability to reduce their consumption.

Staff's conclusion, therefore, that its third tier will incentivize customers to purchase and install energy efficiency measures is unrealistic, blind to the presence of low income customers within the third tier, and fails to even assess whether such customers have the resources, means, and authority to invest in energy efficiency measures. Low income customers who rent their premises might not even have the authority or economic rationale to install energy efficiency measures. As Mr. Eberdt testified, low income customers generally lack the necessary resources to reduce their consumption and, consequently, have usage that cannot be characterized as "elastic." Without the complete elasticity of all third tier users, Staff's entire rationale begins to unravel.

In fact, it might be just as likely that low income customers who have no elasticity in their consumption and who consume more than 1700 kWh will simply be unable to pay their bills resulting in disconnection, or even worse, they might resort to dangerous measures such as leaving the oven door open or burning organic materials such as charcoal to keep warm. In short, Staff's view of how customers will react to the proposed third tier is uninformed and unrealistic.

Incidentally, The Energy Project notes that it has not denied that targeting excessive, truly elastic consumption with conservation-encouraging price signals can be a legitimate ratemaking objective, but the devil is in the details when it comes to the underlying rate design structure used to send such price signals when such a substantial population of low income customers will clearly be negatively affected. The Energy Project is concerned that Staff's specific proposal is akin to dropping a price signal bomb on a mixed population of low income

and non-low income customers, the former unable to shield themselves through reduced consumption, the installation of energy efficiency measures, or fuel switching. The evidence on record in this case suggests that the collateral damage of such a rate design strategy could be very high, justifying a deferral of Staff's proposal pending the information collection and analysis process proposed by Mr. Eberdt in his testimony and included in the Energy Project's Initial Post-Hearing Brief.

**B. Staff's Third Tier Proposal Based on Lack of Low Income Data**

Staff states in its initial brief that "Staff believes the creation of a third and higher priced rate block would provide a more accurate and effective price signal to a majority of PacifiCorp's highest energy users" *Par. 120, p. 45 (Emphasis added)*. But Staff witness Jeremy Twitchell's testimony makes no attempt to discern, for purposes of his 3-tier proposal, between low income and non-low income customers consuming energy within the third tier. Thus, Staff's statement that the "majority" of PacifiCorp's "highest energy users" would receive a more appropriate price signal is blind to the fact that an unknown and potentially considerable number of those customers have little to no price elasticity. Staff, therefore, cannot even speculate how the "majority" of the highest energy users will respond to the third tier price signal.

**C. PacifiCorp's End-Use Study and Price Signals**

Curiously, Staff notes that the end-use survey conducted by the Company, and which yielded relatively little useful information, "clearly shows that customers are neither recognizing nor responding to any price signal created by the Company's current rate structure." *Br., Par. 121, p. 46*. If the Company's customers are blind to price signals as Staff contends, then it calls into question the entire basis for implementing a third tier.

What appears to be a disconnect between the Company's current price signals and customer consumption might actually be explained by a relatively high low income population within the third tier who have little to no price elasticity. If so, the implementation of a third tier would simply punish low income customers unable to control their own plight.

It is also worth noting that the Company's end-use study also reveals that its low income population is heavily dependent upon electric resistance heat to the extent of more than two times that of non-low income customers. Unfortunately, the Energy Project had higher hopes for the end-use than what actually came to fruition. The study simply does not provide adequate information regarding low income customers necessary to support Staff's 3-tier proposal.

**D. Staff's Third Tier Proposal and Supporting Theories Rely on Vague, Undefined Labels.**

Staff's third tier is perplexing in its lack of specificity, reliance upon unsubstantiated presumptions and terminology or labels that are vague, undefined, and create confusion. For example, Staff argues that customers whose usage falls within the 0-850 kWh "do not have discretionary consumption to respond to a price signal in any meaningful way." *Br., Par. 123, p. 47.* Thus, Staff contends, "any analysis of how a price signal would affect customer behavior should omit that group." *Id.* Throughout its initial brief, Staff frequently lumps customers into groups with labels such as "majority," "average," or by effectively assuming that their consumption falls neatly within the parameters of a given price tier, such as by referring to customers who consume between 0 and 850 kWh as "that group." *Id. at p. 47.* In reality, most customers' consumption does not neatly place them into convenient categories and any rate design based on any other premise will prove problematic.

Staff, whether by direct contention or inference, is presuming that all consumption in excess of 1700 kWh/month is elastic and will be responsive to a price signal. This presumption constitutes a fatal flaw in Staff's entire proposal. The Energy Project does not deny that very low users likely don't have much elasticity in their usage, but based on the factual record in this case, adamantly disputes that all customers exceeding 1700 kWh do have elasticity. Again, Staff has seemingly not even attempted to discern between low income and non-low income customers in this regard. Staff offers no evidence that the usage of low income customers who consume in excess of 1700 kWh is truly elastic and generally demonstrates a disregard for the implications that low income customers bring into the rate design analysis including, but not limited to, their relatively heavy reliance on electric resistance heating, and the relatively colder weather and higher poverty levels in PacifiCorp's service territory.

## **2. The Alliance for Solar Choice ("TASC")**

In its initial brief, TASC states that it "generally supports" Staff's 3-tier rate design proposal. TASC does recommend different rates for the three tiers, however, to accommodate its expert witness Mr. Fulmer's recommendation for a basic charge not to exceed \$9.00/month.

With respect to the position of TASC, the Energy Project simply notes that, aside from its "general support" for Staff's 3-tier rate design, it offers absolutely no independent facts, studies, analyses, or any other substantive arguments of its own supporting the third tier and why it should be adopted by the Commission.

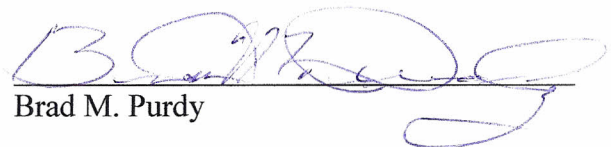
## **III. CONCLUSION**

The fatal flaw in Staff's 3-tier proposal is the presumption that all high energy users have discretionary consumption coupled with Staff's failure to even take into consideration the impact that the third tier will have on low income customers. The Energy Project does not dispute the

objective of targeting high, elastic consumption but Staff's proposal is so riddled with presumptions, inaccurate statements of fact, and lack of critical information, that the Commission cannot possibly determine whether, based on the record before it in this case and at this time, Staff's proposal is fair, just and reasonable and does not impose undue harm on low income customers.

The Energy Project reiterates the proposals outlined in Mr. Eberdt's testimonies and the Energy Project's Initial Post-Hearing Brief to initiate a process that will obtain the information needed to significantly advance knowledge of low income customer populations, consumption habits, and ability, or lack thereof, to control consumption. Until such knowledge has been acquired, the Energy Project respectfully submits that Staff's third tier in this case simply presents excessive risk that cannot be justified when the possible implementation of a third tier can simply be deferred pending the completion of a more effective fact-finding collaborative effort.

RESPECTFULLY SUBMITTED, this 3rd day of February, 2015.

  
Brad M. Purdy