

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

PUGET SOUND ENERGY,

Respondent.

DOCKETS UE-220066 and UG-220067
(Consolidated)

**JOINT ENVIRONMENTAL
ADVOCATES' RESPONSE TO
PUGET SOUND ENERGY'S
PETITION TO AMEND FINAL
ORDER**

INTRODUCTION

1. The NW Energy Coalition (“NVEC”), Front and Centered, and the Sierra Club jointly intervened as the “Joint Environmental Advocates” in Puget Sound Energy’s (“PSE” or the “Company”) 2022 General Rate Case (“GRC”) and are represented by Earthjustice.
2. The Joint Environmental Advocates support the Revenue Requirement Settlement condition requiring PSE to continue its credit and collections practices until the conclusion of the credit and collections rulemaking in docket U-210800. These practices include beginning the disconnection process when customers, excluding known and estimated low-income customers, reach a past due balance of \$1000 or more, as well as not charging disconnection, reconnection, or late fees.
3. The Joint Environmental Advocates oppose PSE’s request to amend the settlement order. We continue to believe that maintaining PSE’s current credit and collections practices until the conclusion of U-210800 is in the best interest of PSE’s residential customers. We further join and support recently filed staff comments making the same recommendation.

I. PSE did not consult with the Settling Parties or its Low-Income Advisory Committee (“LIAC”) prior to filing its petition.

4. We have heard numerous times in the U-210800 and U-200281 rulemakings that PSE “firmly believe[s] that disconnection is a last resort”.¹ However, we believe that this statement is disingenuous as PSE filed the Petition to Amend Final Order 24/10 in Docket UE-220066/UG-222067 (“petition”) without first consulting with the Settling Parties or their LIAC about alternative solutions to address PSE’s arrearages while U-210800 is ongoing.

5. PSE’s decision to file its petition directly contradicts the concept of procedural justice that the Commission has laid out to the Company in its recent Order 08 in docket UE-210795. In the Order, the Commission explains that “procedural justice ‘...focuses on inclusive decision-making processes and seeks to ensure that proceedings are fair, equitable, and inclusive for participants’”.² The Commission further explains that the “application of procedural justice is not just about creating more space for voices but rather the inclusion and incorporation of those voices in PSE’s decision making processes.”³

6. We agree with the Commission’s definition and identification of procedural justice and believe that it holds true across all of the work that the Company does. PSE’s petition to amend the Final Order within one year after agreeing to this settlement provision as part of a comprehensive multi-party settlement, and without first creating an inclusive space for Settling Parties and other representatives of those who will be directly impacted by this decision does not show the Company’s good faith efforts to find a collaborative solution to the arrearages its

¹ Docket U-210800, PSE Presentation to the Commission. Workshop recording at 2:05:55 (June 23, 2023).

² Docket UE-210795, PSE CEIP Order 08 at p. 36, ¶ 147.

³ *Id.* at ¶ 148.

customers face. The Joint Environmental Advocates would have found it much more appropriate for the Company to have filed a petition to amend the Final Order jointly with the Settling Parties if all parties had first agreed to solutions that temporarily address PSE’s concerns while awaiting the final outcome of U-210800. A petition to amend the Commission’s Final Order to change credit and collections practices should also benefit PSE’s most vulnerable customers, not solely the Company.

II. PSE’s proposed plan to change its credit and collections practices does not address and will perpetuate the documented racial disparities among credit and collection practices.

7. In response to this opposition, PSE may propose a compromise of a carveout for known low-income customers. We would not support such a compromise. A carveout for known low-income customers is not sufficient to help those who will be most impacted by the resumption of PSE’s credit and collection practices. Specifically, a known low-income customer carveout would not capture unidentified low-income customers, customers identifying as Black Indigenous & People of Color, or energy-burdened middle-income customers.

8. At the June 23, 2023, UTC workshop for rulemaking U-210800, John Howat of the National Consumer Law Center presented his research and stated that “race is a stronger predictor and is more highly correlated with disconnections than income”⁴. Without further identifying a path forward to eliminate racial disparities among PSE’s disconnected customers, we should not move forward with business-as-usual practice or a limited carveout.

