

**BEFORE THE WASHINGTON  
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND )  
TRANSPORTATION COMMISSION, )  
Complainant, ) PSE GENERAL RATE CASE  
vs. ) DOCKET NOS.  
 ) UE-111048 and UG-111049  
PUGET SOUND ENERGY )  
Respondent. )  
)  

---

**POST-HEARING BRIEF OF INTERVENOR THE ENERGY PROJECT**

March 16, 2012

## **Introduction**

The Energy Project in PSE general rate case (UE-111048 and UG-111049) will address the following subjects regarding low income customers of PSE:

1. Why an increase of 5 million dollars in funding for PSE's low income rate assistance program (HELP) is needed
2. Why establishing rate assistance funding for low income customers is an appropriate role for the Utilities and Transportation Commission
3. Whether PSE's conservation program provides benefits to low-income ratepayers that are roughly comparable to benefits received by other ratepayers as required by the Commission's report and policy statement in Docket (U-100522)
4. Whether Service Quality Index No. 9 should be retained and reinstated in order to maintain an appropriate level of service quality for customers during difficult economic times

### **I.**

**The Energy Project and Staff Agree that HELP Should Have a \$5 Million Increase; No Party Opposed the Increase.**

#### **A. A \$5 Million Increase Is Urgently Needed**

Public testimony in this rate case showed that many customers who seek assistance to pay their utility bills are now encountering a waiting list for the first time with a shrinking of federal funds. As Lisa Clark a witness at PSE public hearing said "It is a recession... things haven't changed and the need that I've seen in the last year--and I've been doing this for 15 years --is unprecedented" (TR-74:3-23 and 75:8-19). In Island County ,where she lives and works, the average fixed income for seniors was about \$694 and their utilities bill is between \$150 and \$200(TR-76:13-19).

In PSE's service territory, as of year-end 2010, approximately 255,000 of the total 1,300,000 residential customers, or 19.6 percent, were at or below 150 percent of the federal poverty level (SML-8CX). A household of three could have no more than \$27,795 to be eligible for PSE's rate assistance program in 2011 (Federal Register, Vol. 76 No.13, January 20, 2011, pp. 3637-3638).

The Energy Project's witness John Howat in his direct testimony (JGH-1T pp.7-8) explained that an increase in HELP is needed because under current funding levels, only about 23,789 of PSE's

residential customers – less than 10% of those living below the poverty level – could receive assistance from HELP. The average benefit level was \$503. HELP benefits reduced participants’ home energy bill by an average of 36% in program year 2009 (*see* PSE Annual Report on Program Outcome on HELP SML-9CX). Under Mr. Howat’ s proposal to increase funding, approximately 7950 additional customers could receive HELP assuming the grant amount of \$503 remained constant.

While some residential customers will also be able to receive assistance from LIHEAP, this federal funding rate assistance program is projected to be reduced by 24 percent in 2012. (Exhibit\_JGH6).

On behalf of Commission Staff, Deborah Reynolds likewise recognized the need for additional HELP assistance in PSE service area (Exhibit DJR- 3T pp.18-19). PSE, the only other party commenting on The Energy Project’s recommended increase to HELP, did not take a position (Exhibit TAD-4T p.19).

Ms. Reynolds, both in her prefiled testimony and in response to questions from Chairman Goltz, said that, “Increasing the funding as the Energy Project recommends is reasonable at this time. It is a minor increase and will have little impact on the Company’s remaining customers that contribute to HELP funding PSE’s surcharge tariff Schedule 129-Low Income Program” (Exhibit DJR-3T p.19 TR 764-765).

Ms. Reynolds’ observation about the average customer bill impacts is borne out by PSE’s response to The Energy Project data requests, which shows that providing increased HELP funding would increase an average monthly bill for residential service by only \$0.19 for \$5 million, \$0.23 for \$6 million and \$0.26 for \$7 million. (Exhibit TAD\_ 8-CX)

John Howat reviewed the percentage of revenue spent on bill assistance programs elsewhere in the country, in the west and Washington State to provide a range of utilities’ commitments to these programs (Exhibit JGH\_5). As Staff witness Ms. Reynolds explained, these studies show that PSE devoted a smaller percentage of its revenue to low income assistance than any other utility in the group (Exhibit DJR-3T at pp. 18-19; TR 765:13-16).

