

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of

Response to the COVID-19 Pandemic

DOCKET U-200281

JOINT RESPONSE TO PUBLIC
COUNSEL’S PETITION FOR
RECONSIDERATION AND PETITION
FOR STAY

I. INTRODUCTION

1. Pursuant to the Washington Utilities and Transportation Commission’s (Commission) Notice issued in the above-referenced docket on June 14, 2021, Puget Sound Energy (“PSE”), Avista Corporation, d/b/a Avista Utilities (Avista),¹ PacifiCorp, d/b/a Pacific Power & Light Company (Pacific Power), Cascade Natural Gas Corporation (Cascade), and Northwest Natural Gas Company (NW Natural) (collectively, “Joint Utilities”) hereby submit this joint response (Joint Response) in opposition to Public Counsel’s Petition for Reconsideration and Petition for Stay (Petition). Pursuant to WAC 480-07-395(2), the facts asserted in this response are true and correct to the best of the signer’s belief.

2. The Commission should deny Public Counsel’s requests that the Commission reconsider its decisions in Order 03 to (1) allow the moratorium on utility disconnections for nonpayment to expire on July 31, 2021, and (2) allow the Joint Utilities to resume disconnection notice activities 30 days prior to July 31, 2021. Public Counsel’s Petition identifies no portion of the Commission’s order that is erroneous or incomplete. On the contrary, the Commission’s decisions in Order 03 represent a balanced solution to a complex situation.

¹ In addition to being a party to the Joint Response, Avista has filed an additional supplement response to the Petition.

II. ARGUMENT

A. Public Counsel Can Point to No Error that Justifies Reversal of the Commission's Decisions in Order 03.

3. Public Counsel seeks reversal of the Commission's decisions to (1) allow the disconnection moratorium to expire on July 31, 2021 and (2) allow disconnection notice activities to resume 30 days prior to July 31, 2021. Public Counsel is required to "Identify each portion of the challenged order the petitioner contends is erroneous or incomplete."² Public Counsel points to no error and makes no claim that the Commission's decisions are either erroneous or incomplete. Instead, Public Counsel's Petition highlights the thoughtful and thorough deliberations conducted by the Commission over more than a year.

4. Public Counsel repeatedly and almost exclusively references the May 12, 2021 Recessed Open Meeting, in which the Commission grappled with the complex problem of disconnections for non-payments for almost four hours, with representatives from all sides of the issue. Yet the May 12, 2021 Recessed Open Meeting was only the most recent example of the Commission's deliberations. The Commission's Order 03 embodies more than a year of work with multiple stakeholders to address the needs of vulnerable populations during a pandemic. The Commission summarizes those efforts in eight full pages of background, resulting in a term sheet that was revised and modified multiple times over several months in response to new information, such as improved health data, economic data, customer arrearages, utility reports and comments, community action group comments, and public comments.³ The Commission's decision to adopt the recommended terms of the Third Revised Term Sheet represents an evolution of thought, based on the best and most complete information currently available.

5. Rather than identifying any errors in the Commission's decision, Public Counsel repeats issues it raised throughout this process by describing the disparate impacts of disconnection risk on low-income communities and barriers that low-income customers have to

² WAC 480-07-850(1)(b)i.

³ See Order 03 at ¶ 26.

assistance. The Commission carefully considered Public Counsel’s concerns and took several important steps to protect the most marginalized ratepayers and vulnerable consumers, a disproportionate number of whom are Black, Brown, Indigenous, and People of Color (BIPOC). The Commission directed the Joint Utilities to increase their customer engagement and outreach to ensure that no customer who is eligible for assistance is disconnected.⁴ The Commission also instructed the Joint Utilities to reach out to new community partners and engage with existing low-income advisory groups and equity advisory groups to increase communication with hard-to-reach customers and work to address systemic inequities.⁵ Because as Commissioner Rendahl pointed out, getting money out to those hardest hit is a burden not just on the Joint Utilities, it belongs also to the COVID-19 Assistance Program agencies.⁶ The Commission took another important step in ordering Staff to open a rulemaking to examine the disconnection practices, specifically addressing equity issues.⁷ If changes are to be made to the disconnection rules, including notification requirements, they should be made in a formal rulemaking proceeding. The Commission’s substantial modifications address both the immediate need to connect vulnerable consumers to financial assistance and the long-term inequities faced by BIPOC communities.

6. Public Counsel disregards the Commission’s actions and argues instead that the moratorium should remain in place until our most vulnerable households are “out of the woods”.⁸ But extending the moratorium another 60 days will not remove the barriers vulnerable household face and it will not mend the social and economic inequities. The Commissioners are

⁴ See Order 03 at ¶ 40.

⁵ *Id.*

⁶ Open Meeting Recording, Commissioner Rendahl, 3:33:40-3:33:60 (May 12, 2021), available at <https://www.utc.wa.gov/documents-and-proceedings/events/video-archive> (Recessed Open Meeting - Response to COVID-19 Pandemic Docket U-200281).

