

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

<p>In the Matter of the Petition of</p> <p>The Energy Project, Commission Staff, and NW Energy Coalition</p> <p style="text-align: center;">Petitioner,</p> <p>To Compel Puget Sound Energy’s Compliance with Order 01.</p>	<p>DOCKET UG-230470</p> <p>ORDER 03</p> <p>GRANTING REQUESTS FOR CASE CERTIFICATION</p>
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- 1 **BACKGROUND.** On June 9, 2023, Puget Sound Energy (PSE or Company) filed with the Washington Utilities and Transportation Commission (Commission), in Docket UG-230470, a proposed Tariff Revision to WN U-2, to implement Schedule 111, allowing PSE to recover costs associated with Climate Commitment Act (CCA) allowances and pass back credits from allowance auction proceeds.

- 2 PSE’s revision was approved subject to several conditions set out in Order 01 of this docket. Among other requirements was for PSE to either identify known low-income customers or automatically enroll low-income customers in a bill discount or bill assistance program; the Order established a target of at least 70,000 customers to be met by January 1, 2024.

- 3 At the Commission’s August 3, 2023, Open Meeting, this item was thoroughly discussed. The Commission ultimately agreed with commenters that PSE’s proposal was insufficient and stated that it would “...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.”

- 4 Commission Staff (Staff) interpret the 70,000-customer requirement as a minimum, perpetual threshold for the number of customers PSE needs to have identified for CCA compliance.

- 5 On January 9, 2024, PSE met with the Low-Income Advisory Committee (LIAC) to confirm over 70,000 low-income customers were receiving the CCA credits which offset their CCA charges to eliminate any additional cost burden associated with CCA implementation, in accordance with Order 01.

- 6 On April 25, 2024, PSE submitted to the Commission a Compliance Filing detailing how it was able to achieve the 70,000-customer threshold. Upon review, Staff submitted a letter acknowledging compliance with Order 01.
- 7 PSE’s Compliance Filing explained it used third-party data to add customers to the CCA cap and invest income-eligible flag, beginning with the lowest-income customers. The Company states these customers were temporarily enrolled into the lowest tier¹ of the Bill Discount Rate (BDR) program, which also added those customers to the CCA cap and invest income-eligible flag.²
- 8 On September 18, 2023, December 12, 2023, and May 14, 2024, PSE met with its LIAC to discuss PSE’s progress and the customers it had auto-enrolled through third-party data. It was not clear to LIAC members until the May 14, 2024 meeting that these customers would lose the CCA cap and invest income-eligible flag in addition to the BDR, if such customers continued to not complete the enrollment process by providing a self-attestation.
- 9 During the May 14, 2024 LIAC meeting, The Energy Project (TEP), NW Energy Coalition (NWEC), and Staff asked about extending the enrollment period for these customers beyond the original six months set for the enrollment period. The Company expressed that it would investigate what options were available for these customers.
- 10 On May 17, 2024, PSE met separately with TEP, NWEC, and Staff to discuss the collective concerns regarding PSE’s intention to disenroll more than 70 percent of the customers it had enrolled in response to Order 01. During this May 17, 2024, meeting, TEP requested PSE to extend the enrollment period and for PSE to conduct additional outreach to encourage those customers to complete an energy assistance application with PSE. During the meeting, PSE expressed its verbal support for this plan, but the Company would need to discuss it internally and get approval to extend.
- 11 On June 20, 2024, Staff submitted a Compliance Letter to the Commission acknowledging PSE’s compliance demonstrated in its April 25, 2024, filing.

¹ BDR established in Docket UG-230561.

² See also Advice No. 2023-27, Puget Sound Energy’s Natural Gas Tariff Revision, July 6, 2023 Letter from PSE to UTC (“To receive the discount under Schedule 23BDR, a customer must declare their eligibility during the enrollment process. . . . The discount tier the customer receives will be determined by the customer’s declared eligibility during the enrollment process.”)

