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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: Docket U-210590, The Energy Project's Eighth Comments on Performance Based Regulation (PBR) and the UTC's Interim Policy Statement

Dear Jeff Killip:

On April 12, 2024, the Washington Utilities and Transportation Commission (Commission) issued its Interim Policy Statement on a Set of Performance Measures that will be Used to Assess a Utility Operating Under a Multiyear Rate Plan (Interim Policy Statement). The Interim Policy Statement provided “general guidance and opinions of PBR, established guiding principles, goals, and a preferred set of metrics.”¹ On April 18, 2024, the Commission issued a Notice of Workshop and Opportunity to Comment on the Interim Policy Statement (Notice). The Notice requested comments on the metric calculations and definitions for metrics identified in Goals 1 – 3.

The Energy Project (TEP) appreciates the opportunity to continue its engagement in this proceeding. With this submission, The Energy Project has submitted eight rounds of comments in this docket and participated in each of the Commission's workshops. TEP has been and continues to be supportive of the Commission's general approach to PBR. In Puget Sound Energy's 2022 General Rate Case, The Energy Project submitted testimony identifying a PBR framework that is consistent with the Commission's direction to date.² Specifically, TEP agrees that there should be three levels of performance metrics: (1) reported metrics, (2) scorecard or target metrics, and (3)

¹ Notice of Workshop and Opportunity to Comment (April 18, 2024).

² Dkts. 220066-67, Direct Testimony of Bradley T. Cebulko on Behalf of The Energy Project, Exh. BTC-1T (July 28, 2022).

performance incentive metrics (PIMs). Not all metrics need a target. All metrics on the scorecard have a target, but not all metrics on the scorecard need a financial incentive. A limited number of metrics would include financial penalties or incentives. TEP agrees that it is important to gather sufficient data to determine performance baselines prior to developing targets or PIMs.

The Notice seeks comment on specific metric calculations and definitions. Below, TEP addresses a selection of metrics the Commission identified for further comment. TEP also addresses several metrics that were not adopted by the Commission in the Interim Policy Statement. To wit, TEP recommends tracking average customer bills because it looks at the actual customer-facing cost, and disconnections because of the severe customer impact of denying customers access to energy. TEP concludes by requesting that the Commission reevaluate the Interim Policy Statement’s conclusions concerning the impact of PBR to a utility’s credit rating based on recent data.

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I. Metric Calculations and Associated Definitions

Goal 1 | Resilient, Reliable, and Customer-Focused Distribution

The Notice identifies 3 metrics related to electric reliability and asks parties to confirm that the metrics do not apply to gas service. TEP agrees that the three metrics the Commission identified are not applicable to gas service. However, Senate Bill 5295 concerns the transformation of regulation for both electric and gas utilities. As such, there is a gap in metrics that measure the resilience and reliability of the natural gas system. Gas reliability metrics are and should be different than the metrics developed to measure electric utility resiliency and reliability. In TEP's September 2022 metrics proposal,³ TEP proposed two relevant gas reliability metrics:

- Number of unintentional customer outages
- Duration of unintentional customer outages

Although relatively rare, unintentional gas outages can occur⁴ and are a significant health and safety risk for customers. Measuring the number and duration of unintentional outages will provide the Commission a baseline level of information for understanding the frequency and relative risk of outages. TEP also recommends that the Commission consider measuring the number and severity of gas leaks on a gas utility's system. TEP is not aware of these metrics being proposed previously. Gas leaks, like unintentional outages, represent a health and safety risk to customers. In future proceedings, the Commission should consider adopting metrics that measure the number of leaks per mile by material type, the annual number of Grade 1 leaks by material type,⁵ average response time to repair a Grade 1 leak, and Grade 2 and 3 leaks per mile by material type, and average response time to repair Grade 2 and 3 leaks collectively. TEP recommends separately measuring Grade 1 leaks as these leaks defined as representing "an existing or probable hazard to persons or property and requiring prompt action, immediate repair, or continuous action until the conditions are no longer hazardous."⁶

³ The Energy Project Revised Proposed Metric Calculations (Sept. 16, 2022).