Numerous states have rate assistance programs and they use varying approaches to determine increases in the amount of funding. Mr. Howat did not suggest a particular metric for increases in funding for rate assistance programs. In this docket, The Energy Project focused primarily on issues within PSE's service territory: the need of PSE's customers to maintain their utility service and the limited impact that increased HELP funding would have on residential ratepayers generally. If the Commission approves the increase in HELP funding, it will certainly provide assistance to thousands of customers who otherwise would be disconnected from utility service or threatened with disconnection. Given that about 20% of PSE's customers are below the federal poverty level, the need is pressing.

### **B. Timing for Increased HELP Funding**

The Energy Project believes that when new rates go into effect then an increase in rate assistance funding should also go be available. PSE suggests delaying the increase in HELP funding regardless of the effective date of the rate increase until August 31, 2013, as part of the normal ongoing annual true –up compliance filing (Exhibit TAD-4T p.20:3-7). In other words, PSE's low income customers could have a 12-month lag between the time its rates increase, if it occurred in September and the true up in August of the following year. There is no justification for this delay. It could leave needy customers facing rate increases with no further assistance until the August 31. When ratepayers see their bill increase, as a result of a rate case, then available funding should be available to PSE's customer for assistance with their bill. This is the approach that has been used with AVISTA and it should be used in a PSE rate case also.

### **III.**

#### **It Is Appropriate for the Commission To Exercise its Authority To Fund Low income Rate Assistance.**

In 1999, the Washington Legislature adopted legislation that expressly authorizes the Commission, upon the request of an electric or gas company, to approve rates at a discount for low-income customers through increased charges to customers generally. Laws 1999 c 62 § 1.

Recent legislative activity demonstrates a legislative intent that the Commission should exercise its authority to provide rate relief as circumstances warrant. The 2009 Legislature enacted a bill that

expanded the circumstances under which the Commission could provide rate relief. Laws 2009, Ch. 32, Sec. 1 (codified at RCW 80.28.068). Prior to 2009, only the company could ask the Commission to approve a rate relief program. With the 2009 amendment, any party to a rate case – such as The Energy Project – may request a rate relief program. This signals the Legislature’s intent that rate relief programs be more broadly available. Several parties testified in support of the amendment in the House and Senate: Dave Danner and Pat Oshie on behalf of the Commission; Chuck Eberdt for The Energy Project; and Seth Dawson for the Washington State Association for Community Action House Bill Report SSB 5290; and Senate Bill Report SSB 5290. No one testified in opposition to the bill and it passed unanimously in both houses. *Id.*

The Commission was created by statute and is tasked with carrying out the Legislature’s intent with regard to rate-making policies. As evidenced by RCW 80.28.068, one of those policies is that the Commission should provide for the funding of low income assistance programs through generally applicable rates and charges. There would be no need for the statute unless the Legislature wanted the Commission to create assistance programs. Of course the statute gives the Commission the authority to determine on a case-by-case basis when an assistance program is needed and how programs should be established. This includes a determination of how programs should be funded and the amount of funding.

Here, The Energy Project is a party to the rate case. By providing bill-paying assistance, HELP provides low-income customers with charges and services at a discount. Consistent with the statutory intent, the revenue decrease if any that results from increased HELP funding would be recovered through a very modest increase in charges to other customers. Thus approval of The Energy Project’s request falls squarely within the Commission’s statutory authority.

This case surely presents circumstances that warrant increased relief for low-income customers. The need for assistance is being driven up by increases in the number of customers below the poverty level and by increases in bills. At the same time, other available sources of assistance are shrinking with cuts to the LIHEAP program.

Electricity is a necessity for a safe and healthy household. To lose electricity at a residence means to lose light and heat for a home as well as internet access and with that, the disruption of connections with schools, health-care providers and other community resources. Electricity and gas heat are a necessity that many Washingtonians cannot afford. About 20 percent of PSE's residential customers live below the federal poverty level.

The Commission's role is to regulate in the public interest; all charges must be just, fair, reasonable and sufficient. RCW 80.01.040 and RCW 80.28.010. The Energy Project believes that the Commission's authority to regulate in the public interest would extend to addressing the needs of low income residential customers that are triggered by yearly rate increases, even in the absence of the express statutory authority under RCW 80.28.068 to provide for low income rate assistance. For several reasons, it is in the public interest generally, as well as in the interest of low income customers, to provide low income rate assistance. Utility bills that are more affordable are likely to result in higher bill payment thereby reducing some of the utility costs that would otherwise be incurred due to non-payment. Examples of utility costs that accrue when customers fall behind on their bills are (1) costs of credit and collection activities, including sending shut-off notices, making personal contact with customers prior to disconnection of service, disconnecting and re-connecting service, (2) bad debts write-offs and (3) working capital expenses associated with the lag between the time service is rendered and late payment (TR-787:10-21) (SML-1T 47-48).

