

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

Received
Records Management
Aug 18, 2023

In the matters of

Avista Corporation, Revisions to Tariffs WN U-28 and WN U-29 to Establish a Low-Income Rate Assistance Program and Bill Discount Program;

Puget Sound Energy, Revisions to Tariffs WN U-2 and WN U-60 to Offer a New Optional Bill Discount Rate Program.

Docket UE-230539
Docket UG-230540

Docket UE-230560
Docket UG-230561

**COMMENTS OF THE ENERGY PROJECT ON ENHANCEMENTS TO AVISTA AND
PUGET SOUND ENERGY'S LOW-INCOME ASSISTANCE PROGRAMS**

DATED: August 18, 2023

Yochanan Zakai
Peter Damrosch
SHUTE, MIHALY & WEINBERGER LLP
(415) 552-7272
yzakai@smwlaw.com
pdamrosch@smwlaw.com

Attorneys for The Energy Project

TABLE OF CONTENTS

	<u>Page</u>
I. Introduction and Summary of Recommendations	1
II. PSE and Avista developed the new programs through robust advisory group processes.	4
III. The new programs will improve access to energy assistance and reduce energy burden.	5
A. The new programs addresses barriers to participation in energy assistance programs.	5
B. The new programs incorporate best practices for energy assistance, appropriately tailored to the needs of Washington customers.	6
1. The utilities and their Advisory Groups designed the proposed income tiers and discount percentages to reduce overall energy burden to 6% or less.	6
2. Automatic enrollments and enrollment through declaration of income, with appropriate post-enrollment verification, are proven and effective tools.	7
3. The Community Action Agencies will play a critical role in the success of the programs.	10
4. Avista’s program effectively manages the overlap between the bill discount and other governmental assistance programs; PSE agreed to revisit this issue.	11
5. Avista’s program includes meaningful arrearage relief for low-income customers with past-due balances.	12
IV. Although PSE and Avista’s new programs will provide meaningful assistance to low-income customers, the utilities did not design the programs to address documented racial disparities in utility disconnection practices.	13
V. Conclusion	14

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the matters of

Avista Corporation, Revisions to Tariffs WN U-28 and WN U-29 to Establish a Low-Income Rate Assistance Program and Bill Discount Program;

Puget Sound Energy, Revisions to Tariffs WN U-2 and WN U-60 to Offer a New Optional Bill Discount Rate Program.

Docket UE-230539
Docket UG-230540
Docket UE-230560
Docket UG-230561

COMMENTS OF THE ENERGY
PROJECT ON ENHANCEMENTS
TO AVISTA AND PUGET SOUND
ENERGY'S LOW-INCOME
ASSISTANCE PROGRAMS

I. Introduction and Summary of Recommendations

On June 30, 2023, Avista and Puget Sound Energy (PSE) submitted tariff filings to implement new energy assistance programs for their low-income customers. Avista proposes to modify its Low-Income Rate Assistance Program (LIRAP) to rely upon three main components: (1) a multi-tiered bill discount program designed to reduce energy burden to 6% or less of household income, (2) arrearage relief for customers with past due balances, and (3) an emergency grant for customers experiencing a hardship or energy emergency.¹ PSE also proposes a multi-tiered bill discount program, which, in conjunction with grants available through PSE's Home Energy Lifeline Program (HELP), is designed to reduce customers' energy burden to 6% or less of household income.² PSE is continuing to work with its Low-Income Advisory Committee (LIAC or Advisory Group) to finalize the design of an Arrearage Management Program (AMP), which it will file with the Commission with an effective date of

¹ Avista, Dkt. UE-230539, Cover Letter for Avista Utilities Tariff WN U-28, Schedule 92, Low-Income Rate Assistance Program, at 3 (June 30, 2023) (Avista Cover Letter).

² PSE, Dkt. UE-230560, Cover Letter for Advice No. 2023-26, Puget Sound Energy's Electric Tariff Revision, at 2 (July 6, 2023) (PSE Cover Letter).