⁴ <https://www.spokesman.com/stories/2023/nov/16/avista-recognizes-those-who-endured-largest-gas-ou/>

⁵ WAC 480-93-18601.

⁶ WAC 480-93-18601 defines Grade 1 leak as a leak that represents an existing or probable hazard to persons or property and requiring prompt action, immediate repair, or continuous action until the conditions are no longer hazardous.

Goal 2 | Customer Affordability

A. Average Customer Bill

TEP remains concerned that the Commission is not adopting a metric that measures the average customer bill by customer class as part of Goal 2, Customer Affordability. The best metric for understanding if a customer's energy service is affordable is to measure the customer's bill from year-to-year and as compared to peer utilities. The Interim Policy Statement did not explain why the Commission did not adopt a particular metric. The Interim Policy Statement did state that metrics must "embody the guiding principles contained in this policy statement."⁷ Based on workshop discussions in the proceeding, TEP understands that utilities argue a customer's average bill may is not "reasonably within the utility's control," a guiding principle in the Interim Policy Statement. The Interim Policy Statement continues, "metrics will seek to measure factors that are reasonably affected by the utility's actions and not be entirely based on external influences (i.e., market prices, weather, and mean area median incomes) without limiting the Commission's authority and to the extent they do not hinder the advancement of equity and energy justice."⁸

It is reasonable for the Commission to establish total customer bill as metric even though a customer's total bill is not exclusively under the utility's control. The Commission's definition of "reasonably within the utility's control" is, appropriately, broad. No metric is free from external influence, but some metrics are more influenced by external factors than others. The latitude the Commission gives for determining "reasonably within the control of the utility" should depend in part on the value of the metric to the Commission and customers. In this case, TEP is asking for a measurement of customer affordability, a primary public policy. There are numerous factors that have significant impacts on customers' rates and bills that are within the utility's control. For example, the utility determines when it will request rate increases, the timing of capital investments, which capital investment it makes, energy efficiency program development and implementation, the number of employees, and employee compensation to name a few. The most significant factor that impacts rates and is broadly considered outside the control of the utility is fuel costs. Even then, gas and electric utilities have some control over the impact of commodity price fluctuations using financial and physical hedges. And there is a difference in levels of control between electric and gas utilities of fuel costs, as electric utilities have more control than gas utilities. As vertically integrated utilities, the investor-owned electric utilities determine to what extent they are dependent

⁷ Interim Policy Statement, ¶ 40.

⁸ Interim Policy Statement, ¶ 22.

upon fossil generating resources, such as natural gas generation, that exposes customers to volatile commodity prices that are outside the utility's control. The electric utility largely chooses the mix of resources it uses to serve customers.

Measuring the average customer bill is the most important measurement of customer affordability because it measures the actual customer cost of energy services. Through measuring average bill by customer class, the Commission can compare the rate at which customer bills increase year-over-year and from utility-to-utility. As the Commission acknowledges in its Interim Policy Statement, not all metrics may rise to the level of having an established target.⁹ The Commission may determine that while the average customer bill is important to track, the influence of factors outside the utility's control mean that this metric does not merit a target. Nevertheless, it is still useful to see the costs of utility service to customers. This metric is also easily understood for a lay person and demonstrates a value for public transparency within utility and regulatory spaces.

B. Customer Connections and Disconnections

The Commission's draft metrics issued on November 30, 2022, included "Customer Disconnections and Reconnections." The metric sought to identify the number and percentage of 1) disconnection notices, 2) residential disconnections for nonpayment, and 3) reconnections, separately identifying for known low-income households, highly impacted communities, and vulnerable populations. The Interim Policy Statement did not include this metric or explain why the Commission did not select it.