⁴ Docket U-210800. John Howat, National Consumer Law Center. “Pathways for Reforming Utility Credit and Collection Practices.” Workshop recording at 1:25:54 (June 23, 2023).

9. Mr. Howat recommended that the UTC “[s]uspend disconnections until companies demonstrate the reversal of documented racial inequities in credit and collections”⁵, going on to say that “until then, using disconnections is inhumane.”⁶ We believe that this recommendation is aligned with the UTC’s work on equity and its commitments to reduce disparities and improve outcomes statewide, and to be a pro-equity, anti-racist government organization.⁷

III. Rulemaking U-210800 is ongoing and moving forward at a pace similar to many prior UTC proceedings.

10. It has been 16 months since the Commission filed a CR-101 in docket U-210800.⁸ In its petition, PSE asserts that no parties anticipated rulemaking U-210800 to be drawn out so long, noting the rescheduling of workshops.⁹ NWEA, Front and Centered, and the Sierra Club have and continue to track and participate in numerous UTC proceedings and rulemakings that have occurred in similar durations or durations longer than U-210800.¹⁰ PSE’s assertion that “[t]he

⁵ Docket U-210800. John Howat, National Consumer Law Center. “Pathways for Reforming Utility Credit and Collection Practices” at slide 4 (June 23, 2023).

⁶ Docket U-210800. John Howat, National Consumer Law Center. “Pathways for Reforming Utility Credit and Collection Practices.” Workshop recording at 1:21:55 (June 23, 2023).

⁷ <https://www.utc.wa.gov/PEAR>.

⁸ Docket U-210800, Notice of Opportunity to Comment on CR-101 (Mar. 18, 2022).

⁹ Docket UE-220066/UG-222067, PSE Petition to Amend Final Order 24/10 at ¶ 11.

¹⁰ Docket U-210804, Developing a UTC jurisdictional specific cost-effectiveness test for distributed energy resources; Docket UE-200629, Staff investigation on energy assistance in Section 12 of the Clean Energy Transformation Act; Docket UE-210147, Staff investigation into equity and customer benefit considerations; Docket U-180907, Regulatory Framework Rulemaking; Docket U-180525, Advanced Metering Infrastructure Rulemaking; Docket UE-191023, Clean Energy Implementation Plans and Compliance with the Clean Energy Transformation Act; Dockets UE-170002 & UG-170003, Cost-of-Service; Docket UE-131723, Energy Independence Act (I-937); Docket U-161024, Integrated Resource Planning; Docket UE-112133, Interconnection of Electric Generators; Docket UG-121207, Natural Gas Conservation programs.

workload and scheduling conflicts in this rulemaking proceeding were unforeseen”,¹¹ and thus support the Company to cite this as a reason to amend the Final Order¹², is simply unreasonable.

11. While all involved parties would undoubtedly prefer the rulemaking conclude swiftly, we understand that the time needed for careful deliberation and thorough review is absolutely mandatory for this rulemaking. We are not surprised by the duration of U-210800 and disagree with PSE that this duration is unanticipated. The magnitude of impacts that will result from this rulemaking could be unprecedented for both the state and for the nation. We urge the Commission to continue to protect those most harmed by disconnections while prudently assessing this rulemaking.

IV. PSE has not met its burden to demonstrate that its request is reasonable, in light of the limited evidence supporting its request.

12. In its petition, PSE refers to its June 21, 2023 comments that identify the estimated rate increases for electric (4.8 percent) and gas (3.2 percent) customers if a disconnection moratorium was made permanent.¹³ While PSE states that these estimated rate increases are based on May 2023 arrearage data, the Company does not provide any calculation, workpaper, or analysis showing how they reached these estimates, and the unsupported assertion in its petition does not constitute substantial evidence in support of its requested relief.¹⁴ The Commission cannot use these estimates without first assessing how the Company calculated them.

¹¹ Docket UE-220066/UG-222067, PSE Petition to Amend Final Order 24/10 at ¶ 8.

¹² *Id.* at ¶¶ 13-14.

¹³ *Id.* at ¶ 12.

¹⁴ WAC 480-07-875(1) (any petition to amend a Commission order “must comply with the requirements in WAC 480-07-870 for a petition for rehearing”); WAC 480-07-870(1) (“A petition for rehearing ... must include substantial evidence or an offer of proof in support of the requested relief.”)