October 1, 2024.³

The Energy Project (TEP) reviewed both utilities' proposals and recommends that the Commission approve the filings without change. PSE and Avista's proposals contain significant improvements over the utilities' current energy assistance programs, which echo changes the Commission recently approved for Cascade Natural Gas (Cascade).⁴ Like Cascade, Avista and PSE both propose to include a variety of best practices for providing energy assistance, including bill discounts that vary based on a customer's need and new avenues for enrolling customers. And like Cascade, Avista and PSE each developed their new programs after months of in-depth collaboration with their low-income advisory group (Advisory Groups). The two proposals differ in several meaningful respects, but both proposals have the potential to reduce energy burdens for thousands of low-income customers in the years to come.

These new programs will require improvements and refinements over time. To that end, TEP looks forward to continued conversations in the Advisory Groups to address implementation issues and refinements as needed. Specifically, PSE and the LIAC agreed to revisit the following over the next year:

- are the Bill Discount Rate (BDR) tiers and discount percentages, together with PSE HELP, generally reducing participating customers' energy burden to at or below 6% of their total annual income on average,
- customer experience and application process, including languages available,
- program administration and implementation,
- enrollment term,
- eligibility verification selection process and sample size, and
- categorical eligibility and automatic enrollment.⁵

³ *Id.* at 3.

⁴ Dkt. UG-230551, In the Matter of the Request of Cascade Natural Gas Corporation to Approve Tariff Revisions Regarding the Company's Low Income Bill Assistance Program, Order 01 (July 31, 2023) (Order Approving Cascade's CARES Program).

⁵ PSE Cover Letter at 2.

Avista and its Advisory Group also agreed to monitor the implementation of Avista's revised LIRAP, including the bill discount component, and develop modifications as needed based on experiences with the program.⁶

TEP recommends that in its order approving PSE's program, the Commission document an important agreement between PSE and the LIAC regarding the overlap between the bill discount program and other governmental assistance. To maximize the use of federal funds and conserve ratepayer funds, TEP recommends that utilities apply the discount to a customer's bill after all other available governmental assistance, such as the federal Low-Income Home Energy Assistance Program (LIHEAP). Avista and Cascade both designed their BDR programs in that manner.⁷ However, PSE stated during Advisory Group meetings that its billing software is not currently able to apply governmental funds to a customer's bill before applying the bill discount. As PSE's cover letter explains, PSE committed to revisiting this issue with the LIAC in 2024-2025 and maintaining a budget to improve its billing software, which would allow PSE to implement TEP's recommended approach in the next year or two. TEP and other members of the Advisory Group agreed to support initial implementation of the current program design only because of PSE's agreement to revisit this practice in 2024-2025. Therefore, TEP recommends that the Commission's order approving PSE's program include the following language from PSE's cover letter, which documents the agreement between PSE and its Advisory Group regarding this issue:

PSE agrees that the LIAC will revisit the issue of implementing the BDR in a manner that maximizes the use of government funds in the first quarter of 2024, using data received after the implementation of the Bill Discount Rate, with the

⁶ Avista Cover Letter at 10.

⁷ *E.g.* Avista Cover Letter at 9 (“Customers that receive both a LIHEAP grant and the Bill Discount will have the LIHEAP grant applied first such that the grant may fully cover a customer's bill.”); Order Approving Cascade's CARES Program at ¶ 14.

goal of ensuring government funds (e.g., LIHEAP) are both available and used before ratepayer funds, where possible. By April 2025, the LIAC will again evaluate the entire assistance portfolio after the Arrearage Management Plan has been implemented. PSE will collect and report to the LIAC data concerning the use of federal vs. ratepayer funds and the impact on customer benefits. PSE will endeavor to make the changes discussed with the LIAC regarding maximizing government funds within the calendar year the changes are discussed with the LIAC. PSE agrees to maintain a budget for continuous improvement of its energy assistance and billing software through December 31, 2025.⁸

TEP appreciates PSE's commitment to improving the design of its bill discount program in the coming years, and strongly recommends that the Commission approve both PSE and Avista's tariffs as filed.

II. PSE and Avista developed the new programs through robust advisory group processes.

TEP commends PSE and Avista for the time and effort they devoted to designing the bill discount programs and complementary changes to their other energy assistance offerings. Both utilities collaborated extensively with their Advisory Groups, which include Community Action Agencies (Agencies), Public Counsel, Commission Staff, TEP, and the NW Energy Coalition, among others. Together, these members have significant expertise with the design and delivery of low-income energy assistance programs.