Providing for low income rate assistance has become the norm for state utility regulators. Establishing bill assistance programs for low income customers is beneficial for both customers and the utility. Chairman Goltz asked John Howat on cross examination if he knew what number of states had rate assistance programs "for their investor owned utilities similar to Puget?" (TR p 504:17-20.) Mr. Howat responded that, "I believe about 30 states right now have programs that operate throughout most of the state that are similar to Puget's." (TR p 504:21-23.) In order to provide a complete record on this subject, Mr. Howat researched the US Department of Health and Human Services LIHEAP Clearinghouse list of states that have such programs. (See: LIHEAP Clearinghouse

<http://www.liheap.ncat.org/Supplements/2010/supplement10htm>). Information from the Clearinghouse is set forth in Attachment A to this brief. It reflects that 32 states plus the District of Columbia have such programs. Since the Clearinghouse compiled its list, Vermont has joined the ranks of states provided rate assistance. State of Vermont Public Service Board, Docket No. 7535 (Order entered 7/22/2011). Thus two-thirds of all states have these programs.

#### IV

##### **PSE's Has Not Achieved "Comparability" of Benefits for Low-Income Efficiency Programs**

As a preliminary matter, the Energy Project and the agencies it represents applaud PSE for working collaboratively on energy efficiency for low-income households. Nevertheless, PSE's decoupling proposal fails to meet the comparability test for low income energy efficiency programs established by the Commission's policy statement. *In the Matter of the Washington Utilities and Transportation Commission's Investigation into Energy Conservation Incentives, Report and Policy Statement on Regulatory Mechanisms, Including Decoupling, To Encourage Utilities to Meet or Exceed Their Conservation Targets*, Docket U-100522 (Nov. 4, 2010) ("Decoupling Policy Statement"), at page 13, item #6 and page 18 item#4. And to the extent that either PSE's or the NWEC's mechanisms demands further payment from PSE's low-income customers, we believe, contrary to Mr. Cavanagh's assertion ( TR p. 466 :16-17), this issue has very much to do with revenue decoupling.

In the Decoupling Policy Statement, the Commission directed utilities proposing a "decoupling mechanism" to demonstrate "whether or not its conservation programs provide benefits to low-income ratepayers that are *roughly comparable to other ratepayers*["] *Id.* (emphasis added). If the programs do not already provide roughly comparable benefits to low income customers, the utility "must provide low-income ratepayers targeted programs aimed at achieving a level of conservation comparable to that achieved by other ratepayers, so long as such programs are feasible within cost-effectiveness standards." *Id.*

In order to assess comparability objectively, one needs to consider the topic from multiple perspectives. Since the overall issue is an economic one, it is only natural to look at how much money is

spent on low-income energy conservation programs compared to all programs, or all residential programs. One might, however, also look at the number of households that receive benefit from the programs. TR-511:9-17. A third consideration is the amount of savings that result from the program. A fair assessment of comparability would at least attempt to consider all three of these perspectives.

PSE witnesses DeBoer and Stolarski attempted to address the comparability issue, but neither made the demonstration required by the Commission. Mr. DeBoer appears to take the first approach identified above that is, focusing on spending levels. He suggests that low-income customers receive comparable benefits because “approximately two percent of PSE’s residential electric customers” receive bill assistance through the utility ratepayer funded programs “and are allocated approximately 13 percent of the budget for direct residential conservation programs.” Yet the 13 percent figure overstates program funding levels by approximately 100%. The direct conservation program budget he cites (Exhibit No. \_\_\_TAD-1T, p. 25) is not an accurate reflection of the low-income energy efficiency program funding because it includes a one-time addition to the budget from Renewable Energy Credit funds that ended in 2011 and nearly doubled the low-income electric program funding allocation (TR-510:7-18) (TAD-16 CX Attachment A).

PSE Annual Report of Energy Efficiency Services (EES) Programs (Exhibit RWS-15-CX Appendix A) shows the planned low-income program allocation was \$2,774,500 while the combined gas and electric residential conservation budget was \$45,652,880. That works out to an allocation of only approximately 6% percent to low income, as Mr. Stolarski confirmed on cross examination (TR- 702:.16 704:.2). A spending level of 6 percent on low income programs is insufficient to establish comparability.

According to PSE (SML-8 CX), approximately 255,000 of their 1,300,000 customers have incomes at or below 150% of the federal poverty level. Accordingly, almost 20% of their residential customers qualify as low income. Although all customers benefit from the avoided marginal resource cost that results from conservation programs, as Commissioner Oshie pointed out during cross examination of witness Ralph Cavanagh (TR p. 465:16- p.466:14), customers who do not participate in the energy conservation programs still pay for their cost. This is a particular hardship for low-income



customers who have no means to bear any part of the cost. If they do not participate to the same extent as other customers, then the cost of the conservation program is disproportionately shifted to them.