Universal and consistent access to energy service is a paramount public interest that the Commission should monitor with a disconnection metric. Moreover, the Commission found that "data shows disturbing disparities in disconnection rates across racial groups and heightened risks for the most vulnerable customers."¹⁰ In order to demonstrate or address mitigation of equity factors, it is necessary to track disconnection data within Named Communities. TEP acknowledges that the utility does not control if a customer pays for their service, or broad economy-wide movements. However, the utilities have significant latitude concerning what positions they take in policy discussions concerning disconnections and how they act in responding to arrearages. For

⁹ Interim Policy Statement, ¶ 30.

¹⁰ Dkt. 220066-67, Order 32/18 Granting Petition; Amending Final Order 24/10, Subject to Condition, ¶ 71 (May 16, 2024) ("The disparate impacts of disconnections and unaffordable arrearages on vulnerable communities and historically disadvantaged groups cannot be ignored.").

example, utilities control customer outreach for bill assistance and arrearage management programs, the disconnection process, and the reconnection process. Successful customer outreach programs will minimize the number of disconnections. Similarly to average customer bills, the Commission can explore whether or not it would be appropriate to attach a target for this metric later in the PBR Rulemaking process. However, seeing and being able to compare each utility's disconnection data over time will provide valuable information for further inquiry on which utility programs are most successful and why.

C. Arrearages by Month

The Notice asked interested parties to comment on whether it is their intent to maintain the current reporting structure of both number of customers in arrears by period and total dollars in arrears for each period. The Commission then asked for comments on the mechanics of the calculations, specifically, if reporting by total number of customers per period is completed at the highest interval (e.g., customer that is 61 days late is only reported in the 60+ data) and total dollars in arrears is reported in the actual interval (e.g., customer that is 80 days late may have associated dollars in the 30+ and 60+ data).

TEP supports the Commission's proposal as stated. TEP is open to reviewing alternative approaches if another party demonstrates its benefits, so long as the Commission applies the same method for all utilities.

D. Percent of Customers in Arrears with Arrearage Management Plans

The Notice asked interested parties to comment on the time period for reporting the percentage of customers with an Arrearage Management Plans (AMP), or if the metric should be based on a singular value specific to each utility. TEP believes that the public interest is to minimize the number of customers in arrears, and for low-income customers who are in arrears, to be enrolled in an Arrearage Management Plan as soon as possible. Thus, there is an important time component to the issue, namely how long it takes for the Company to enroll a low-income customer in arrears into an AMP. Thus, TEP recommends Commission track two metrics:

1. The percentage of low-income customers in arrears not enrolled in an AMP, separately identifying estimated low-income and known low-income.
2. The number low-income customers not enrolled in an AMP with arrears aged 30-60, 60-90, and 90+ days, separately identifying estimated low-income and known low-income.

It is not only important that low-income customers in arrears are in an Arrearage Management Plan, but it is important to measure how long it took the customer and utility to get the customer into an AMP. This additional information will help the utility, the Commission, and interested parties evaluate the success of the utility's efforts to enroll customers into AMPs. TEP does not anticipate that tracking the number of days a customer is in arrears will be administratively burdensome as it is our understanding the utilities already track this information.

E. Average Energy Burden

The Notice asked several questions related to measuring energy burden. First, the Commission asked interested parties to provide a recommendation for how to temporarily determine an energy burden percentage for single-fuel utilities. The proposed calculation for measuring average energy burden is annual residential bill divided by average area median income. The key piece of missing information for a single-fuel utility is a subset of the numerator, either the unknown electric or gas utility bill. Where an investor-owned electric utility's service territory overlaps with an investor-owned gas utility, and vice versa, TEP recommends the Commission require the two utilities to share information at the census tract level. For instance, the gas utility will share the average residential bill in census tract A, which the electric utility will use in its calculation for customers in that census tract A. Utilities could post this information on their website rather than sharing directly with peer utilities. For a gas utility with an overlapping consumer-owned electric utility, the gas utility should ask the consumer-owned utility if they collect the data and will share it at a census tract level. If the consumer-owned utility does not have the data, or is unwilling to share it, the gas utility will need to develop a proxy. TEP recommends using the Department of Energy's Low-Income Energy Affordability Data (LEAD) tool as a proxy, absent better or more specific information.¹¹