For most of the past eight months, PSE and Avista convened weekly or twice-weekly meetings of their Advisory Groups to discuss the design of the bill discount programs and work through the nuts and bolts of implementation. The Companies and other Advisory Group members also consulted with other utilities in Washington that are designing similar programs and researched utility practices from around the country to ensure that the programs incorporate the best available ideas for serving low-income customers. These detailed discussions and

⁸ PSE Cover Letter at 2.

extensive research led to the creation of well-designed energy assistance programs that will provide significant benefits to low-income customers in the years ahead.

III. The new programs will improve access to energy assistance and reduce energy burden.

A. The new programs addresses barriers to participation in energy assistance programs.

As the Washington State Department of Commerce recently observed, the existing “combination of utility-operated assistance programs and LIHEAP falls short of addressing the energy burdens of low-income households.”⁹ Currently, many eligible customers do not receive energy assistance, and those that do often do not receive sufficient aid to reduce their energy burden to 6% or less of household income, as prescribed by the Clean Energy Transformation Act (CETA).¹⁰ The causes for the gap between the substantial need for energy assistance and the amount of aid actually delivered are varied, and include insufficient levels of program funding, onerous enrollment processes, and lack of awareness among customers regarding available programs.¹¹ In collaboration with their Advisory Groups, PSE and Avista designed the new programs to address these barriers, including by expanding the avenues available for enrollment, providing aid that is appropriately sized to reduce energy burden, and leveraging the capabilities of Agencies and Community Based Organizations (CBOs) to provide better services to customers.

⁹ WA State Dept. of Commerce, *Low-Income Energy Assistance 2023 Legislative Report* (2023 Legislative Report), at 3 (March 6, 2023), <https://deptofcommerce.app.box.com/s/qazu3yweu5w6udvvnw97qk5dwzop56p5>.

¹⁰ RCW 19.405.120(1)-(2) (directing utilities to “make programs and funding available for energy assistance to low-income households” to address unmet energy assistance need); WAC 480-100-605 (defining energy assistance need as the “the amount of assistance necessary to achieve an energy burden equal to six percent for utility customers”).

¹¹ 2023 Legislative Report at 3, 16-18.

B. The new programs incorporate best practices for energy assistance, appropriately tailored to the needs of Washington customers.

Avista and PSE's proposals include several significant changes relative to their existing programs, including allowing customers to enroll by declaring their income and providing discounts that vary based on a customer's income. The Commission recently approved similar changes to Cascade's low-income assistance program, commending Cascade and its advisory group for "creating a program that will benefit the Company's low-income customers."¹² The Commission should likewise approve Avista and PSE's programs, which represent emerging consensus in both Washington State and elsewhere regarding best practices for providing energy assistance to low-income customers. The following sections discuss a few of these improvements, while also noting differences between Avista and PSE's proposals.

1. The utilities and their Advisory Groups designed the proposed income tiers and discount percentages to reduce overall energy burden to 6% or less.

Like Cascade, Avista and PSE have both proposed multi-tiered bill discount programs that provide varying discounts based on a customer's income. Both utilities selected the income tiers and corresponding discount percentages to limit customers' energy burden to no more than 6% of household income, although the programs' mechanisms differ in certain respects. Avista will eliminate its existing LIRAP Heat and Energy Grants and replace them with the bill discount program.¹³ PSE will retain its grant-based PSE HELP program, and provide the bill discount program as a complement to PSE HELP.¹⁴ Therefore, PSE's discount rates are lower than Avista's at comparable income tiers, but the combined impact of PSE HELP and the BDR

¹² Order Approving Cascade's CARES Program at 7.

¹³ Avista Cover Letter at 3-4.

¹⁴ PSE Cover Letter at 2.

program will provide significant benefits to PSE’s low-income customers. PSE and Avista’s programs will advance Washington’s public policy of reducing utility customers’ overall energy burden to no more than 6% of income.¹⁵ The multi-tiered structure in both bill discount programs is an effective method of providing assistance in proportion to a customer’s need, thereby advancing CETA’s policies to prioritize energy assistance, where possible, for households with higher energy burdens.¹⁶

In the coming years, the utilities’ Advisory Groups will need to monitor the effectiveness of the bill discount percentages at reducing energy burden to below 6% of household income. If rates, energy usage, or income levels change such that the program is not effectively reducing energy burden to the target 6%, revisions to the discount tiers or percentages set in tariff will become necessary. For this reason, TEP recommends that the Commission ask the Advisory Groups to monitor the effectiveness of the programs and suggest revisions as necessary to ensure they are meeting the established energy burden targets.