Mr. DeBoer's testimony confuses rate assistance with energy efficiency programs but the two are entirely different. (TAD-1Tp. 25:14-20) His testimony that 2% of customers who receive bill assistance also received energy conservation assistance is flawed in two ways. The bill assistance program simply helps a customer pay bills for service; it does not reduce the customer's need to use energy – it does not make the dwelling or appliances more efficient in the use of energy. Unlike the installation of energy efficiency measures, participation in the bill assistance program does not provide a long-term benefit to participants by reducing consumption year after year. Mr. DeBoer's statement is also flawed in that it suggests all of the customers on rate assistance see some conservation dollars to their benefit. This is far from accurate. While slightly over 10% of the income eligible population receives bill assistance, slightly less than 1% see conservation funding targeted to low-income customers.

Only 2275 low income households participate in PSE's *targeted* gas and electric low-income energy efficiency program according to PSE's Annual Report of Energy Efficiency Services Programs. This is a participation rate of less than one percent of the 255,000 income-eligible customers at 150% of the federal poverty level.(TR-704:11-25,705:1-18) The Energy Project would be surprised to find that PSE would be satisfied if 99% of their residential customers were paying for programs that provided direct conservation benefits only to the remaining 1%.

Mr. Stolarski appears to recognize the discrepancy regarding numbers served and tries to shore them up by arguing that PSE has been providing energy efficiency to many multifamily buildings at no cost to the occupants and since a large percentage of low-income households live in multifamily buildings, PSE must be helping some of them (Exhibit RWS-1T p. 25 :10-13). But he does not provide any data that would indicate how many low-income households benefit in this way (TR 706:7-25,707:1-8).

It is also unclear whether building owners who do carry some of the cost of the efficiency work pass that cost on to occupants in rent increases or other assessments. At the very least, PSE has not put

any agreement in place that would prevent building owners from passing costs on to low-income tenants (TR- 708: 15 –710:15). There has been no attempt to direct this multifamily effort to zip codes where low-income households are known to predominate (RWS-17CX b.). While we agree that some low-income *may* be benefitting from this multifamily effort, it is clearly not *targeted* to low-income customers within the meaning of the Decoupling Policy Statement and is in no way sufficient to establish that the Company’s low-income energy efficiency efforts are comparable to the other residential programs.

Looking at the third perspective – that of savings achieved – one sees that the low-income program, while apparently achieving approximately twice as much savings as was targeted, does not represent as large a share of the overall savings as it takes of the budget (Exhibit RWS-15CX Appendix A). As Mr. Stolarski noted, the utility pays the full, avoided cost for measures in the low-income program, whereas the other programs rely on substantial contribution from the participants.

Returning to Mr. Cavanagh’s assertion that shifting the cost of conservation programs to a subset of customers, possibly the low-income sector, has “nothing to do with revenue decoupling” (TR-466: 16-17), the Energy Project disagrees and believes this also should be considered when measuring comparability. According to Mr. Cavanagh, the study of some 88 decoupling adjustments indicated “*almost all* of which were at or below seven cents a day for electricity, five cents a day for natural gas utilities,” (TR 437: 18-21; emphasis added). Later Mr. Cavanagh cites comparable figures of \$1.50/month for gas customers or \$2/month for electric customers (TR 452: 6-9). Keeping in mind Commissioner Oshie’s comments (TR 466: 8-14) regarding the shift of the cost of conservation onto the backs of those least able to participate in the programs, it is interesting to note that these charges would amount to over \$6.5 million dollars if all 255,000 low-income households living at or below 150% of the federal poverty level are charged the \$.07/day Mr. Cavanagh posits. This is far above the level of funds currently spent from PSE’s conservation budgets, which low-income householders, as ratepayers, are already helping to fund. Further, this does not include the impact that the \$.05/day gas charge, as it is unclear whether that would be added to the electric charge or in some cases, perhaps, supplant some of that charge.

Andrea Crane, a joint witness of Public Counsel and The Energy Project, concluded that PSE had not met the comparability requirement of the Commission's policy statement. She noted PSE's lack of data regarding the extent to which low income customers participate in conservation. She said that PSE is unable to demonstrate the impact of its conservation program on its low income customers and has no information by income on its other customers. "Low-income customers could end up paying a disproportionate share of the CSA surcharge, depending upon the extent to which low-income customers achieve conservation savings relative to other residential customers" (ACC-1T: p 21-22).

