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Via UTC Web Portal

Jeff Killip
Executive Director and Secretary
Washington Utilities and Transportation Commission
621 Woodland Sq. Loop SE
Lacey, Washington 98503

Re: The Energy Project's Seventh Comments on Performance-Based Regulation, Docket U-210590

Dear Director Killip:

On December 13, 2023, the Washington Utilities and Transportation Commission (Commission) issued a Notice of Resuming Proceeding and Opportunity to File Written Comments in Docket U-210590 (Notice), a proceeding to develop a policy statement on alternatives to tradition cost of service ratemaking such as performance-based regulation. The Energy Project (TEP) appreciates the opportunity to continue its engagement in this proceeding to develop regulatory goals, desired outcomes, design principles, and performance metrics. TEP actively engaged in each step of this process.

In SB 5295 the legislature directed the Commission to conduct a proceeding to develop a policy statement addressing alternatives to traditional cost of service rate making, including performance-based measures or goals, targets, performance incentives, and penalty mechanisms.[1] The Commission's Phase 1 Work Plan includes identifying regulatory objectives, metric design principles, and performance metrics. These comments first address questions 1, 3, 4, and 5 from the Notice and then conclude advocating for an additional metric to track the percentage of a utility's total revenue collected outside of the multi-year rate plan's base rates.

[1] Notice of Opportunity to File Written Comments (October 11, 2021), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=3&year=2021&docketNumber=210590.

Question 1: What connection should be made, if any, between the work in this docket and the performance measures in a Multi-Year Rate Plan (MYRP) as required under RCW 80.28.425(7)?

- **Connection: How do you see the metrics and direction from this docket working with metrics and performance measures identified in and approved in future MYRPs, Clean Energy Implementation Plans (CEIPs), or other existing reporting requirements?**
- **No connection: How do you propose the various avenues for metric proposals be kept distinct from one another?**

Identifying performance metrics is the first step in establishing a performance-based regulation framework. After identifying metrics, the next step is for the Commission to determine a baseline performance standard against which to measure utilities' performance. Through a series of workshops, the Commission identified a set of draft performance metrics organized under four policy goals:

1. Resilient, reliable, and customer-focused distribution system.
2. Customer affordability.
3. Advancing equity in utility operations.
4. Environmental improvements.[2]

The Commission's draft identifies the four most important public policy goals for utilities. The purpose of this proceeding is to develop a policy statement concerning the transition to performance-based ratemaking[3]; the legislature also identified multi-year rate plans as a critical component of performance regulation.[4]

The development of performance metrics in this proceeding is fundamentally connected to the performance measures included in a Multi-Year Rate Plan (MYRP). The performance regulators should measure is the utility's ability to meet certain goals which represent the public interest. The performance measures designed in this proceeding are the same performance measures that the Commission should use to evaluate the performance of a utility in its MYRP. The Commission should not make a distinction between the performance measures identified in this proceeding and the performance measures used to evaluate utility performance in MYRP proceedings.

General rate cases, and the MYRPs included in them, are the single-most important utility proceeding as they set the utility's revenue requirement and are the one opportunity for the Commission to holistically assess the utility's operations and performance. Performance measures are a critical component of that assessment. If the Commission adopts performance

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[2] Notice of Opportunity to File Written Comments, at 2-6 (Nov. 30, 2022), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=197&year=2021&docketNumber=210590.
[3] Notice of Opportunity to File Written Comments, at 2-6 (Oct. 11, 2021).
[4] See RCW 80.28.430(7).

incentives and penalties (PIMs) based on select performance metrics, those PIMs it would impact the utility's revenue requirement. Thus, it is counterproductive to create a distinction between the performance measures designed in this proceeding and the implementation of performance measures in future MYRPs as it creates significant challenges for the Commission, interested parties, ratepayers, and utilities to track utility performance effectively.

We recommend that the Commission prioritize developing a single set of performance metrics that apply to all utilities and minimize the number of proceedings and filings that contain those performance metrics. There may be instances where it is necessary to develop performance measures for a specific utility and in a different proceeding, but generally all utilities should be subject to a single comprehensive list of performance measures designed to evaluate key areas of utility performance. We recommend that the Commission take the following approach to ensure that performance metrics are tracked comprehensively and cohesively.

First, all utilities should file their performance metrics in this docket. Commission Staff should conduct an annual assessment of each utility's performance by reviewing the filed metrics, and make that assessment publicly available in this docket. An excellent example of a Staff assessment is Staff's March 30, 2023 comments on Avista's performance metrics.[5] Utilities should also file their Customer Benefit Indicators (CBIs) in this docket for tracking purposes, however, we recognize that utilities may also need to report and adjust CBIs in Clean Energy Implementation Plan proceedings.

Second, the Commission should require utilities to publish their performance metrics on their websites so that they are easily accessible to ratepayers and interested parties. An example of this is Avista's metrics website.[6]

Third, the Commission should develop its own website to publish all utilities' performance metrics. The Commission's website is the appropriate repository for making all of the utilities data available for public review and comparison. TEP recognizes that the Commission may need time and resources before it can implement this recommendation, but it is a worthwhile long-term goal.