2. Automatic enrollments and enrollment through declaration of income, with appropriate post-enrollment verification, are proven and effective tools.

Both utilities proposals includes important new avenues for enrollment that will reduce longstanding barriers to participation in energy assistance programs and ensure the efficient use of program funds. First, at the program launch Avista will automatically enroll customers in the bill discount portion of LIRAP if they have received other qualifying energy assistance since July 31, 2021.¹⁷ Automatic enrollments at program launch—which both Avista and Cascade’s

¹⁵ See fn. 10, *supra* (citing CETA’s objective of reducing energy burden to less than 6%).

¹⁶ RCW 19.405.120(2) (“To the extent practicable, priority [for energy assistance] must be given to low-income households with a higher energy burden.”).

¹⁷ Avista Cover Letter at 14.

programs include—are vital to ensuring that the programs serve eligible customers in need. In discussions with its Advisory Group, PSE stated that it currently does not have the technical capabilities to automatically enroll customers at program launch but will revisit this issue with its Advisory Group in the future.¹⁸

Going forward, any customer who enrolls in LIHEAP through their Community Action Agency will get simultaneously enrolled in Avista or PSE’s BDR program.

Second, both Avista and PSE will allow customers to enroll by declaring their income, with a subset of customers chosen for post-enrollment verification of eligibility.¹⁹ Allowing customers to declare income reduces longstanding barriers to enrollment by eliminating the requirement for all customers to locate and provide extensive income documentation before receiving assistance. It also ensures the efficient use of program funds by reducing the administrative burden associated with obtaining and reviewing documentation for every customer. Finally, the random selection of customers for post-enrollment verification protects program integrity by providing a mechanism for accountability and measurements of incorrect program enrollments. The Commission recently approved this method of enrollment for customers in Cascade’s low-income energy assistance program,²⁰ which has also been used for years in California and was recently adopted in Oregon as well.²¹ As the California Public Utilities Commission noted in a recent order reaffirming and expanding the state’s bill discount

¹⁸ PSE Cover Letter at 2.

¹⁹ PSE Proposed Schedule 7BDR, Sheet No. 7BDR (as amended August 15, 2023); Avista Proposed Revision to Schedule 92, Sheet No. 92B (as amended July 31, 2023).

²⁰ Order Approving Cascade’s CARES Program at 4.

²¹ *E.g.* OR Pub. Util. Comm., Dkt. ADV 1424, Cascade Advice No. O22-08-01, Low-Income Assistance Program Tariff Revision, Letter Order (Sept. 6, 2022) (approving Cascade’s tariff revisions to allow for enrollment in energy assistance programs using income declarations).

programs, the combination of customer declarations and post-enrollment verification appropriately “balances the desire for the maximum number of eligible customers to participate with the need to verify participant eligibility.”²²

After consultation with their Advisory Groups, PSE and Avista have decided to verify 5% and 6% of enrolled customers respectively; those rates are comparable to the percentages used in California.²³ The utilities and their advisory groups agreed to monitor these verification percentages and adjust as necessary in the future, based on data from the initial program rollouts.

TEP also strongly supports the protections that Avista’s program provides to customers who are disenrolled for not responding to a request for income verification. Customers can receive a credit of up to 3 months for missed payments, if they reenroll within 90 days of removal by providing appropriate income documentation.²⁴ This is a laudable protection for deserving customers who do not receive the initial notice or are slow to respond and eventually produce the required income documentation. Cascade’s program includes a similar protection for

²² CA Pub. Util. Comm., Dkt. A-19-11-003, Application of Pacific Gas and Electric Company for Approval of Energy Savings Assistance and California Alternate Rates for Energy Programs and Budgets for 2021-2025 Program Years (California CARE Proceeding), Decision 21-06-015, at 21 (June 3, 2021).