⁷ See Order 03 at ¶ 41.

⁸ Petition at ¶¶ 17, 19.

aware of this,⁹ and Public Counsel admitted as much at the Recessed Open Meeting.¹⁰ Public Counsel’s recommendation to extend the moratorium another 60 days and prohibit disconnection notices is one-sided and ignores the very real concerns the Joint Utilities have in transitioning to a reopened society. The Commission’s decision implements meaningful and substantial developments that have proven successful and will allow the Joint Utilities to resume disconnections in a way that those who can pay, do, and those hit hard by the pandemic will receive the assistance available to them.

7. The Commission made the correct decision to lift the moratorium based on the totality of information currently available, including the evidence Public Counsel restates in its Petition. Even so, the Commission committed to revisiting a possible extension of the disconnection moratorium if health or economic circumstances decline before July 31, 2021. The Commission’s Order 03 is a balanced, flexible, and empathetic solution.

B. Disconnect Notices are Designed to Encourage Customer Communication with Utilities.

8. Public Counsel’s request to prohibit the Joint Utilities from issuing disconnect notices prior to July 31, 2021 would eliminate an important means of customer outreach. The Commission’s consumer protection rules require utilities to provide notice prior to any disconnection for arrearages.¹¹ The notices must be given multiple times in multiple formats, and the notices must inform the customer how to access the financial assistance available to them.¹² Public Counsel over-simplifies the purpose of these notice communications, which are required by rule, by characterizing them as “threats”. Such characterization is particularly

⁹ Open Meeting Recording, Commissioner Rendahl, 3:31:26-3:31:46 (May 12, 2021), available at <https://www.utc.wa.gov/documents-and-proceedings/events/video-archive> (Recessed Open Meeting - Response to COVID-19 Pandemic Docket U-200281).

¹⁰ Open Meeting Recording, Lisa W. Gafken, 2:37:45-2:37:57 (May 12, 2021), available at <https://www.utc.wa.gov/documents-and-proceedings/events/video-archive> (Recessed Open Meeting - Response to COVID-19 Pandemic Docket U-200281).

¹¹ WAC 480-100-128.

¹² WAC 480-100-128(4).

inappropriate considering that the Joint Utilities each recently modified their respective disconnection notices to moderate the tone to eliminate any perception of a “threat”, which was based on input from Commission Staff and advocates.

9. Public Counsel made these same arguments at the May 12, 2021 Recessed Open Meeting, and the Commission heard and considered those arguments before rejecting them.¹³ The Commissioners acknowledged the fear that may accompany a disconnect notice, but they determined that disconnect notices are an effective way to get the customer’s attention and communicate important financial assistance information so the utility can calm the customer’s fear and get that customer the assistance that they need.¹⁴ The notice is one important means to reach vulnerable customers so they can work with their utilities to receive the assistance they need, and Public Counsel provides no new evidence that would justify eliminating this crucial piece of customer communication.

10. In arguing that the Commission should prohibit disconnection notices, Public Counsel points to the barriers that vulnerable customers have in receiving valuable assistance information. Public Counsel points out that some customers may not be aware that assistance is available because of obstacles such as language barriers and lack of internet service.¹⁵ Yet Public Counsel is advocating to prohibit the Joint Utilities from communicating such assistance information if it is in the form of a disconnect notice. In focusing on the form of the message, Public Counsel is ignoring the important function. There is no doubt that a disconnect notice can prompt a vulnerable customer to reach out, learn about, and accept help when other forms of communication have failed. If a disconnect notice results in a customer receiving financial

¹³ Open Meeting Recording, Lisa W. Gafken, 2:38:01-2:39:28 (May 12, 2021), available at <https://www.utc.wa.gov/documents-and-proceedings/events/video-archive> (Recessed Open Meeting - Response to COVID-19 Pandemic Docket U-200281).

¹⁴ Open Meeting Recording, Chair Danner, 3:35:33-3:36:30 (May 12, 2021), available at <https://www.utc.wa.gov/documents-and-proceedings/events/video-archive> (Recessed Open Meeting - Response to COVID-19 Pandemic Docket U-200281).

¹⁵ Petition at ¶ 21.

assistance and avoiding disconnection, this is a good thing. The Commission should not reverse its decision to allow this important communication.

III. CONCLUSION

11. The Joint Utilities understand the disproportionate financial impact that the COVID-19 pandemic has had on its most vulnerable customers, especially those in the BIPOC community. The Joint Utilities also recognize that the path to economic recovery is uncertain. The Commission's decisions in Order 03 address these issues, while creating a balanced and empathetic solution that considers the interests of all stakeholders and protects those most in need. Allowing the Joint Utilities to resume disconnection activities after July 31, 2021 is in the public interest, and Public Counsel's request to extend the moratorium is a one-sided and short-sighted position that is unlikely to help those who need it most. Accordingly, the Joint Utilities respectfully request the Commission deny Public Counsel's Petition for Reconsideration.

Respectfully submitted this 25th day of June, 2021.

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