V. PSE has provided no evidence or analysis supporting its claim that “estimated rate impacts would be regular, annual”¹⁵ impacts.

13. PSE states that increased rates of a permanent disconnection moratorium “would become regular (e.g., annual) and perpetual”.¹⁶ This statement is a completely unfounded assertion that does not take into account PSE’s not-yet-implemented bill discount rate program and arrearage management program.

14. It is far too premature for PSE to estimate that rate increases similar to those it estimates in its petition (4.8 percent for electric customers, 3.2 percent for gas customers) will be annual, much less perpetual. Notably, PSE’s estimates were based on the unprecedented build up of arrearages due to the impacts of the three-year COVID-19 pandemic on resource-constrained households. It is unreasonable to assume that the three years of arrearage impacts from an unprecedented global event like this would be added annually and perpetually.

15. As required in PSE’s 2022 GRC Revenue Requirement Settlement¹⁷, PSE has been working with its Low-Income Advisory Committee since November 21, 2022 on the design and implementation of a bill discount rate program that is intended to reduce a customer’s energy burden to less than 6 percent of their total annual income and expand access of assistance by enabling customers to self-declare their income.¹⁸ This program is expected to go live on October 1, 2023. Similarly, the Company will work with its LIAC to develop an arrearage management plan program that will be implemented on October 1, 2024.

¹⁵ Docket UE-220066/UG-222067, PSE Petition to Amend Final Order 24/10 at ¶ 12.

¹⁶ *Id.* at Ex. B, n.2, p. 10.

¹⁷ Final Order at p. 78, Section K.v., Low-income issues.

¹⁸ Docket UE-230560, PSE Electric Tariff G, Schedule 7BDR (Aug. 15, 2023).

16. In his presentation to the UTC in the June 23, 2023, U-210800 workshop, John Howat asserts that “[c]redit and collections won’t work unless folks have access to affordable payments.”¹⁹ Utilities and advocates alike have agreed that part of the necessary reform is based on the existence of truly effective bill assistance programs and arrearage management programs. Rather than using scare tactics citing “perpetual” rate increases, PSE should prioritize implementing programs designed to help customers manage arrearages and keep their bills affordable.

17. Until PSE’s bill discount rate program and arrearage management program are implemented such that the customers who have historically lacked access to assistance are seeing their energy burden decrease, we cannot say that rate increases due to credit and collection practices will be annual or perpetual.

VI. PSE’s request undermines the multi-year rate plan settlement process.

18. The Joint Environmental Advocates were blindsided by PSE’s petition to amend the Final Order less than year after it agreed to the provisions in Section G. While we acknowledge that any Party has the right to petition the Commission for an amendment to its order at any time, we would not expect any Party to a multi-party settlement to do so without first consulting with the Settling Parties. Establishing and building trust between parties is essential for reaching agreement on controversial issues. When an agreement is meant to last for several years, it is even more important that Parties believe that the Company is negotiating in good faith and is

¹⁹ Docket U-210800. John Howat, National Consumer Law Center. “Pathways for Reforming Utility Credit and Collection Practices.” Workshop recording at 1:19.44 (June 23, 2023).

committed to durable outcomes. This request raises doubts, which could make it harder for parties to reach multi-year settlements in the future.

CONCLUSION

19. If the Commission entertains the idea to hear the petition, WAC 480-07-875 requires that it first hold a pre-hearing conference consistent with due process to enable Settling Parties to discuss the appropriate processes necessary to examine the statements and data that PSE's puts forth before the Commission.

20. However, for the reasons discussed above, the Joint Environmental Advocates respectfully ask that the Commission reject PSE's petition and not permit changes to credit and collection practices until the conclusion of the rulemaking in docket U-210800.

Dated this 30th day of August, 2023.

/s/ Jan E. Hasselman

Jan E. Hasselman

(he/him)

Senior Attorney

Earthjustice

810 Third Avenue, Suite 610

Seattle, WA 98104

Ph: (206) 629-8752

jhasselman@earthjustice.org

Attorney for Joint Environmental Advocates