The Commission then asked if customer energy burden should be reported by percentage, number, or both, and if the calculation should be measured before or after assistance. TEP believes that reporting customer energy bill as a percentage of household income is more important than the dollar amount. Measuring the percentage a customer pays for energy is a better indication if the customer is experiencing costs of energy that are considered high, or burdensome. The utility should measure energy burden before and after all energy assistance, so the Commission and policymakers understand the impact of energy assistance programs.

¹¹ <https://www.energy.gov/scep/low-income-energy-affordability-data-lead-tool-and-community-energy-solutions>

Finally, the Commission asked if it is feasible to require utilities to report on excess energy burden at this time. TEP understands that it is feasible to report on excess energy burden and strongly supports its inclusion as a performance metric. Both PSE and Avista agreed to measure excess energy burden in their 2022 general rate case settlements. Avista provides its metrics and performance on its website. Avista reports excess energy on an annual basis for residential customers that have a high energy burden (>6%) after taking into consideration energy assistance. Avista reported the average excess burden per household with a high energy burden was \$453.29 and \$544.25 in 2022 and 2023, respectively.¹² PSE intends to file its average excess energy burden per household on August 31, 2024.¹³

F. Percent of Utility Assistance Dispersed, Customers who participate in one or more bill assistance programs, and Bill Discount Programs

The Interim Policy Statement included a metric that calculates the percentage of utility assistance dispersed, calculated as utility customer-funded assistance spent divided by annual budget for customer-funded assistance. TEP interprets the intent of this metric is to ensure that low-income customers are receiving needed assistance and ratepayer money is used for its intended purpose. The Commission also asked for comments on how best to incorporate Bill Discount Programs into the metrics.

TEP appreciates the Commission's commitment to minimizing bill impacts to low-income customers through the development of low-income specific metrics. Given the advent of Bill Discount Programs, low-income assistance is shifting from pools of available funds to a direct discount. Therefore, measuring the disbursement of available funds is no longer the best measurement of success for minimizing energy burden. Consistent with TEP previous comments to the Commission,¹⁴ TEP recommends that the Commission modify Metric 16 to focus on the number and percentage of customers enrolled in one or more ratepayer-funded bill assistance programs as follows:

¹² <https://www.myavista.com/about-us/our-rates-and-tariffs/washington-pbr-metrics>

¹³ Dkts. 220066-67, Puget Sound Energy Annual MYRP Report, Attach A (March 29, 2024), <https://apiproxy.utc.wa.gov/cases/GetDocument?docID=3787&year=2022&docketNumber=220066>

¹⁴ The Energy Project's Seventh Comments on Performance-Based Regulation (Feb. 7, 2024).

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

TEP proposal measures customer participation in programs that are 1) ratepayer-supported 2) actively lower low-income customer energy burden, and 3) are reasonably within the control of the utility. Examples of a ratepayer-funded bill assistance programs are bill discount rates, arrearage management plans, and energy assistance grants, *i.e.*, Puget Sound Energy's Home Energy Lifeline Program and NW Natural's Gas Residential Energy Assistance Tariff.

Goal 3 | Equitable Utility Operations

A. Workforce Diversity, Supplier Diversity, and Equity in DER Program Spending

TEP supports the metrics as written.