- 12 The Company did not provide any further detail about these customers until the July 2024 LIAC meeting in which PSE said it made the decision not to extend the enrollment period for over 50,000 customers who had pre-qualified through third-party data and been auto-enrolled into the programs, but had not self-attested to their low-income status.
- 13 On July 9, 2024, PSE advised its LIAC it would be disenrolling the 50,000+ customers who had not declared their eligibility during the enrollment process. This disenrollment was scheduled to be effective August 31, 2024. PSE advised the customers that would be removed from both the BDR program as well as the CCA cap and invest income-eligible flag. LIAC members did not voice support for PSE's decision. TEP, NWECA, and Commission Staff voiced their strong opposition to PSE's decision.
- 14 On July 16, 2024, Staff met with TEP, NWECA, and Public Counsel regarding a collective, planned approach with PSE. The parties collaborated over two weeks before sending PSE a final request. On July 31, 2024, Staff sent a request via email to PSE requesting extension of the enrollment period for these customers to maintain those party's interpretation of compliance with Order 01. On August 19, 2024, PSE notified Staff via email it would be declining to take the requested action under advice of counsel.
- 15 On August 19, 2024, PSE also filed a letter to the Attorney General's Office providing its interpretation of events.
- 16 On August 20, 2024, TEP submitted the Joint Petition onto which Staff and NWECA have signed.
- 17 On August 26, 2024, PSE filed a response to the petition challenging characterizations of the posture contained within the Joint Petition. In its response, PSE argued that the Company was not de-enrolling customers, but instead was declining to take additional action to extend enrollment for those who had not self-attested to eligibility. Further, PSE argued that the Company should not extend enrollment for those customers, as such action was never contemplated in the proceeding and doing so would be inconsistent with PSE's BDR tariff and with the collaborative efforts made to date.
- 18 This matter came before the Commission at its regularly scheduled open meeting on August 29, 2024, where the Commission heard comments from Staff, PSE, TEP, the Alliance of Western Energy Consumers (AWEC), NWECA, and PC. Staff reiterated their position and expressed their impression that, following a meeting with PSE, they believed that PSE would extend the program enrollment period for an additional six months. In turn, the Company asserted that Order 01 in this docket specifically contemplated that the enrollment period would last six months and that it is good public policy to let programs like this sunset. The Company also stated its position that although it did express a

potential willingness to extend the program, management ultimately felt that further efforts were not required and were in fact against the BDR tariff. It should be noted that the BDR tariff requires customers to declare eligibility initially as well as on an annual basis, going forward. Further, the Company argued that continuing the program unjustly shifts costs onto other customers.

- 19 In its open meeting comments, TEP claimed that PSE was not always transparent as to how the autoenrollment program was going. TEP also advocated for the Commission to continue to push PSE to improve its rates of qualified customers who are enrolled in low-income programs. TEP pointed out that PSE's BDR tariff allows disenrollment through selecting a random sample of customers to enter a verification process or to require annual verification, but does not allow disenrollment in the manner being pursued by PSE in this docket. TEP also requested further efforts for outreach, including U.S. mail and targeted phone calls to a subset of the 20% most vulnerable customers. When asked, TEP disclaimed the expertise to opine on what conversion rate from an outreach campaign would have been "reasonable."
- 20 The Company responded, contending that outreach has been sufficient and that the Company has used electronic mail, bill inserts, and targeted marketing. The Company also indicated that ending the program now will send a price signal to customers to enroll in programs for which they are eligible, which will be distorted if the program ends during the winter months.
- 21 NWEC provided comments in support of Staff and TEP. NWEC also raised the concern that disconnections could result from disenrollment.
- 22 Public Counsel commented that Revised Code of Washington (RCW) 70A.065.130(2)(a) requires the Company eliminate additional cost burden of the CCA on low-income customers. Public Counsel argued that pursuant to the statute, the low-income customers who were auto-enrolled are at least entitled to continue to receive the CCA credit. Public Counsel suggested that the statute's reference to "low-income customers" did not specify that attestation or independent verification was required.
- 23 AWEC commented that the enrollment process is streamlined and low-income is well defined through the tariff. AWEC believes that because of this, continuing the auto enrollment program is inequitable, potentially preferential, and unduly discriminatory towards other customers.
- 24 Following comments from the parties, PSE moved for the Commission to deny the Petition because the petitioning parties have not met their burden to show that Commission action is warranted. Further, the Company asked the Commission to

characterize the Petition as one seeking relief from an order and not as a Petition asserting that PSE had violated Order 01. Staff disagreed with PSE’s recharacterization of the Petition and argued that they had met the burden . Public Counsel argued that for the Company to disenroll customers and fall below the 70,000 customers automatically enrolled shifts the burden to the Company to petition for relief from Order 01.

25 On June 3, 2022, TEP filed a Request for Case Certification and Notice of Intent to Request a Fund Grant. TEP indicated that it intended to request a fund grant from the Customer Representation Sub-Fund of the customer access fund for PSE. TEP submits that this proceeding, PSE’s CEIP docket, is an “eligible proceeding” under the Interim Agreement.

26 Citing Sections 5.2.1 and 6.2 of the Interim Agreement, TEP requests case-certification. TEP submits that it is a non-profit organization; that it represents “broad customer interests,” including thousands of low-income customers; and that TEP has a history of effective representation in regulatory proceedings over the last two decades. TEP submits that it is the only party focusing solely on the interests of low-income customers and that its participation will not unduly delay the proceeding.