²³ See California CARE Proceeding, Decision Denying the Public Advocates Office’s Petition for Modification of Decision 21-06-015, at 7 (Dec. 19, 2022) (explaining that the California IOUs verify between 4% and 8% of participants in the CARE discount program, and approximately 1% of participants in the related FERA discount program). To choose customers for verification, California’s IOUs employ “propensity models” designed to focus verification efforts on customers who are likely to be ineligible for the program. PSE and Avista, in consultation with their Advisory Groups, decided to randomly select customers, rather than use a propensity model, to avoid bias and potential inequities in the selection of customers for post-enrollment verification.

²⁴ Avista Cover Letter at 8.

customers who initially fail to response to post-enrollment verification; PSE’s program does not.²⁵

Finally, customers in Avista’s program will be enrolled by default for two years, although customers with a verified fixed-income may be enrolled for an extended 4-year term.²⁶ Extended enrollment terms of 2 or 4 years reduce the burdens on customers, the utility, and Agency staff by avoiding the need for applicants to reapply every year. Cascade’s program likewise has an enrollment term of two years for its bill discount rate program.²⁷ PSE decided on an initial enrollment term of 13-months for most customers, and an enrollment term of two years for customers with fixed incomes. PSE agreed to revisit the issue of enrollment duration with its Advisory Group in the future.²⁸

3. The Community Action Agencies will play a critical role in the success of the programs.

Community Action Agencies perform several essential functions in the utilities’ programs. First, the Agencies will be able to enroll customers in both programs. Second, when Avista auto-enrolls customers based on a customer’s participation in another means-tested program, the Agencies can assist Avista in identifying the correct tier for the customer based on income information the Agency previously obtained.²⁹ As noted above, PSE’s program does not

²⁵ Cascade, Tariff WN U-3, Sheet No. 20-A (Aug. 1, 2023) (“If a customer who has been removed from CARES for failing to verify their household income provides the Agency documentation verifying income within 60 days after being removed from the program, the Company will reenroll the customer into CARES *and will credit the customer’s account for the discount the customer would have received had the customer not been removed from the program.*”) (emphasis added).

²⁶ Avista Cover Letter at 8.

²⁷ Cascade, Tariff WN U-3, Sheet No. 20-A.

²⁸ PSE Cover Letter at 2-3.

²⁹ Avista Cover Letter at 14.

include automatic enrollments at this time. Finally, the Agencies are responsible for conducting post-enrollment verification, which leverages their expertise with calculating and verifying household income. Every customer contact also provides Agencies the opportunity to enroll customers in other assistance programs they offer, such as LIHEAP, weatherization, housing, childcare, banking, and water assistance programs, among others.

4. Avista’s program effectively manages the overlap between the bill discount and other governmental assistance programs; PSE agreed to revisit this issue.

To maximize the use of federal funding and conserve ratepayer funds, utilities should apply bill discounts after other available governmental assistance such as LIHEAP. That sequencing ensures that for customers enrolled in both the BDR and LIHEAP, the LIHEAP grant covers as much of a customer’s bill as possible before the ratepayer-funded discount applies. Avista and Cascade both proposed to implement their programs in that fashion by applying the bill discount to the customer’s “net bill” after LIHEAP or applying any other available governmental assistance.³⁰ As a result, during months in which LIHEAP covers all of a customer’s bill, the utility will apply the discount to a balance of zero, resulting in no additional costs to the BDR program for that month. In other months, the discount will reduce the amount the customer owes after LIHEAP covers a portion of the customer’s bill.

However, PSE explained to its Advisory Group that its billing software cannot currently apply the discount after LIHEAP. As a result, PSE will first apply the discount to a customer’s bill and then apply LIHEAP to remaining portions of the bill. That sequencing may result in additional costs to the ratepayer-funded BDR program, as the BDR program will cover a larger proportion of a customer’s bill even when governmental assistance is available.

³⁰ *Id.* at 3-4.