[5] Dkts. UE-220053 and UG-220054, Staff Comments (March 30, 2023), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1609&year=2022&docketNumber=220053.
[6] Avista Utilities, Washington PBR Metrics, https://www.myavista.com/about-us/our-rates-and-tariffs/washington-pbr-metrics.

Question 3: Distributed Energy Resources (DERs) are the subject of multiple metrics (Proposed Metrics Nos. 14, 15, 25, 26, and 30). A least-cost requirement exists under the current regulatory framework. The Clean Energy Transformation Act (CETA) requires the equitable distribution of energy benefits and burdens. These two requirements are potentially at odds with one another. Where should the Commission focus its efforts in developing incentives and/or data collection at this time given that multiple iterations of the PBR process are likely necessary? Please provide the rationale for your proposed DER focus.

TEP respectfully disagrees with the premise that the equitable distribution of energy benefits and burdens in the Clean Energy Transformation Act (CETA) conflicts with the least-cost requirement, also known affordability. The least-cost requirement requires that utilities identify the least-cost pathway to provide service under the rules established by the Commission and the laws passed by the legislature. Thus, CETA's requirement to ensure the equitable distribution of benefits and burden is a law which the utility must identify the least-cost pathway to comply with.

To the extent that the Commission believes that there is a conflict, the Commission should seek to balance of outcomes. Another way to think about the issue is to consider the balance between affordability other regulatory requirements. For example, the Commission ensures that utilities provide safe, reliable, and affordable service. The safest and most reliable service is not the most affordable, and the most affordable service is unlikely safe and reliable. Instead of thinking only in absolutes, the Commission seeks a balance of achieving service that is safe, reliable, and affordable. In the same way, the Commission can ensure that utility service equitably distributes the benefits and burdens in an affordable way.

TEP recommends that the Commission and utilities prioritize data collection over developing targets or PIMs at this time. An appropriately-designed performance-based regulation process[7] first collects and reports a robust set of metrics with data related to the Commission's goals. Data from a robust set of metrics will allow the Commission to understand each utility's performance, including comparisons between years and utilities. Second, using that data and comparisons, the Commission establishes baseline performance levels. Third, the Commission sets performance targets for certain metrics on a scorecard. Only once these targets are established should the Commission authorize attaching incentives and penalties to a few metrics. Setting targets before baselines data is available could result in targets that are not appropriately calibrated. Similarly, creating incentives before targets are established, or at the same time as

[7] Dkt. U-210590, Second Comments of The Energy Project on Performance-Based Regulation in Washington, at 14 (June 13, 2022), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=105&year=2021&docketNumber=210590; Puget Sound Energy 2022 General Rate Case, Dkts. UE-220066 & UG-220067, Exh. BTC-1T, Testimony of Bradley T. Cebulko on behalf of The Energy Project, at 16:3-21:15 (July 28, 2022), https://apiproxy.utc.wa.gov/cases/GetDocument?docID=1804&year=2022&docketNumber=220066.

targets are established, may result in unreasonable costs to ratepayers that do not reflect any sort of improved performance.[8]

To ensure that utilities collect the most relevant information related to DERs, TEP proposes that the Commission amend Metrics 25 and 26 such that DER program enrollment and spending data in Named Communities is disaggregated by highly impacted communities, vulnerable populations, and low-income customers. Disaggregating DER program enrollment and spending data is important in obtaining precise information on enrollment and spending that can be used in the future to evaluate the equitable distribution of energy benefits and burdens. TEP recognizes that low income customers are a subset of vulnerable populations, but still recommends separately measuring a utility's performance in enrolling low income customers as the group is most in need of financial assistance. TEP proposed the following amendments:

1. Metric 25. Equity in DER Program Enrollment: The number of customers ~~Named Communities or~~ <u>in highly impacted communities, the number of vulnerable customers, and the number of low-income customers, each separately identified,</u> enrolled in each utility distributed energy resource programs (providing a separate calculation for energy efficiency, electric transportation vehicle, net metering, and demand response)/total customers eligible from each named community enrolled in each program.
   For example:
   - Number of low-income customers enrolled in demand response/number of eligible low-income customers.
   - Number of low-income customers enrolled in energy efficiency programs / number of eligible low-income customers.
   - Number of vulnerable customers enrolled in demand response / number of eligible customers in a vulnerable population.
   - Number of vulnerable customers enrolled in energy efficiency programs / number of eligible customers in a vulnerable population.
   - Etc.

2. Metric 26. Equity in DER Program Spending: Separately calculated percentage of utility spending on distributed energy resources for energy efficiency, electric vehicle, net metering, demand response, and renewables that benefits ~~Named Communities~~ <u>highly impacted communities, vulnerable populations, and low-income customers, separately identified,</u> as compared to Non-named Communities.

[8] *See* Whited, M., et al., Synapse, *Utility Performance Incentive Mechanisms A Handbook for Regulators*, at 36 (March 9, 2015), http://www.synapse-energy.com/sites/default/files/Utility%20Performance%20Incentive%20Mechanisms%2014-098_0.pdf.