B. Equity in DER Program Enrollment

TEP supports the Commission's change from the term "electric vehicle" to "electric transportation." Transportation is a more inclusive term that recognizes the value of electrifying multiple modes of mobility. The Commission further asks if parties support changing "enrolled" to "directly benefiting from." Given the Commission's change of focus from electric vehicles to electric transportation, TEP agrees that the measurement should change from enrolled to "directly benefiting from." While enrollment is a more quantitatively certain calculation, it is not an appropriate measurement of the success of a program that invests in public transportation such as city or school buses. While TEP supports the change, we are cognizant that the Commission, utilities, and interested parties will need to clearly define what "directly benefiting from" means for each use case.

Finally, the Commission asks parties to separately define DER programs for electric and gas utilities. TEP recognizes that there are more DER programs for electric than gas utilities. For gas utilities, TEP recommends defining DER as utility-operated demand-side resources such as energy efficiency and demand response programs.

II. Utility Credit Ratings and PBR

The Interim Policy Statement says "[i]t is also important to factor in the concern of investors and credit ratings agencies regarding the uncertainty of PBR in Washington

state related to potential utility financial risk until such time that tangible outcomes and results are realized,” citing to a September 2019 Fitch Ratings report that “[t]he move toward performance-based regulation (PBR) to be implemented by the Hawaii Public Utilities Commission (HPUC) by 2020 is an intermediate concern.”¹⁵ TEP originally proposed utility credit ratings as a metric because it is important for the Commission to monitor. After all, higher borrowing costs are ultimately borne by customers.

TEP requests that the Commission reevaluate the cited report based on the context in which it was published. Fitch Ratings developed the report in September 2019, prior to the Hawaii Public Utilities Commission's (HPUC) adoption of a PBR framework in May 2021.¹⁶ Hawaii was one of the first states to put significant effort into adopting a more robust form of PBR and, therefore, there was uncertainty about the final PBR framework. As this Interim Policy Statement recognizes, PBR can come in a variety of forms and can evolve over time.¹⁷ At the time of publication of the Fitch Rating report, the investor community was not certain of the final framework nor was it broadly familiar with PBR for electric and gas utilities.

However, the more recent data shows that after the PBR framework was issued in May 2021, HECO's credit rating did not fall. In fact, HECO's credit rating increased in 2 of the 3 ratings reports. The HPUC requires HECO to report its credit rating as part of its PBR performance metrics and scorecard, and thus we can see how the Company's credit ratings change year-to-year.¹⁸ This more recent data shows that HECO's credit rating actually increased for two of the three credit ratings agencies from 2020 to 2021, and the Company's rating stayed the same into 2022.¹⁹ The rating from the third agency remained unchanged from 2020–2022 during the time in which the HPUC adopted the framework. TEP notes that HECO's credit rating fell dramatically in 2023, though this was after—and a result of—the catastrophic Maui wildfires.

¹⁵ Fitch Ratings Action Commentary, Post: *Fitch Rates Hawaiian Electric Co.'s Revenue Bonds 'A-'* (Sept. 25, 2019), <https://www.fitchratings.com/research/corporate-finance/fitch-rates-hawaiian-electric-co-revenue-bond-a-25-09-2019>.

¹⁶ See Hawaii Public Utilities Commission, Dkt. 2018-0088, Order No. 37787 (May 18, 2021), <https://puc.hawaii.gov/energy/pbr/>.

¹⁷ Interim Policy Statement, ¶ 16.

¹⁸ <https://www.hawaiianelectric.com/about-us/performance-scorecards-and-metrics/financial>.

¹⁹ *Id.*,

https://www.hawaiianelectric.com/documents/about_us/key_performance_metrics/historical/historical_05_RATINGS.xlsx

TEP acknowledges that it is important for the Commission to monitor utility credit ratings as it continues developing its PBR framework but cautions against a preconception that rating agencies will only look upon PBR unfavorably because relevant data contradicts the outdated report cited in the Interim Policy Statement.

III. Conclusion

TEP appreciates the opportunity to respond to the Commission's Notice. If you have any questions, please contact Brad Cebulko at bcebulko@currentenergy.group or (317) 519-365.

Very truly yours,

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