In conclusion, the impact of the CSA or a decoupling charge is not insignificant for the low – income population. If performance by *targeted* low-income energy conservation programs comparable to the Company's other residential program is a critical factor in allowing such a charge, the Company has not shown sufficient comparability. Further, The Energy Project adopts the brief of Public Counsel regarding the CSA.

## V

### **The Commission Should Retain and Reinstate Service Quality Index 9 Limitation on Disconnections During the Economic Downturn.**

Service Quality Index 9 (SQI-9) provides an important incentive for PSE to work with customers on arrangements for bill payment instead of disconnecting them. During the current economic downturn, more customers than ever are at risk of temporary inability to pay. Therefore, SQI-9 should be reinstated and remain as part of the plan to insure service quality.

It is indisputable that many of PSE's customers have difficulty in absorbing the annual rate increases in their utility bills. The economic downturn is still prevalent in our state. Many customers at public hearings have wondered why a utility receives yearly rate increase but their fixed income remains the same. The protection afforded by SQI-9 has been available since 1997. This is not the time to take it away. The Energy Project does not agree with staff and PSE that elimination of this cap on disconnections will have no detrimental effect on customer service. The customers who are disconnected

are likely to hold a different opinion and may experience some unintended effects on their families. The goal of SQI-9 is to limit disconnections and encourage strongly the Company to work with customers to limit disconnections.

SQI 9 provides an important benefit that is not available through PSE's low-income programs. It is not means-based; instead it is available to all residential customers. Thus it can provide much-needed protection to customers whose incomes are slightly above the poverty level but still near the bottom of the economic ladder. Customers in this category can be particularly vulnerable.

PSE's Annual Report for 2010 on SQI and Electric Service Reliability ( Exhibit RK-2) clearly demonstrates that SQI-9 provides meaningful protection against disconnections related to the economic downturn: "The number of disconnect complaints remain relatively stable from 2009 to 2010 *even with the significant increase in completed disconnects from 53,500 in 2009 to 70,500 in 2010*, emphasis added." This trend of a greater number of disconnects continues from 2009 to over 64,000 in 2011 (Exhibit JAP-65 CX, p. 16).

Staff acknowledges that the above increase from 2009 to 2010 is a 32 percent increase in the number of disconnects and that complaints to the Commission only rose 4.8 percent (Exhibit RK-1T p. 8). The Energy Project acknowledges the good work the WUTC's consumer protection section does in working with customers. But we believe that the vast majority of customers are not aware of the Commission customer complaint procedure and this may account for the small uptick in complaints. Nor does comparing the level of complaints necessarily reflect whether PSE is adequately working with customers to limit disconnection, but rather reflects accounts wherein the customer believes the disconnection was improper.

Mr. Kouchi testified that eliminating SQI-9 will not harm customers because other Commission rules already offer meaningful customer protection (RK-1T pp. 6-9: 1-6). Although the rules to which he cited do provide some protections, none addresses any assistance from disconnection. Thus they do not provide the same type of protection as SQI-9. He also said that the SQI 9 may result in inequitable treatment of customers because it limits the number of customers that PSE can disconnect. Ms. McLain

(TR 788-789) agreed on cross examination that this inequity with this measure is simply an inherent feature of having a limitation on disconnections.

The SQI-9 limitation may also be of value to maintain an essential necessity, utility service, and encourage a payment plan or other solution to keep a customer on the system while experience payment difficulties. Although SQI does reduce the total number of disconnections, PSE retains the authority to disconnect a customer when there is nonpayment, a safety issue or other violation of the Commission rules. In that way, SQI-9 provides an incentive for PSE to work closely with customers and makes disconnection the last option. As Ms. McLain said in her cross examination “during difficult economic times we have seen an increase in the number of customers pushing to that threshold, and in some cases customers are not necessarily reaching out to us or responding to those disconnection notices...”(TR 785 ). This SQI could potentially curtail PSE from disconnecting 15,000-20,000 customers next year. Neither PSE nor Staff provided the revenue impact of disconnecting those households or the cost from any collection efforts (TR-787-788). Thus there is no evidence what if any impact SQI-9 has on PSE’s revenue requirement.

The Energy Project believes SQI-9 should remain in effect. It has served as a benchmark of service quality and as protection against disconnection for customers with limited incomes for over 15 years. It should not be stopped during these difficult times.

Respectfully Submitted this 16<sup>th</sup> day of March, 2012

---

Ronald Roseman  
Attorney for The Energy Project