Question 4: The Commission is interested in an alternative proposal for Metric 20 *Customers Who Participate in One or More Bill Assistance Programs*. Specifically, how should the recent approval of Bill Discount Program Tariffs be reflected in the performance metric?

TEP appreciates the Commission identifying this draft metric for review. TEP recommends that the Commission adopt metrics that distinguish between bill assistance programs as not all programs are created equally. TEP recommends adopting metrics that identify customer participation in programs that are 1) ratepayer-supported and 2) actively lower low-income customer energy burden. First, it is necessary to distinguish and separately measure ratepayer-supported programs from other sources of funding in order to measure program performance within the control of the utility, a design principle articulated by the Commission.[9] Second, TEP recommends focusing on programs that actively lower energy burden, as a decrease in energy burden is a policy objective and a measurement of the outcome of the utility's program. Given that description, TEP proposes the following new metric:

> The number and percentage of eligible low-income customers who participate in one or more ratepayer-funded bill assistance programs that actively lowers energy burden, both aggregated and by census tract.

Investor-owned utility customers often have several programs available for assisting with their bills. For example, Puget Sound Energy customers may qualify for the Bill Discount Rate, the Home Energy lifeline Program, LIHEAP, and The Salvation Army Warm Home Fund. Customers may also be eligible for an arrearage management plan. Both LIHEAP and the Salvation Army Warm Home Fund are not funded by ratepayers, and thus are outside the control of the utility. LIHEAP is funded by the federal government, and the Salvation Army Warm Home Fund is funded through voluntary donations. In the case of Puget Sound Energy, ratepayer-funded bill assistance programs that actively lower energy burden include the Bill Discount Rate and the Home Energy Lifeline.

Question 5: The Commission is interested in proposals for an Electric Vehicle (EV) and/or Electric Vehicle Supply Equipment (EVSE) metric. Consideration should be given to the Interagency Electric Vehicle Coordinating Council's statewide Transportation Electrification Strategy, impacts for urban versus rural geographies, and low-income customers.

TEP recommends that the Commission look to Avista and Puget Sound Energy 2022 Rate Case Settlements, where the parties identified several EV-related metrics. TEP's interest with respect to EVs and EVSE is to ensure that the benefits of utility programs are equitably shared. To that end, in its order the Commission should adopt the following metrics included in Avista's and Puget Sound Energy's most recent general rate cases:

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[9] Notice of Opportunity to File Written Comments, at 3 (August 5, 2022) (external influence).

1. Percentage of eligible low-income customers that participate in residential EV programs.
2. Percentage of EV program spending that benefits named communities.
3. Percentage of utility-owned and supported EVSE by use case located within and/or providing direct benefits to named communities.
4. Number and locations of public charging stations, both utility and non-utility owned, located in named communities.

The Commission should track utility revenue outside of base rates.

TEP requests that the Commission adopt a metric that measures the percentage of a utility's total revenue collected outside of base rates. TEP has advocated for a similar metric in this proceeding as well as in the recent MYRP proceedings, it was included in the metrics adopted in the Avista and Puget Sound Energy MYRP settlements,[10] and was supported by Staff and TEP in the PacifiCorp MYRP.[11]

One of the principal benefits for customers of a MYRP is that it acts as a cost containment mechanism for the duration of the plan. The MYRP order defines a utility's revenue requirement for 2 or more years, and the utility must operate within that budget. The utility is incentivized to control costs and customers have more stable and predictable rates. However, the value of the MYRP as a cost containment mechanism erodes as the utility collects more revenue outside of base rates. Put another way, there is an incentive for utilities to try to increase revenue recovered outside of base rates, which then erodes the value of MYRP as a cost containment mechanism. Further, collecting more revenue outside base rates makes it harder for customers to have stable and predictable rates. Thus, it is important that the Commission and interested parties measure and understand costs that occur outside of the MYRP. TEP recommends that the Commission adopt the following metric:

> Revenue received outside of base rates (e.g., through trackers/riders/other cost recovery mechanisms) divided by total revenues, expressed in both dollar terms and as a percentage.

[10] Avista 2022 General Rate Case, Dkts. UE-220053 & UG-220054, Full Multiparty Settlement Stipulation, Attachment B at 1 (June 28, 2022) (Affordable Service Metric No. 3); Puget Sound Energy 2022 General Rate Case, Dkts. UE-220066 & UG-220067, Settlement Stipulation and Agreement on Revenue Requirement and All Other Issues Except Tacoma LNG and Green Direct ¶ 63(c) (Aug. 26, 2022).
[11] PacifiCorp 2023 General Rate Case, Dkt. UE-230172, Exh. CRM-8X, Staff Response to The Energy Project Data Requests No. 1-2 (Dec. 4, 2023).

Conclusion

TEP looks forward to continuing to participate in Phase 1 and engaging with Commission and other stakeholders in developing a list of performance metrics in this proceeding. If you have any questions, please contact Brad Cebulko at bcebulko@strategen.com or (510) 296-8481.

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