TEP recommends approval of PSE's BDR at this time because PSE committed to revisiting the order that LIHEAP and BDR apply with its Advisory Group and maintaining a budget for improvements to its billing software for two years. Specially, PSE committed to:

- collect and report to its Advisory Group data concerning the cost impacts of this decision;
- revisit with its Advisory Group the issue of implementing the BDR in a manner that maximizes the use of government funds in the first quarter of 2024, and again by April 2025; and
- maintain a budget for continuous improvement of its energy assistance and billing software through December 31, 2025.³¹

In its order approving PSE's BDR program, the Commission should memorialize the commitments PSE made to revisit this issue, using the specific language identified in footnote 31, to which PSE and its Advisory Group agreed.

5. Avista's program includes meaningful arrearage relief for low-income customers with past-due balances.

Avista proposes to expand assistance for customers struggling with arrears by building on its Arrearage Management Program (AMP) and previous Past Due Payoff program. Under Avista's proposal, customers with the lowest incomes are eligible to have their entire arrears forgiven, while other eligible customers can get a portion of their arrears forgiven each month over a 12-month period as an incentive for making regular, on-time payments for past-due

³¹ PSE Cover Letter at 2 ("PSE agrees that the LIAC will revisit the issue of implementing the BDR in a manner that maximizes the use of government funds in the first quarter of 2024, using data received after the implementation of the Bill Discount Rate, with the goal of ensuring government funds (e.g., LIHEAP) are both available and used before ratepayer funds, where possible. By April 2025, the LIAC will again evaluate the entire assistance portfolio after the Arrearage Management Plan has been implemented. PSE will collect and report to the LIAC data concerning the use of federal vs. ratepayer funds and the impact on customer benefits. PSE will endeavor to make the changes discussed with the LIAC regarding maximizing government funds within the calendar year the changes are discussed with the LIAC. PSE agrees to maintain a budget for continuous improvement of its energy assistance and billing software through December 31, 2025.").

balances.³² In this way, Avista’s program works to comprehensively reduce energy burden on future bills through the energy discount and to reduce the burden of paying off past-due balances with arrearage relief.

PSE is still in the process of working with its Advisory Group to finalize the design of a permanent Arrearage Management Program. As an interim solution for the October 1, 2023 – September 30, 2024 program year, PSE agreed to provide customers with arrears an additional HELP benefit in the amount of the arrears (with a cap of \$500). PSE committed to filing a final version of an AMP in the next year with an effective date no later than October 1, 2024.

IV. Although PSE and Avista’s new programs will provide meaningful assistance to low-income customers, the utilities did not design the programs to address documented racial disparities in utility disconnection practices.

PSE and Avista’s proposals represent significant steps forward for low-income energy assistance. However, it is important to note that neither utility designed its BDR program to address the inequitable impacts of utility disconnections. As TEP and other experts explained in the Commission’s ongoing Credit and Collections rulemaking, research shows that Black and Latinx households receive disconnection notices and experience shutoffs at higher rates than white households at comparable levels of income.³³ TEP urges the Commission to take appropriate action in the Credit and Collections proceeding to end utility practices that research shows perpetuate racial inequities.

³² Avista Cover Letter at 3-4.

³³ Dkt. U-210800, Rulemaking to consider potential long-term changes and improvements to customer notice, credit, and collection rules, including permanent elimination of late fees, disconnection and reconnection fees, and deposits (Credit and Collections Rulemaking), Comments of Joint Advocates (Oct. 17, 2022), at 3-4 (reviewing research on disparities by race and ethnicity in utility shutoffs); Credit and Collections Rulemaking, Presentation Materials of John Howat on behalf of the National Consumer Law Center, at 6-7 (June 22, 2023) (reviewing research on racial disparities in disconnections).

V. Conclusion

TEP thanks the Commission for the opportunity to submit these comments on PSE and Avista's proposed revisions to their low-income energy assistance programs. The utilities' new programs will assist the state in meeting its vital public policy goals of expanding access to energy assistance and reducing energy burden. TEP recommends the Commission approve the proposed tariffs.

DATED: August 18, 2023

By: /s/ Yochi Zakai
Yochanan Zakai, Oregon State Bar No. 130369*
Peter Damrosch, California State Bar No. 343460
SHUTE, MIHALY & WEINBERGER LLP
396 Hayes Street
San Francisco, California 94102
(415) 552-7272
yzakai@smwlaw.com
pdamrosch@smwlaw.com

Attorneys for The Energy Project

* Mr. Zakai is not a member of the State Bar of California.