DISCUSSION

27 Pursuant to RCW 80.28.430, utilities must enter into funding agreements with organizations that represent broad customer interests. The Commission is directed to determine the amount of financial assistance, if any, that may be provided to any organization; the way the financial assistance is distributed; the way the financial assistance is recovered in a utility’s rates; and other matters necessary to administer the agreement.³

28 On November 19, 2021, the Commission issued a Policy Statement on Participatory Funding for Regulatory Proceedings (Policy Statement).⁴ The Commission provided “high-level guidance regarding the amount of financial assistance that may be provided to organizations, the manner in which it is distributed to participants and recovered in the rates of gas or electrical companies, and other matters necessary to administer agreements.”⁵

³ RCW 80.28.430(2).

⁴ *In the Matter of the Commission’s Examination of Participatory Funding Provisions for Regulatory Proceedings*, Docket U-210595 (November 19, 2021).

⁵ *Id.* ¶ 3.

- 29 On February 24, 2022, the Commission issued Order 01, Approving Agreement with Modifications (Order 01).⁶ The Commission approved the Interim Agreement filed by the parties on February 23, 2022, subject to certain modifications, and adopted the Interim Agreement as Appendix A to the Order. Among other points, the Commission clarified that it is not bound by the timeframes set forth in the Interim Agreement.⁷
- 30 In relevant part, Section 5.2 of the Interim Agreement provides that the Commission will case-certify an organization that is not a for-profit or governmental entity; represents “broad customer interests”; demonstrates it is able to “effectively represent the particular customers it seeks to represent”; demonstrates that no other case-certified stakeholder adequately represents these interests or that the proceeding will benefit from the organization’s participation; and establishes that it will not unduly delay the proceeding.⁸
- 31 In this proceeding, the Commission is reviewing PSE’s first-ever CEIP. The Commission has observed that “in the beginning the CEIP will involve a new and significant process and document, one that the utilities have never prepared, and that stakeholders, and this Commission have never reviewed.”⁹ Indeed, the Commission suspended PSE’s CEIP for adjudication. This is a “regulatory proceeding” within the meaning of the statute, which is appropriate for participatory funding.¹⁰ We continue on to address each Request for Case Certification and Notice of Intent to Seek Funding.
- 32 **TEP.** TEP is a non-profit organization that represents broad customer interests. RCW 80.28.430(1) provides that organizations representing “broad customer interests” includes organizations representing “low-income” customers. In its Policy Statement, the Commission recognized certain “incumbent” organizations that have a history of representing these customer interests before the Commission and specifically referred to TEP in making this statement.¹¹

⁶ *In the Matter of the Petition of Puget Sound Energy, et al.*, Docket U-210595 Order 01 (February 24, 2022).

⁷ *E.g., Id.*

⁸ Interim Agreement § 5.2.

⁹ *In the Matter of Adopting Rules Relating to Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act*, Dockets UE-191023 & UE-190698 (Consolidated), General Order 601 ¶ 25 (General Order 601) (Dec. 28, 2020).

¹⁰ *See* Policy Statement ¶ 33 (interpreting the term “regulatory proceeding” broadly). *See also* Interim Agreement § 1(c) (defining “Eligible Proceeding”).

¹¹ Policy Statement ¶ 18.

33 TEP also demonstrates that it can effectively represent the particular customers it seeks to
represent. TEP routinely appears before the Commission, participates in settlements, and
offers testimony at evidentiary hearings without causing undue delays.¹² We agree that
the public interest is served by TEP's participation and that TEP establishes it will not
unduly delay the proceeding. We therefore grant TEP's Request for Case Certification.

34 We also find that TEP has properly filed a Notice of Intent to seek funding, stating that
the organization intends to seek funds from PSE's Customer Representation Sub-Fund of
the Consumer Access Fund for Puget Sound Energy (PSE).

35 Pursuant to Section 6.5 of the Interim Agreement, the Commission will not address any
funding proposals until after the deadline for submitting proposed budgets. The deadline
for submitting a proposed budget is November 8, 2024. However, TEP and the other
case-certified parties should be aware that the remaining funds in the Customer
Representation Sub-Fund are limited and that the Commission is required by statute to
prioritize organizations representing vulnerable populations and highly impacted
communities.

ORDER

36 THE COMMISSION ORDERS:

- 37 (1) The Energy Project's Request for Case Certification is GRANTED.
- 38 (2) The Energy Project's proposed budget shall be due by November 8, 2024.

Dated at Lacey, Washington, and effective October 18, 2024.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

/s/ James E. Brown II
JAMES E. BROWN II
Administrative Law Judge

**NOTICE TO PARTIES: This is an Interlocutory Order of the Commission.
Administrative review may be available through a petition for review, filed within
10 days of the service of this Order pursuant to WAC 480-07-810.**

¹² TEP's Request for Case Certification ¶ 5(c). *See also WUTC v. Cascade Natural Gas Corporation*, Docket UG-200568 Order 05 ¶¶ 335-357 (May 18, 2021) (discussing and relying in part on TEP's testimony regarding a utility's disconnection moratorium and low-income programs).